
POLICY TRANSMITTAL NO. 09-41	DATE: June 29, 2009
OKLAHOMA CHILD SUPPORT SERVICES	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:25-5, Table of Contents; 340:25-1-1.1; 25-5-67; 25-5-168 through 25-5-171; 25-5-198.1; and 25-5-351.

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

The purposes of proposed emergency amendments are to codify provisions of state and federal legislation into Chapter 25 of Title 340 of the Oklahoma Administrative Code: Sections 302.56, 303.31, 303.32, and 303.7 of Title 45 of the Code of Federal Regulations (Federal Register/Volume 73, No. 140), that added new requirements for cash medical support and enforcement of a medical support order. The revisions also comply with Oklahoma State Senate Bill 2194, effective July 1, 2009, amending child support guideline provisions in Sections 118 through 118I of Title 43 of the Oklahoma Statutes. Emergency rules also incorporate the division name change, from Child Support Enforcement Division (CSED) to Oklahoma Child Support Services (OCSS).

340:25-1-1.1 is amended to: (1) add definitions for alternative health coverage, cash medical support, current child support, fixed medical, and health insurance; and (2) clarify existing definitions for medical enforcement only cases and medical support.

340:25-5-67 is amended to define health insurance must be court-ordered health insurance before OCSS may release necessary information to enroll children in health insurance.

340:25-5-168 is amended to: (1) define the establishment of medical support; (2) provides new processes in compliance with federal regulations and state law for the establishment of medical support orders and termination of cash medical support when OCSS receives information that a child is enrolled in health insurance; (3) clarify that a child support order must contain a medical support provision; (4) add the standards, exceptions and hierarchy for medical support provisions; (5) provides that OCSS

requests a court to give priority to the custodial person when insurance is available to both parents; (6) provides that OCSS requests cash medical support if health insurance is not available under the standards; (7) provides for cash medical support when the children are on a government medical assistance program; (8) provides the monthly amount to be used as the cost of health care for an uninsured child in a non government assistance cash medical support provision; (9) clarify when OCSS seeks an order for health insurance when a child has Indian Health Services (IHS) and that OCSS does not request a cash medical support provision on IHS cases; and (10) adds Instructions To Staff stating OCSS staff use the gross income of the parent at the time of the order to determine the reasonable cost standard (5%) of the health insurance.

340:25-5-169 is amended to: (1) define the establishment of medical enforcement only cases; (2) clarify the process OCSS uses on medical enforcement only (MEO) cases when conducting a review of the child support order; (3) open a full- service case when assigned cash medical support is owed; and (4) adds conditions which OCSS seeks modification of the medical support provision.

340:25-5-170 is amended to: (1) define enforcement of medical enforcement only cases; and (2) clarify that OCSS enforces only the health insurance portion of a child support order on a MEO case; and does not enforce fixed medical costs on an MEO case.

340:25-5-171 is amended to: (1) define enforcement of a medical support order; (2) clarify that OCSS does not enforce a medical support order against a third party custodial person; (3) clarify when an employer states the cost of insurance coverage exceeds the limits of earnings subject to an income assignment that OCSS seeks other coverage or seeks a cash medical order in lieu of insurance; and (4) adds review example in Instructions To Staff when a parent cannot obtain health insurance at a reasonable cost that OCSS seeks cash medical support.

340:25-5-198.1 is amended to: (1) define review of a support order; (2) add that when parents ask for services to review their child support orders, OCSS changes the MEO case to a full service case and notifies the parents; and (3) clarify the initial review and final review process.

340:25-5-351 is amended to: (1) define the allocation and distribution of collections; (2) excludes assigned cash medical support from interest debt collected; (3) adds that OCSS allocates between the current child support and assigned cash medical in

proportionate shares when less than the current support due is collected; (4) adds that the cash medical support obligation is met before the current spousal support obligation; (5) adds that OCSS applies collections to past-due current child support and spousal support first and then allocates arrear collections to assigned cash medical support; and (6) add that collections are allocated for multiple families in the same way as a single family.

