



**State of Florida
Department of Children and Families**



Rick Scott
Governor

Mike Carroll
Secretary

DATE: April 20, 2018

TO: Regional Managing Directors
CBC Chief Executive Officers
Children's Legal Services

THROUGH: David L. Fairbanks, Deputy Secretary 

FROM: JoShonda R. Guerrier, Assistant Secretary for Child Welfare 
Rebecca Kapusta, Assistant Secretary for Operations 

SUBJECT: Child Support in Child Welfare Cases

PURPOSE: This memorandum transmits the responses to questions raised during the Child Support in Child Welfare cases webinar conducted in January.

BACKGROUND: The Office of Child Welfare (OCW), Children's Legal Services (CLS), and Revenue Management co-facilitated a webinar focused on implementation of the operating procedure for child support in child welfare cases, CFOP 175-13. OCW and CLS compiled a frequently asked questions (FAQ) document for child welfare professionals, CLS, and fiscal to assist with implementation of CFOP 175-13. Additionally, in response to a request for information on Federal Income Tax Offsets, the Department of Revenue, Child Support Program, developed a one-page brief to assist child welfare professionals when responding to inquiries from parents.

ACTION NEEDED: Please share this memorandum and attachments with all child welfare professionals (child protective investigation staff, case managers, and supervisors), case management providers, other service providers as appropriate, CLS, and state's attorneys with responsibility for child welfare.

CONTACT INFORMATION: For questions or additional information, please contact Sallie Bond, Office of Child Welfare, at 850-717-4657 or Sallie.Bond@myflfamilies.com, or Stephanie Zimmerman, Children's Legal Services, at 850-443-6273 or Stephanie.Zimmerman@myflfamilies.com.

Attachments

cc: Grainne O'Sullivan, Statewide Director, Children's Legal Services
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Mission: Work in Partnership with Local Communities to Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

DCF Information Sheet for Federal Income Tax Offsets

What is an IRS Offset?

Parents who owe past-due child support are reported to the Internal Revenue Service (IRS) for a federal income tax refund offset. A federal income tax refund offset means that if a parent is due a tax refund from the IRS, the Florida Department of Revenue Child Support Program sends all or part of that tax refund to pay the parent's past-due support.

How is the parent who owes support notified?

If a tax refund is sent to the Child Support Program, the parent who owes support will be mailed a letter from the IRS stating that all or part of the refund has been sent to the State of Florida for payment of past-due child support. The parent has 30 days from the date on the notice to [contact the Child Support Program](#) or request a hearing if they believe the action was taken in error.

What should the parent who is due support know?

Due to the number of fraudulent income tax filings, the Child Support Program is authorized to hold tax refund offsets until the IRS completes a review.

The IRS usually completes its review within 90 days, but it has 180 days. When the review is complete, the IRS notifies the Child Support Program that it will either reverse the collection (take it back), or that the Child Support Program can process the collection. If the IRS review is not completed after 180 days, the Program will process the collection.

Not every intercepted tax refund held is due to possible fraudulent tax filings. Federal regulations also allow the Child Support Program to hold tax refunds from a joint tax return. These offsets are held for 180 days to provide the joint-filer, who does not owe past-due child support, time to file an amended return with the IRS for their share of the refund.

The [IRS website](#) provides more detail about fraudulent tax filings and information on personal identity theft.

If the parent due support has received cash assistance, the IRS offset may be kept by the State to repay public assistance.

The Child Support Program will not take refunds when a parent files Chapter 11, 12 or 13 bankruptcies or a court order does not allow offset.

How can a parent find out more information?

Parents with questions about an IRS offset on their child support case should contact the Florida Department of Revenue Child Support Program at 850-488-KIDS (5437) or via web chat online at www.floridarevenue.com/childsupport.

**Child Support in Child Welfare Cases
Questions from January 2018 Webinar**

1. How will we find out if a support order exist outside of Florida when a child is removed that has lived out of state?

Response: Presently, our ability to locate an order is dependent upon the parent's disclosure of the existence of the court order or the other's state's court system using electronic filing systems that are publicly accessible. There is currently no centralized national database in which to search.

2. Will CLS be responsible for ensuring that when paternity is established a court order is provided to amend the Birth Certificate?

