
POLICY TRANSMITTAL NO. 10-47	DATE: AUGUST 19, 2010
OKLAHOMA CHILD SUPPORT SERVICES	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:25-5-215; and 25-5-351.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

OAC 340:25-5-215 is revised to: (1) remove obsolete Instructions to Staff (ITS) on how federal income tax intercepts are applied and distributed; and (2) removes ITS language that required all interest debt be referred to the Internal Revenue Service intercept program as custodial parent debt and not state debt.

OAC 340:25-5-351 is revised to allow that interest on assigned child support be retained by the state of Oklahoma. This change provides additional funding which will help alleviate budget shortfalls.

Original signed on 8-10-10

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WF # 10-10 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:25-5-215

340:25-5-351

INSERT

340:25-5-215, pages 1-2, revised 8-13-10

340:25-5-351, pages 1-3, revised 8-13-10

340:25-5-215. Collection of past-due support from federal tax offset

Revised 8-13-10

(a) The Oklahoma Department of Human Services, through its Child Support Enforcement Division (CSED), requests collection of child support debts from federal income tax refunds. ■ 1 This program is governed by:

(1) Section 664 of Title 42 of the United States Code; and

(2) Section 285.3 of Title 31, and Sections 302.60 and 303.72 of Title 45 of the Code of Federal Regulations.

(b) A custodial person receiving a payment under this program must return the payment if the Internal Revenue Service (IRS) makes an adjustment within six years following the end of the tax year for which the refund was paid. Any adjusted amount not returned by the custodial person is an overpayment and subject to recovery under Part 37 of this Subchapter.

(c) If an offset is made to satisfy non-TANF past-due support from a refund based on a joint return, CSED delays issuance of the funds for a period of time not to exceed six months from the notice of deposit.

(d) Collections received by a IV-D agency as a result of a federal income tax refund intercept must be distributed as past-due support as required by Section 657 of Title 42 of the United States Code.

INSTRUCTIONS TO STAFF 340:25-5-215

Revised 8-13-10

1. Collection from federal income tax refunds.

(1) Tax return information obtained through the federal Office of Child Support Enforcement (OCSE) must be safeguarded from unlawful use or disclosure in accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, available from the IRS Web site at <http://www.irs.gov/pub/irs-pdf/p1075.pdf>.

(2) See OCSE Policy Interpretation Question, PIQ-01-06, available from the OCSE Web site at <http://www.acf.hhs.gov/programs/cse/pol/PIQ/2001/piq-01-06.htm>, which clarifies the threshold amounts for federal income tax

refund offset.

340:25-5-351. Allocation and distribution of collections

Revised 8-13-10

(a) **Basis for allocation and distribution of collections.** The Oklahoma Department of Human Services (OKDHS) distributes support collections received by the Centralized Support Registry for IV-D and non-IV-D cases. The collections are allocated and distributed according to Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, and associated federal regulations and Oklahoma Statutes. This Section establishes allocation of collections across support orders involving multiple families and different types of support obligations. It also establishes high-level distribution policies. Actual distribution of money occurs under Section 657 of Title 42 of the United States Code after collections are allocated according to this Section. Oklahoma Child Support Services (OCSS) is also governed by Section 654 of Title 42 of the United States Code, Section 302.33 of Title 45 of the Code of Federal Regulations, and Section 237 of Title 56 of the Oklahoma Statutes in the collection of the annual fee.

(b) **Annual fee.** OCSS automatically collects an annual \$25.00 fee once \$500.00 support has been collected and issued to the custodial person. A case is exempt from this annual fee when the family is currently receiving or formerly received assistance under state or tribal Temporary Assistance for Needy Families (TANF) or Aid to Families with Dependent Children program. When there is more than one IV-D child support program involved, OCSS collects the annual fee on cases when Oklahoma is the initiating state.

(c) **Overall priority of allocation and distribution.** This subsection has priority over (d) through (i) of this Section.