Original signed on 7-13-09

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WF # 09-09 (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

340:25-1-1.1

340:25-5, Table of Contents

340:25-5-67

340:25-5-168

340:25-5-169

340:25-5-170

340:25-5-171

340:25-5-198.1

340:25-5-351

INSERT

340:25-1-1.1, pages 1-7, revised 7-21-09

340:25-5, Table of Contents, pages 1-10, revised 7-21-09

340:25-5-67, pages 1-5, revised 7-21-09

340:25-5-168, pages 1-8, revised 7-21-09

340:25-5-169, pages 1-2, revised 7-21-09

340:25-5-170, 1 page only, revised 7-21-09

340:25-5-171, pages 1-4, revised 7-21-09

340:25-5-198.1, pages 1-6, revised 7-21-09

340:25-5-351, pages 1-4, revised 7-21-09

340:25-1-1.1. DefinitionsRevised 7-21-09

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Address of record" means an address for a party or a custodial person in the Central Case Registry of Oklahoma Child Support Services (OCSS) that is used for service of process in support, custody, and visitation actions. An address of record may be different from the party's or custodial person's physical address.

"Alleged father" means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.* [10 O.S. § 7700-102]

"Alternative health coverage" means health care services other than health insurance, including, but not limited to, Indian Health Services (IHS) or Defense Eligibility Enrollment Reporting System (DEERS), which is available to either parent under which medical services could be provided to the dependent child(ren).

"Annual notice" means the yearly notice provided for in Section 237A of Title 56 of the Oklahoma Statutes to notify the noncustodial parent and custodial person of the amount due, actions that may be taken to enforce the child support obligation, actions required of the noncustodial parent and custodial person, and other related information and instructions.

"Arrears," "arrearage," or "past-due support" means the total amount of unpaid support obligations that has accrued under a support order. See also the definition for "delinquency" in this Section.

"Assignment" means any transfer of rights to support to the State of Oklahoma under Sections 608 and 671 of Title 42 of the United States Code or any transfer of rights to medical support and to payment of medical care from any third party under Section 433.146 of Title 42 of the Code of Federal Regulations.

"Authorized representative" means a person designated by a custodial person, noncustodial parent, or biological parent according to OAC 340:25-1-3.1.

"Biological parent" means the natural parent of a child.

"Case" means the relationship of a particular group of people bound by legal rights and duties for the support of a child(ren) who is receiving or has received child support services and all of the records and actions associated with the group.

"Cash medical support" means an amount ordered to be paid toward the cost of health coverage instead of insurance.

"Central Case Registry" means Oklahoma's repository for Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code (IV-D) cases and child support orders established or modified in Oklahoma after October 1, 1998. It includes, but is not limited to, information required to be transmitted to the Federal Case Registry under Section 654a of Title 42 of the United States Code. OCSS maintains the Central Case Registry under Section 112A of Title 43 of the Oklahoma Statutes.

"Centralized Support Registry" means a repository maintained by OCSS to receive, allocate, and distribute support payments, including child support, spousal support when paid in conjunction with child support, and related support payments under Section 413 of Title 43 of the Oklahoma Statutes. It serves as Oklahoma's State Disbursement Unit under Section 654b of Title 42 of the United States Code. The Centralized Support Registry processes payments:

(A) *in all cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes until all monies owed for child support are no longer owed;*

(B) *in all other cases in which support is being paid by income withholding; and*

(C) when a court orders payments to be made through the Centralized Support Registry. [43 O.S. § 413]

"CSED" means the Child Support Enforcement Division of the Oklahoma Department of Human Services and is also known as Oklahoma Child Support Services (OCSS). OCSS includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, Community Action Program (CAP) agencies, and others. OCSS includes all of these offices and their employees and agents.

"Current child support" means the base child support obligation and the proportional share of health insurance costs, fixed medical costs, transportation expenses, and annualized child care costs. Current child support does not include cash medical support.

"Custodial person" or **"custodian"** means the person who has primary physical custody of the child(ren).

