
POLICY TRANSMITTAL NO. 05-55	DATE: JANUARY 18, 2006
CHILD SUPPORT ENFORCEMENT DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:25-5, Table of Contents; 25-5-200; 25-5-203.1; and 25-5-312.

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

The revisions to Subchapter 5 of Chapter 25 implement Child Support Enforcement Division (CSED) procedures to: (1) attach lottery prize winnings when the winner of such lottery prize has an open case and owes a child support arrearage, child support judgment and interest thereon, past-due alimony, or judgment for child care costs or medical expenses; and (2) allow CSED, acting on behalf of the State of Oklahoma, to recover an overpayment made to a custodial person or recover bad debt made by a noncustodial parent. The proposed revisions bring rules into compliance with Section 724.1 of Title 3A of the Oklahoma Statutes.

340:25-5-200 is amended to add the attachment of lottery prize winnings from the Oklahoma Lottery Commission as a legal remedy to enforce court-ordered support obligations.

340:25-5-203.1 is issued to include new procedures for the collection of lottery prize winnings as an enforcement tool in the collection of court-ordered child support, medical expenses, child care costs, and alimony obligations and the collection of overpayments established by Oklahoma Department of Human Services (OKDHS) per OAC 340:25-5-305 and 312. This new rule defines the parameters of the collection of lottery prize winnings and the conditions the claimant has to contest such a claim.

340:25-5-312 is amended to outline the procedure for: (1) CSED to secure lottery prize winnings for the collection of overpayments made by OKDHS or bad debt accrued in the payment of child support enforcement; and (2) the overpayment recipient to contest the claim.

Original signed on 12-27-05

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WF # 05-08 (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 a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS 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, DHS 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, DHS: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) 521-3611.

REMOVE

340:25-5, Table of Contents

340:25-5-200

340:25-5-312

INSERT

340:25-5, Table of Contents, pages 1-10,
revised 1-11-06

340:25-5-200, pages 1-3, revised 1-11-06

340:25-5-203.1, pages 1-2, issued 1-11-06

340:25-5-312, pages 1-2, revised 1-11-06

SUBCHAPTER 5. OPERATIONAL POLICIES**PART 1. MISSION, STRUCTURE AND LEGAL BASES [REVOKED]**

Section

- 340:25-5-1. Purpose **[REVOKED]**
- 340:25-5-2. Definitions **[REVOKED]**
- 340:25-5-3. Mission of program **[REVOKED]**
- 340:25-5-4. Structure of program **[REVOKED]**
- 340:25-5-5. Legal base **[REVOKED]**
- 340:25-5-6. Statewide operations **[REVOKED]**

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- 340:25-5-16. Support obligations **[REVOKED]**
- 340:25-5-17. Formula for determining the amount of the support obligation **[REVOKED]**
- 340:25-5-18. Collection and distribution of support payments **[REVOKED]**
- 340:25-5-19. Individuals not otherwise eligible for paternity and support services **[REVOKED]**
- 340:25-5-20. Provision of services in interstate IV-D cases **[REVOKED]**
- 340:25-5-21. Cooperation with other states **[REVOKED]**
- 340:25-5-22. Parent locator services **[REVOKED]**
- 340:25-5-23. Medical support enforcement activities **[REVOKED]**
- 340:25-5-24. Federal tax refund offset **[REVOKED]**
- 340:25-5-25. Withholding of unemployment compensation **[REVOKED]**
- 340:25-5-26. Procedures to improve program effectiveness **[REVOKED]**
- 340:25-5-27. Incentive payments to states and political subdivisions **[REVOKED]**

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- 340:25-5-36. Reports and maintenance of records **[REVOKED]**
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- 340:25-5-39. Bonding of employees **[REVOKED]**
- 340:25-5-40. Separation of cash handling and accounting functions **[REVOKED]**
- 340:25-5-41. Safeguarding information **[REVOKED]**
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- 340:25-5-43. Publicizing the availability of support enforcement services **[REVOKED]**
- 340:25-5-44. Notice of collection of assigned support **[REVOKED]**
- 340:25-5-45. Guidelines for setting child support obligations within the state

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340:25-5-48. General plan provisions **[REVOKED]**

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340:25-5-350.3. Payment of support through Centralized Support Registry
340:25-5-351. Allocation and distribution of collections
340:25-5-352. Adjustments from field offices **[REVOKED]**

340:25-5-353. Monthly/Quarterly reports **[REVOKED]**

340:25-5-354. Warrants **[REVOKED]**

PART 41. CLAIMS, PURCHASING, CONTRACTS AND BUDGET [REVOKED]

340:25-5-360. Claims processing **[REVOKED]**

340:25-5-361. Purchasing and Inventory **[REVOKED]**

340:25-5-362. Contracts **[REVOKED]**

340:25-5-363. Budget **[REVOKED]**

PART 23. ENFORCEMENT

340:25-5-200. Scope and applicability

(a) The Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) follows Title IV, Part D, of the Social Security Act, Section 303.6 of Title 45 of the Code of Federal Regulations, and Section 240.1 of Title 56 of the Oklahoma Statutes in initiating enforcement proceedings.