Response: CFOP 175-13 CFOP 170-13, chapter 2, section 2-7(b)(3) provides that CLS and the CBC must maintain a process that ensures the DH 673 is completed with documentation and forwarded to the Bureau of Vital Statistics within 30 days of the date paternity was established. Each circuit's leadership should develop a process and ensure that all CLS attorneys and case managers are familiar with the process. Note: The process for obtaining an amended birth certificate in place since 2015 has not changed; the March 2015 implementing memorandum was incorporated into this operating procedure.

3. Will out of state birth certificates require amendment as well?

Response: Yes, when paternity is established the child's birth certificate is to be amended.

4. Will CLS have access to DOR's admin support database?

Response: No, CLS will not have access to DOR's administrative support database.

5. Will DOR provide a copy of out-of-state orders when an existing order was entered in another state?

Response: No, DOR does not have access to out-of-state orders. See answer to Question #1.

6. In the Order for Duty to Support and the addresses that need to be filled in, are we to use local addresses for DOR and CLS?

Response: The address should be the local address for CLS. DOR will be providing an address for use on the Orders for Duty to Support. In the interim, use the local DOR address.

7. Can the court order child support for a minor mother (17 year old) who is in licensed care herself?

Response: The court can legally order a minor mother to pay child support, provided the mother has the ability to pay the support. But, while the court can do so, it may not be in the minor mother's or the child's best interests to do so. The court must consider the totality of the circumstances in exercising its discretion.

8. Why is it not appropriate to establish support if the child gets relative caregiver funds?

Response: The relative caregiver program provides payments for children placed with relatives as an alternative to licensed foster care. Funding for relative caregiver program comes from Title IV-A, Temporary Assistance for Needy Families (TANF). TANF has a separate process for establishing and enforcing support.

9. If paternity is not established, then we would not ask for support from the mother?

Response: Support obligations are separate for each parent. Unless the mother meets one of the exclusions for support, we should seek to establish an order for duty to support on the mother.

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10. Do we send the TPR order to DOR to stop child support when parental rights are terminated, or should we do a separate order?

Response: The best practice is to secure a separate order that vacates the court's prior order establishing a duty of support. However, if the TPR order contains such language, it can be directly provided to DOR pursuant to section 39.00145(4), Florida Statutes.

11. What happens to arrearages when the duty of support is ended by court order?

Response: Payments received after the court terminates the duty to support will be applied to the arrearage.

12. Who is responsible for following up with support orders if there is a motion to intervene filed and granted?

Response: Section 63.082(6)(f), Florida Statutes (2017), requires the adoption entity to keep the dependency court informed of the status of the adoption proceedings. When an intervention is granted in a case in which the court has previously ordered that a parent has the duty to support, the intervention order should include language that requires the adoption entity to comply with section 63.082(6)(f), F.S., and to notify the dependency court and the parties of the finalization of the adoption so that the court can vacate the prior duty to support order.

13. Do we need to wait until Dependency is adjudicated or can it be initiated at Shelter?

Response: While a duty to pay child support can be established as early as the shelter hearing, doing so may cause other unintended issues because (1) case management must file the request to support within 10 days of the order but the case often may not be transferred from CPI to case management in that timeframe; (2) we may not know at shelter whether the case falls into the category of a case in which establishment or enforcement is not in the child's best interests, and (3) should we not proceed with a dependency petition, we will need to immediately get another order eliminating the duty to support and must inform DOR about the change in circumstances. The more prudent practice would be to seek an order establishing a duty to support after it has been determined that the Department will be seeking an adjudication of dependency and it has been determined that it is in the child's best interest to get support. Each circuit should develop a list of circumstances (rape, incest, ...) in accordance with CFOP 170-13, chapter 2, section 2-2 (2), in which the Department and the CBC agree that it is not in the child's best interest to get support so that the CLS attorneys are prepared to respond should the court attempt to establish support at shelter.

14. Do we have to submit the TPR order, if the information is being communicated through the interface?

Response: It is necessary to furnish DOR with an order vacating the parent's duty to support upon the termination of the parent's rights. Presently, DOR does not receive notice through the interface of the change in circumstances.

15. Since it is intended to request the order for duty to support early in the case, can you obtain the order for duty to support and then make a decision whether it is in the child's best interest to activate the order by filing it to DOR after receipt? In other words is it a problem if the order is not filed with DOR within the 10 days of receipt if we have not made the best interest determination?

Response: See response to Question 13.

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16. Due to the confidentiality of our cases, would best practice be to send a separate order that only addresses child support and/or paternity issues to DOR?

Response: Best practice would be to secure a separate order concerning the duty to support, but if the duty to support is addressed in an order concerning other matters, the order can be provided to DOR pursuant to section 39.00145(4), Florida Statutes.