"Delinquency" means *any payment under an order for support which becomes due and remains unpaid.* [12 O.S. §1170 and 56 O.S. § 237.7]

"District office" means a child support services office operated by OKDHS or through contract or agreement with OKDHS to serve a specific area of the state.

"Family violence" means domestic abuse or child abuse, including physical or emotional harm.

"Fixed medical" means fixed periodic payments for ongoing medical costs not paid or reimbursed by insurance, or included in a cash medical support order.

"Full-service case" means a child support case for which OCSS provides all appropriate IV-D services as described in OAC 340:25-1-1.2.

"Health insurance" means a health care plan provided through:

(A) fee for service;

(B) health maintenance organization; or

(C) preferred provider organization.

"High-volume administrative enforcement cases in interstate actions" means, on request of another state, the identification by a state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other states, and the seizure of such assets by the state through levy or other appropriate processes. [42 U.S.C. § 666]

"Income assignment" means an assignment, by operation of law or by court or administrative order, of a portion of the monies, income, or periodic earnings due and owing by the noncustodial parent to the person entitled to the support or to another person designated by the support order or assignment. An income assignment may be for payment of current support, arrearages, or both. The terms "income assignment" and "income withholding" may be used interchangeably. [12 O.S. § 1170 and 56 O.S. § 237.7]

"Interstate case" means a case in which at least one party resides in another state or country, or a support order was entered in another state or country.

"Intrastate case" means a case existing or occurring within the boundaries of a single state.

"IV-A" means Title IV, Part A, of the Social Security Act, codified in Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering the federal-state Temporary Assistance for Needy Families (TANF) Program.

"IV-B" means Title IV, Part B, of the Social Security Act, codified in Part B of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering child welfare services.

"IV-D" means Title IV, Part D, of the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code, generally relating to child support.

"IV-D case" means a child support case receiving IV-D services.

"IV-D programs and services" means programs and services under Title IV, Part D, of the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

"IV-E" means Title IV, Part E, of the Social Security Act, codified in Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering foster care.

"IV-E foster care" means federal and state funded placement of a child(ren) removed from a home whose family members meet the eligibility criteria for federal participation for IV-E foster care.

"Medicaid" "SoonerCare (Medicaid)," or "Title XIX" means medical assistance provided under a state plan approved under Title XIX of the Social Security Act, codified in Subchapter XIX of Chapter 7 of Title 42 of the United States Code.

"Medical enforcement only case" or "MEO case" means a child support case for which OCSS provides only IV-D services related to securing and enforcing medical support to non-TANF SoonerCare (Medicaid) recipients.

"Medical support" means health insurance, alternative health coverage, cash medical support, or a combination of these for the benefit of a minor child(ren).

"Member of military service" or "servicemember" means any member of the uniformed service on active duty, including the Army, Navy, Air Force, Marine Corps,

and Coast Guard. Also included are members of the National Guard called to active service, certain members of the Public Health Service, and the National Oceanic and Atmospheric Administration, members of the Reserves when ordered to report for active military duty, and United States citizens serving with the military of other countries if their service is similar to military service. [50A U.S.C. §§ 511, 514, and 516] A servicemember may be a noncustodial parent or a custodial person.

"Noncustodial parent" means a parent who does not have primary physical custody of the child(ren).

"Non-IV-D case" means a private child support case not receiving IV-D services.

"Non-IV-E foster care" means state funded placement of a child(ren) removed from a home where the child(ren) does not meet federal IV-E participation requirements.

"Notice of Income Assignment" means the tool used to effect the income withholding process. This document is used to notify employers and other withholders to deduct child support payments from noncustodial parents' income and to send the payments to Oklahoma's Centralized Support Registry for distribution. The terms "income withholding" and "income assignment" may be used interchangeably.

"OAH" means the OKDHS Office of Administrative Hearings: Child Support, which conducts child support administrative hearings.