(1) Orders for current and past child and spousal support, health care coverage, fixed amounts of medical support, judgments, and delinquencies may be enforced through expedited and judicial processes, or through other collection efforts.

(2) Past-due child support is a judgment by operation of law and may be enforced in the same manner as any other money judgment. [43 O.S. § 137]

(3) Post judgment remedies do not require an adjudicated judgment by a district or administrative court.

(4) Each missed support payment is a judgment; thus, a judgment increases with each missed payment. This total judgment becomes a lien on the real and personal property of the obligor.

(b) CSED determines appropriate enforcement actions and may use any legal remedy to enforce support obligations. ■ 1 Remedies CSED may use, as appropriate, include but are not limited to:

(1) annual notice to obligors as provided in Section 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213;

(2) income assignment, garnishment, and levy as provided in Chapter 21 of Title 12, Section 240.23 of Title 56 of the Oklahoma Statutes, and Section 666 of Title 42 of the United States Code;

(3) hearing on assets as provided in Section 842 of Title 12 of the Oklahoma Statutes;

(4) intercept of federal tax refunds as provided in Section 664 of Title 42 of the United States Code, Sections 285.3 of Title 31 and 303.72 of Title 45 of the Code of Federal Regulations, and Part 25 of this Subchapter, and intercept of state tax refunds as provided in Section 303.102 of the Code of Federal Regulations,

Sections 205.2 and 205.3 of Title 68 of the Oklahoma Statutes, and Part 27 of this Subchapter;

(5) administrative offsets as provided in Section 3716 of Title 31 of the United States Code, Section 285.1 of Title 31 of the Code of Federal Regulations, and Executive Order 13019;

(6) denial, revocation, or suspension of United States Passports as provided in Section 240.1 of Title 56 of the Oklahoma Statutes and Sections 652 and 654 of Title 42 of the United States Code;

(7) revocation, suspension, non-renewal, and non-issuance of various licenses, including but not limited to, revocations of certificates of motor vehicle titles, as provided in Sections 139 and 139.1 of Title 43, Sections 1-153, 6-201, 6-201.1, and 6-211 of Title 47, and Sections 237.1 and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes;

(8) imposing liens and executing and levying on personal and real property, including but not limited to, workers' compensation, personal injury, wrongful death, and probate actions, as provided in Section 135 of Title 43, Section 240.23 of Title 56, and Titles 12 and 58 of the Oklahoma Statutes;

(9) registration of foreign support orders under the Uniform Interstate Family Support Act as provided in Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes;

(10) credit bureau referrals as provided in Section 666 of Title 42 of the United States Code, Section 1681b of Title 15 of the United States Code, Section 240.7 of Title 56 of the Oklahoma Statutes, and Part 31 of this Subchapter;

(11) financial institution data match as provided in Sections 666 and 669 of Title 42 of the United States Code, Sections 240.22 through 240.22G of Title 56 of the Oklahoma Statutes, and OAC 340:25-5-212;

(12) seek work orders as provided in Section 240.10 of Title 56 of the Oklahoma Statutes;

(13) contempt as provided in Sections 566 and 567 of Title 21, Section 137 of Title 43, and Section 234 of Title 56 of the Oklahoma Statutes;

(14) action to void the transfer or obtain favorable settlement in cases in which a debtor transferred income or property to avoid payment to a child support creditor

under the Uniform Fraudulent Transfer Act, Sections 112 through 123 of Title 24 of the Oklahoma Statutes and Section 666 of Title 42 of the United States Code;

(15) registration of foreign judgments under the Uniform Enforcement of Foreign Judgments Act, Sections 719 through 726 of Title 12 of the Oklahoma Statutes;

(16) criminal actions brought under Section 852 of Title 21 of the Oklahoma Statutes;

(17) civil actions brought under Section 660 of Title 42 of the United States Code;

(18) transfer of child support obligation to another custodian under Section 237 of Title 56 of the Oklahoma Statutes;

(19) referral to the United States Attorney for federal prosecution under Section 228 of Title 18 of the United States Code;

(20) full collection services by the Secretary of the Treasury under Section 6305 of the Internal Revenue Code of 1954; and

(21) attachment of lottery prize winnings from the Oklahoma Lottery Commission under Section 724.1 of Title 3A of the Oklahoma Statutes.

INSTRUCTIONS TO STAFF

- 1. The Enforcement Case Evaluation Flowchart and Worksheet assist child support staff to identify the status of, and options available in, the enforcement process for individual cases and are found on the Child Support Enforcement Divison (CSED) InfoNet site at: <http://s99web01/CSED/pdf/ECE.pdf>.**

(1) The flowchart illustrates the CSED enforcement process and policy, and provides child support staff a quick reference for enforcement remedies.