(1) OCSS allocates payments from a collection action to satisfy amounts due under obligations included in the action. Income assignment orders, liens, administrative offsets, contempt actions, and license revocations are examples of collection actions. If OCSS receives a voluntary payment, OCSS honors designated payments from noncustodial parents who have multiple family obligations if payments are reasonably consistent with this Section. Otherwise, OCSS allocates voluntary payments to cases with court-ordered obligations before cases without court-ordered obligations.

(2) In a non-IV-D case, OCSS allocates and distributes payments through the Centralized Support Registry directly to the obligee, without otherwise allocating or distributing payments under this Section, unless money was previously assigned to the State of Oklahoma.

(3) Except as provided for in (f) of this Section, OCSS applies arrearage collections owed to the custodial parent before paying conditionally or permanently assigned arrears owed to a state.

(4) OCSS applies payments to interest owed to a particular custodial person after current child support and the principal arrears balance is paid in full.

(d) Initial allocation to monthly current support obligations. Except as provided in (f) of this Section, OCSS initially allocates collections to current support obligations due each month.

(1) If collections are less than the amount of all current support due, OCSS allocates collections between the current child support and the cash medical support specified in the order in proportionate shares.

(2) After the current child support and cash medical support obligation is met, OCSS allocates collections to current spousal support due.

(e) Allocation to monthly past-due support obligations under payment plans. Except as provided in (f) of this Section, after all current support obligations are met, OCSS allocates collections under payment plans to fixed monthly past-due support obligations. Payment plans are defined in Section 237.7 of Title 56 of the Oklahoma Statutes.

(1) If collections are less than the amount due under the payment plan, OCSS first allocates collections to past-due current child support.

(2) After the past-due monthly child support obligation is met, OCSS allocates collections to monthly past-due spousal support.

(3) OCSS allocates collections to the total amount in arrears after fixed monthly past-due support obligations in the payment plan are met.

(f) Allocation and distribution to total amount in arrears.

(1) OCSS allocates federal income tax refund offset collections to the total amount in arrears and first applies these collections to any assigned arrearages, up to the total amount of unreimbursed assistance. Any remainder is then paid to the custodial person(s).

(2) Except for collections under a payment plan, OCSS allocates collections above the current support obligation to total arrears.

(3) After all child support arrearages are satisfied, OCSS allocates remaining collections to spousal support arrearages.

(g) **Allocation and distribution of arrears to assigned cash medical support.** After the past-due current child support, cash medical support, and spousal support are met, OCSS allocates collections to assigned cash medical support.

(h) **Multiple family support orders.** This subsection explains the allocation of collections when a noncustodial parent has multiple family obligations. For purposes of this Section, a family is a mother and a father and the child(ren) of that relationship, and any custodial person(s) of the child(ren) who is not the mother or the father.

(1) **Current support.** OCSS prorates and applies support collections to each family based on the current child support obligation due each family. The collections are allocated within each family obligation under subsection (d) of this Section.

(2) **Past-due support under a payment plan.** OCSS prorates and allocates collections to payment plans for multiple families based on each family's fixed monthly payment plan obligations due.

(3) **Total arrears, including principal and interest balances.** OCSS prorates and allocates collections to arrears, including principal and interest balances, for multiple families based on each family's total arrears due.

(i) **Past-due support in interstate cases.** In cases where OCSS is collecting support for a custodial person who is receiving services from another state's child support agency, OCSS allocates arrearage payments based on information provided by the initiating state. After all current support obligations are met, OCSS allocates collections to past-due support for payment plans, total arrears, and interest as follows:

(1) **Non-public assistance balance.** If any portion of the past-due balance is owed to the custodial person or will be passed through to the custodial person under federal distribution regulations, OCSS allocates collections to that portion of the past-due balance and pays that amount to the other state's State Disbursement Unit.

(2) **Public assistance balances.** If no portion of the past-due balance is owed to the custodial person, OCSS allocates collections first to balances owed to Oklahoma and then pro rates between balances owed to the other state(s).

(j) **Interest.** OCSS distributes interest last in single family, multiple family, and interstate cases.