"Obligee" or "person entitled" means:

(A) *a person to whom a support debt or support obligation is owed;*

(B) *the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services; or*

(C) *a person designated in a support order or as otherwise specified by the court. [56 O.S. § 237.7]*

"Obligor" means the person who is required to make payments under an order for support. [12 O.S. § 1170 and 56 O.S. § 237.7]

"OCSS" means Oklahoma Child Support Services. OCSS includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, Community Action Program (CAP) agencies, and others. OCSS includes all of these offices and their employees and

agents. OCSS is formerly known as the Child Support Enforcement Division of the Oklahoma Department of Human Services.

"Offset" means an amount of money intercepted from a noncustodial parent's state or federal tax refund, or from an administrative payment such as federal retirement benefits, to satisfy a child support debt.

"OKDHS" means the Oklahoma Department of Human Services. OKDHS is the state agency designated to administer the child support program for the State of Oklahoma.

"Overpayment" means a payment to a custodial person, noncustodial parent, or other entity by OCSS to which the entity or person is not entitled.

"Participant in a case" means a child, parent or alleged father, or custodial person associated with a child support services case.

"Past support" means past-due support or support for a prior period. See the definition for "arrear" in this Section.

"Payment plan" includes, but is not limited to, a plan approved by the court or the support enforcement entity that provides sufficient security to ensure compliance with a support order or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment of past-due support and, if applicable, current and future support. [43 O.S. § 139.1 and 56 O.S. § 237.7] A payment plan is intended to incrementally reduce arrears.

"Payor" means *any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person.* [12 O.S. § 1170 and 56 O.S. § 237.7]

"Presumed father" means *a man who, by operation of law under Section 7700-204 of Title 10 of the Oklahoma Statutes, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.* [10 O.S. § 7700-102]

"Social Security Act" means Public Law 74-271, approved August 14, 1935, as currently in effect.

"State's attorney" means a lawyer employed in the child support program to represent the state in rendering services pursuant to the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

"Support" means all payments or other obligations due and owing to the custodial person or person entitled by the noncustodial parent under a support order, and may include, but is not limited to, child support, medical insurance or other health benefit plan premiums or payments, child care obligations, support alimony payments, and other obligations as specified in Sections 118 through 119 of Title 43 of the Oklahoma Statutes. [56 O.S. § 237.7]

"Support for a prior period" means the amount of child support ordered under the child support guidelines in Sections 118 through 119 of Title 43 of the Oklahoma Statutes in paternity orders and in TANF notice of support debt orders for past months when no child support order was in effect.

"Support order" means a *judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.* [43 O.S. § 601-101]

"TANF" means Temporary Assistance for Needy Families. TANF replaces Aid to Families with Dependent Children (AFDC).

"Tribunal" means a court or administrative agency authorized to establish, enforce, or modify support orders, or determine parentage. [43 O.S. § 601-101]

"UIFSA" means the Uniform Interstate Family Support Act. In Oklahoma, UIFSA is codified at Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes.

"Unreimbursed public assistance" means money paid as cash assistance from IV-A and IV-E programs that has not yet been recovered.

"UPA" means the Uniform Parentage Act. In Oklahoma, the UPA is codified in Sections 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes.

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]
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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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- 340:25-5-35. Cooperative arrangements [REVOKED]
- 340:25-5-36. Reports and maintenance of records [REVOKED]
- 340:25-5-37. Standards for an effective program [REVOKED]
- 340:25-5-38. Non-discrimination [REVOKED]
- 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]
- 340:25-5-42. Computerized support enforcement system [REVOKED]
- 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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340:25-5-46. Payment of support through the IV-D agency or other entity
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340:25-5-67. Information disclosureRevised 7-21-09

(a) **Confidentiality.** *All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other public or private entity shall be confidential.* [56 O.S. § 183] ■ 1

(1) All files and records concerning the assistance or services provided under the Child Support Enforcement Program or concerning an alleged father of a child born out of wedlock are confidential except as otherwise authorized by law. [56 O.S. § 237]

(2) Any information the Oklahoma Child Support Services (OCSS) obtains from federal or state agencies is subject to limitations on disclosure imposed by laws governing the information received from those agencies. OCSS does not disclose or use the contents of any child support records, files, papers, or communications for purposes other than those directly connected to the administration of the Child Support Enforcement Program.