(2) The worksheet is a visual tool for outlining background and procedural facts in an individual case and is intended to reduce work duplication and improve customer service. Child support staff:

(A) maintain the worksheet in the case file throughout the life of a case to identify efficient, effective, and timely enforcement processes; and

(B) may incorporate additional sheets as needed.

340:25-5-203.1. Collection from lottery prize winnings

(a) The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) files claims with the Oklahoma Lottery Commission against lottery prize winnings under Section 724.1 of Title 3A of the Oklahoma Statutes to collect:

(1) child support arrearages, child support judgments and interest thereon, past-due alimony, and judgments for child care costs and medical expenses; and

(2) overpayments established by CSED under OAC 340:25-5-305 and 340:25-5-312.

(b) The minimum amount of a claim filed by CSED is \$50.

(c) Within five days after filing a claim with the Oklahoma Lottery Commission, CSED sends a notice by regular mail to the noncustodial parent. The notice includes:

(1) that a claim has been filed with the Oklahoma Lottery Commission;

(2) the basis for the claim;

(3) that the noncustodial parent has the right to contest the claim by requesting in writing an administrative review within ten days of the date on the notice from CSED; and

(4) that the administrative review is granted only on the grounds of:

(i) a mistake of identity; or

(ii) the amount of arrearage or judgment is incorrect.

(d) After the administrative review, CSED issues a notice of administrative review decision and information about requesting an administrative hearing. The noncustodial parent may request in writing a hearing within 20 days after the date of the administrative review decision.

(e) Upon receipt of a timely request for an administrative hearing, CSED schedules the matter for an administrative hearing before the Office of Administrative Hearings: Child Support (OAH). OAH conducts a hearing and enters an order determining the contested issues.

(f) If the noncustodial parent settles the arrearage or judgment with CSED before

expiration of the 30-day administrative review period as specified in OAC 340:25-5-200.1, CSED notifies the Oklahoma Lottery Commission in writing or by electronic media that the claim has been released.

340:25-5-312. Overpayment rules and procedures

(a) **General.** A custodial person, noncustodial parent, or other entity to whom the Child Support Enforcement Division (CSED) has made an overpayment, owes the amount of the overpayment to CSED, acting on behalf of the State of Oklahoma.

(b) **Fraud.** If an overpayment may have resulted in whole or in part from false or misleading statements, concealed information, willful misrepresentation, or if fraud is otherwise suspected, CSED may refer the information to the Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) for appropriate action. Action may include, but is not limited to, investigation and criminal prosecution.

(c) **Bad debt.** To satisfy a bad debt resulting from a:

(1) tax intercept paid to a custodial person which is subsequently withdrawn, CSED takes the full amount of any monthly payment to the custodial person until the bad debt is paid in full; or

(2) noncustodial parent's dishonored check, CSED takes the full amount of the noncustodial parent's subsequent payment(s) until the bad debt is paid in full.

(d) **Erroneous payments and retained support.** CSED recovers 50 percent of monthly current support payments to the recipient and recovers the total amount of any arrearage payments made at any time, in order to satisfy erroneous payments and retained support overpayments until the overpayment is recovered in full. CSED does not reduce the recovery amount at the recipient's request.

(e) **Notice.** CSED sends a notice of overpayment and recovery to the recipient of the overpayment. The notice includes:

(1) a statement that the recipient received money to which the recipient was not entitled and owes money to CSED;

(2) the amount of the overpayment;

(3) the method of withholding from monthly payments until the overpayment is recovered in full;

(4) a statement that CSED may collect the overpayment through any means permitted by law; and

(5) instructions for requesting in writing an administrative review under OAC

340:25-5-200.1 within 30 days after the date on the notice of overpayment and recovery letter, if the recipient disagrees with the amount of the overpayment.

(f) Other overpayment recovery methods. CSED also recovers overpayments through:

(1) voluntary payments;

(2) state tax refund offsets under Section 205.2 of Title 68 of the Oklahoma Statutes; and

(3) lottery prize claims under Section 724.1 of Title 3A of the Oklahoma Statutes.

(g) TANF customers. In active Temporary Assistance for Needy Families (TANF) cases, when a TANF recipient retains child support receipts, CSED may make a noncooperation referral to the TANF social services specialist. CSED recovers overpayments from TANF customers through voluntary payments, state tax refund offsets, and lottery prize claims.

(h) Administrative review. If an administrative review is requested under OAC 340:25-5-200.1, the purpose of the review is to provide the recipient an opportunity to offer new or additional information regarding the amount of the overpayment. Upon receipt of a timely request for an administrative review, the CSED office conducts the review within 30 days.