17. Are you saying the CLS should not obtain a duty of support in any case where paternity is not established? Or just that a duty of support cannot be entered for a man if paternity is not yet established?

Response: A duty to support can be established for a mother, regardless of whether paternity has been established. However, a duty cannot be established for a father until paternity is established.

18. If support funds received by DCF exceed the cost of care payment, will DCF send the funds to CBC to establish the Master Trust account? Or is that managed by DCF as well?

Response: The funds in excess of a child's cost of care (child's foster care board rate or maintenance payments) will be sent to the CBC for deposit in the child's master trust account.

19. We were under the impression that the money would go to the CBC - follow the child. I thought I heard that the money would all go to DCF and only on a rare occasion come to the CBC. Is that correct?

Response: The money is to follow the child. A support order for a child in foster care should show the Department as the payee on the child's behalf. Support collected by the Child Support Program is submitted to the Department (Office of Accounting and Finance). The information provided with the support payments includes the child's name, parent submitting payment, amount of support payment, applicable month for support payment, child's foster care board rate. The Department in turn deposits the funds into the appropriate account (if the child is IV-E eligible, the funds are deposited into the federal grants trust fund; if not IV-E eligible, the funds are deposited into the operations and management trust fund account). Support payments in excess of the child's cost of care (foster care board rate), will be sent to the CBC to deposit into the child's master trust account. As shared, we need a process for ensuring all parties (CBC, fiscal, child welfare professional, revenue maximization, etc.) receive notification of support payments for a child.

20. How will DCF determine if the amount of the child support is more than the placement and care costs?

Response: DOR provides detail on each support payment transmitted to the Department (Office of Accounting and Finance). This detail provides the necessary information to determine if the child support payment is more than the placement and care costs. See response to question 19.

21. Once the order has been established and the money is going to DOR then on to DCF for the cost of care, how are the CBC's getting the money not used for the child's cost of care?

Response: The Department will transmit the amount of support payment in excess of the child's cost of care (foster care board rate) to the CBC. The support payment detail from DOR provides information enabling the Department to determine whether the support payment exceeds the child's cost of care for the payment month. See response to question 19.

22. Please clarify, once child support is established where will payments be received by DCF or CBC? If we are setting up a trust account, the CBC would need to receive the funds in order to fee assess for cost of care.

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Response: Support payments in excess of the child's cost of care (foster care board rate), will be sent to the CBC to deposit into the child's master trust account. See response to question 19.

23. If the placement and care costs are less than the child support payment, will DCF send the overage to the CBC to deposit in the child's master trust account?

Response: Yes, the Department will send the overage to the CBC to deposit in the child's master trust account. See response to question 19.

24. Will the CBC's have points of contact at the local DOR CSE?

Response: The CBC may establish points of contact with the local DOR CSE.

25. What does child is merged mean?

Response: A child should have one Florida Safe Families Network (FSFN) person identification number (PIN). When a child has multiple FSFN PINs, the child's information is merged into one FSFN PIN.

26. Estimated date on FSFN modification to send the correct referral type to CSE?

Response: There is no estimated date at this time.

27. Will the power point be posted on the Center website?

Response: Yes, power point is available on Florida's Center for Child Welfare.
<http://centervideo.forest.usf.edu/video/center/childsupcwcase/start.html>

28. Should we file a Notice of Fee Assessment for the child support payments? Does this mean we would also consider a Fee Waiver request on the child support payments? In CFOP 55-7 8-6 b. it states the fee waiver rule does not apply in cases where the court ordered support amount is being questioned except as noted in 8-6c. Just want to confirm for the new CFOP.

Response: A Notice of Fee Assessment is not filed for child support payments and a fee waiver request does not apply in situations where the court ordered child support.

29. Who should the CBCs contact regarding questions for FLSDU?

Response: Questions regarding payments received from the FLSDU should go through Michelle Weil, Cash Management Receipts Supervisor, DCF. FLSDU is the contracted vendor for Department of Revenue, Child Support Program. Payments made through FLSDU are sent to DCF and should not be going to the local agencies.

30. What is the process for notification to Child Support Program for changes outside of what will be updated nightly from FSFN to CAMS?

Response: Child Support set up a DCF specific mailbox, CSEDCFFosterCare@floridarevenue.com, for transmission of changed information specific to an established child support case. It is necessary for case managers to provide the appropriate FSFN identification numbers for the children and FSFN case; information should only be sent on cases established with child support.