(3) Nothing in this Section authorizes disclosure of the location of a case participant with a family violence indicator set under OAC 340:25-5-67.1.

(b) **Authorized disclosure.** Information, when requested per OAC 340:25-5-68, may be shared with: ■ 2

(1) persons duly authorized by the United States in connection with the performance of their official duties, [56 O.S. § 183] including, but not limited to:

(A) exchange of information to the extent necessary to carry out the state agency IV-D program responsibilities directly and through statewide automated data processing and information retrieval networks within the Oklahoma Department of Human Services (OKDHS), with authorized representatives of OKDHS divisions and other agencies of the State of Oklahoma and other states, and with federal and tribal agencies and other countries;

(B) exchange of information directly and through statewide automated data processing and information retrieval networks with representatives of OKDHS and other state agencies administering programs under Titles IV-A, IV-E, and XIX of Subchapter IV of Chapter 7 of Title 42 of the United States Code, to the

extent necessary to carry out state agency Titles IV-A, IV-E, and XIX responsibilities;

(C) release of information received from the Federal Parent Locator Service, through the State Parent Locator Service, to an authorized person under Section 663 of Title 42 of the United States Code representing:

(i) agencies administering or enforcing programs under Titles IV-B and IV-E of Subchapter IV of Chapter 7 of Title 42 of the United States Code to the extent necessary to carry out state agency Titles IV-B and IV-E responsibilities; and

(ii) the United States or the State of Oklahoma for purposes of enforcing or prosecuting any federal or state law with respect to the unlawful taking or restraint of a child, or any court or agent of such court having jurisdiction to make or enforce a child custody or visitation determination; and ■ 3

(D) release of Social Security numbers for child support enforcement purposes, such as locating the parents, submitting cases for federal administrative and income tax refund offset, state income tax refund offset, financial institution data match, enrolling children as beneficiaries of health insurance coverage, and processing interstate child support enforcement;

(2) parties to a child support case, their attorneys, interpreters, and authorized representatives, who may only access:

(A) pay records and payment calculations;

(B) documents, exhibits, worksheets, and supporting documents filed with the court and any administrative documents that are part of the order, such as guideline worksheets and financial affidavits;

(C) specific case activity in the course of providing child support enforcement services, such as the number and dates of locate attempts, and establishment and enforcement of child support or medical support orders;

(D) information required by Titles 43 or 56 of the Oklahoma Statutes to be disclosed for the purpose of reviewing, establishing, or modifying a support order; and

(E) information necessary to enroll children as beneficiaries of court-ordered health insurance coverage;

(3) parents or custodial persons requesting disclosure of address of record under Section 112A of Title 43 of the Oklahoma Statutes and OAC 340:25-5-340.1; and

(4) persons as directed by court order or by a subpoena that has been approved by a child support attorney. ■ 4

INSTRUCTIONS TO STAFF 340:25-5-67

Revised 7-21-09

1. No employee or agent of the Oklahoma Department of Human Services (OKDHS) accesses or uses confidential information or data obtained through the Child Support Enforcement Program except on a need to know basis in the performance of his or her official duties as an employee or agent of OKDHS. This information or data may not be used for personal amusement, curiosity, gain, benefit, or any other reason not directly related to the performance of official duties.

(1) Instances of inappropriate access or misuse of confidential information by:

(A) any employee or agent of OKDHS is reported by child support staff to their own supervisors; and

(B) an agent of OKDHS is reported by child support supervisors to the supervisor of the agent.

(2) Supervisors of OKDHS employees and supervisors of OKDHS agents must take appropriate action consistent with DHS:2-1-7.

2. Release of information.

(1) The Oklahoma Child Support Services (OCSS) releases written child support payment information to housing authorities and other entities upon written authorization of the custodial person or noncustodial parent. District offices may coordinate this release of information to housing authorities with the OCSS Legal and Community Collaboration Unit.

(2) OCSS does not release child support payment information to Child Welfare (CW) staff without a court order unless the reason for release is to establish or enforce a child support order.

(3) When it furthers the provision of IV-D services as described in OAC 340:25-1-1.2, OCSS releases information to entities such as:

(A) agents administering the Welfare-to-Work Program;

(B) personnel in the juvenile court system pursuing delinquent and deprived juvenile court actions; and

(C) law enforcement personnel prosecuting federal and state child support enforcement crimes.

(4) OCSS does not release information to law enforcement personnel prosecuting crimes unrelated to the provision of IV-D services as described in OAC 340:25-1-1.2.

(5) When it furthers the provision of IV-D services as described in OAC 340:25-1-1.2, OCSS provides limited electronic access to case information to OKDHS staff administering programs under Titles IV-A, IV-B, IV-E, and XIX.

(A) OCSS encourages authorized OKDHS staff in other divisions to obtain child support case record information through viewing applicable automated Oklahoma Support Information System screens.

(B) OCSS provides child support information directly by e-mail, telephone, or letter to authorized OKDHS staff.

3. Parent Locator Service.

(1) When a Child Protective Service Alert (CPSA or PSA) indicator appears during a search for history on a family in the KIDS and/or IMS system, as a PSA case type in KIDS and a CPSA designation in IMS on a CW case, child support staff release locate information to OKDHS Children and Family Services Division at 405-521-2283.

(2) When CW staff request Federal Parent Locator Service (FPLS) information from OCSS that furthers only IV-B or IV-E purposes, CW staff

must submit a request to the State Parent Locator Service (SPLS) in the Programs Unit of OCSS. For example, CW staff may request locate information from SPLS to locate a non-parent for researching a possible placement for a deprived child.

- (A) Child support staff direct authorized persons requesting FPLS information to submit their requests to the SPLS.
 - (B) The SPLS provides the information to the requester in person or by e-mail, telephone, or letter, rather than through the automated system.
- (3) For further information concerning release of FPLS information, see:
- (A) the Federal Register, Volume 69, Number 148, dated August 3, 2004;
 - (B) the Federal Register, Volume 63, Number 162, dated August 21, 1998; and
 - (C) the federal Office of Child Support Enforcement (OCSE) Action Transmittal AT-03-06, available from the OCSE Web site at <http://www.acf.dhhs.gov/programs/cse/pol/AT/2003/at-03-06.htm>.
4. A subpoena is not a court order requiring automatic release of information. Child support attorneys review court orders and subpoenas before OCSS releases information as directed by a court order or subpoena.

340:25-5-168. Establishment of medical supportRevised 7-21-09

(a) **Scope and applicability.** Oklahoma Child Support Services (OCSS) refers to federal and state law for establishment of a medical support order pursuant to:

(1) Section 666 of Title 42 of the United States Code;

(2) Sections 302.33, 302.56, 303.7, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations; and

(3) Section 6058A of Title 36, Sections 112, 118 through 118l, 118.2, and 119 of Title 43, and Section 237 of Title 56 of the Oklahoma Statutes. ■ 1

(b) **Medical support provision of child support order.** A child support order established by OCSS must contain a medical support provision. ■ 2

(c) **Calculating the cost of medical support.** To calculate the actual premium cost of health insurance, OCSS:

(1) deducts from the total insurance premium, the cost of coverage for the parent;

(2) deducts from the total insurance premium, the cost of coverage for any other adults in the household, when that cost information is available;

(3) divides the remainder by the number of dependent children covered; and

(4) multiplies the amount per child by the number of children in the child support case under consideration. ■ 3 & 4

(d) **Standards for medical support provision.** When choosing a medical support provision, OCSS requests the court to apply the standards in (1) and (2) of this subsection.

(1) Health insurance must be reasonable in cost, which means that the actual out-of-pocket premium cost paid does not exceed five percent of the gross income of the parent who is ordered to provide health insurance. ■ 3, 5, & 6

(2) Health insurance must be accessible, which means the health care providers must be available to meet the child(ren)'s individual health care needs, and must be

located no more than 60 miles one-way from the primary residence of the child(ren).

■ 5

(e) Exceptions to standards for medical support provision. When the parents agree or it is otherwise appropriate OCSS requests the court to make an exception to the standards for health coverage based on:

(1) the reasonable cost of health insurance exceeds five percent of the gross income of the parent ordered to provide health insurance; or

(2) the closest insurance provider exceeds 60 miles one-way from the primary residence of the child(ren).

(f) Hierarchy of medical support provisions. The provision for medical support must be consistent with one of the priorities listed in (1) through (4) of this subsection. ■ 2

(1) Health insurance is provided through a parent's employer or other available group health insurance plan.

(2) No coverage is available under paragraph (1) of this subsection, and a private insurance policy or group health insurance is available to the child(ren) through another source, such as a third party custodian or spouse of a parent, OCSS:

(A) seeks an order for the parent to provide health insurance when insurance is provided through the spouse of a parent; or

(B) seeks an order for the third party custodian to provide health insurance when insurance is provided through a third party custodian and the third party custodian has requested an order to provide the coverage.

(3) No health coverage is available under paragraphs (1) or (2) of this subsection, and alternative health coverage including, but not limited to, Indian Health Services (IHS) and Defense Eligibility Enrollment Reporting System (DEERS) is available to the child(ren).

(4) If none of the provisions in paragraphs (1) through (3) of this subsection are available at reasonable cost or are not accessible, the custodial person is required to make application for the child(ren) for health coverage through a government medical assistance program, such as SoonerCare (Medicaid).

(g) **Health coverage preference.** When health coverage meeting standards in subsection (d) of this Section is available to both parents, OCSS requests the court give priority to the preference of the custodial person.

(h) **Exceptions to hierarchy.** OCSS requests a cash medical order instead of an order for health coverage by the noncustodial parent under paragraphs (1) or (2) of subsection (f) of this Section when:

(1) the court determines an order for health insurance is inappropriate due to family violence concerns; or

(2) the obligor is an applicant for a governmental medical assistance program, such as Insure Oklahoma, State Children's Health Insurance Program (S-CHIP), or SoonerCare (Medicaid).

(i) **Cash medical support.**

(1) When paragraph (4) of subsection (f) of this Section is chosen as the provision for medical support, OCSS requests the court order cash medical support to be paid by the noncustodial parent(s) until insurance is provided under paragraphs (1) through (3) of subsection (f) of this Section.

(2) OCSS refers to the Cash Medical Income Guidelines Table as found in the child support computation form prescribed by OCSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network site under Section 120 of Title 43 of the Oklahoma Statutes to determine the cash medical support amount.

(3) OCSS computes a cash medical order by applying the Cash Medical Income Guidelines Table, using the combined gross income for the parents of the child in the case under consideration and the number of children in the instant case.

(A) When the combined gross income is at or below the income amount for the number of children in the case, OCSS requests the court order a cash medical order at \$0.00 per month;

(B) When the combined gross income exceeds the income amount for the number of children in the case, OCSS computes the requested cash medical order by:

(i) multiplying the amount of \$115.00, which represents the average monthly cost of health care for uninsured children, by the number of children in the case that are not covered by insurance; and

(ii) pro rating the result by the percentage of income for each parent;

(C) The noncustodial parent's share of the cash medical amount is added to the child support obligation.

(D) When neither parent is the obligor or noncustodial parent due to equally shared physical custody and the application of the parenting time adjustment, OCSS requests the court set cash medical support as follows:

(i) if the children receive SoonerCare or other governmental medical assistance, the parent who is not the applicant for governmental medical assistance is ordered to pay the cash medical support;

(ii) if the children do not receive SoonerCare or other governmental medical assistance, the cash medical amount is calculated for each parent and the amounts are offset. The parent owing the larger amount is ordered to pay the net cash medical support.

(4) Unless the parties agree or the court orders a greater amount, the prorated cash medical support amount must not exceed five percent of the gross income of the parent who is ordered to pay cash medical support.

(i) Termination of cash medical support.

(1) When OCSS receives notice that the parent ordered to pay cash medical support has enrolled the child(ren) in health insurance, OCSS sends a Notice of Proposed Termination of Cash Medical Support to all parties in the case by regular mail. When a party believes the child(ren) is not actually covered by health insurance, a party may request a review of the termination of cash medical support within 10 days from the date of mailing of the notice. ■ 7

(2) When a party requests a review to contest the Notice of Proposed Termination of Cash Medical Support, OCSS reviews the case within 10 days of receipt of the request and determines if termination of cash medical support is proper based on information provided by the contesting party. OCSS notifies the parties of the review decision. ■ 7

(3) When the request for review is denied, parties have 15 days from the date of mailing of the review decision to request a hearing on the termination of cash medical support.

(4) OCSS files a Notice of Termination of Cash Medical Support with the proper court when:

(A) no party requests a review within the 10 day time period; or

(B) no party requests a hearing after OCSS notifies them of the review decision.

(k) **Fixed medical costs.** If the parties agree or the court orders, OCSS includes the total monthly fixed medical costs in the child support guidelines computation. If the obligor's share of fixed medical costs exceeds five percent of the obligor's gross income and the parties do not agree to exceed the five percent standard, OCSS requests the court determine the monthly amount of fixed medical costs included in the current child support order.

(l) Indian Health Services (IHS).

(1) A child support order that provides for the enrollment of a child(ren) in Indian Health Services may comply with the standards in subsection (d) of this Section. OCSS seeks an order for either or both parents to secure health insurance for the minor child(ren) when:

(A) IHS does not meet the standards in subsection (d) of this Section; or

(B) health insurance is available through an employer or other group plan and the custodial person requests it.

(2) OCSS does not request cash medical support when IHS is the chosen provider.

(m) Notification requirements. The noncustodial parent and the custodial person must notify OCSS in writing within 30 days after:

(1) health insurance becomes available;

(2) the cost of existing health insurance changes; or

(3) other provisions of existing health insurance change.

(n) Modification request. When a child support order exists, OCSS considers a request to establish a medical support order as a request for modification of the order under Section 118.1 of Title 43 of the Oklahoma Statutes. OCSS seeks a medical support order in a tribunal that has jurisdiction to modify the child support order.

INSTRUCTIONS TO STAFF 340:25-5-168**Revised 7-21-09**

- 1. In cases referred to Oklahoma Child Support Services (OCSS) by a Family Support Services (FSS) worker, OCSS provides all appropriate IV-D services unless the person requests medical enforcement only. OCSS opens a full-service case when the FSS worker enters "Y" on the ED screen on the PS2 automated system.**
- 2. If the parties state that health coverage is available, but there is no proof that it is in effect at the time the order is entered, OCSS seeks a temporary medical support order until proof of coverage is received. A final order may then be obtained.**
- 3. Child support staff determine the out-of-pocket cost for health insurance by subtracting any amount paid by the employer through a benefit allowance from the premium amount paid by the insured.**
- 4. (a) If the cost of the insurance premium for other adults in the household is included with the cost for the child(ren) and information is not available to determine a separate amount for the other adults, child support staff use this premium cost to determine the amount per child.**

(b) For example, the total health insurance premium is \$275. The portion of the premium for the parent carrying the insurance is \$75. The portion of the premium for the other adults in the home is unknown and cannot be determined. The number of children covered is four. The number of children in the child support case is three. The cost of the insurance premium for each child in the child support case is \$50 ($\$275 - \$75 = \$200 \div 4 = \$50 \times 3 = \150).
- 5. Examples of when health insurance does not meet the standards for health coverage include when the noncustodial parent has:**
 - (1) gross income of \$1,733 a month and has an employer sponsored plan that would cost the parent \$225 a month in out-of-pocket premium costs for three children in the case under consideration. OCSS does not consider the contribution to the premium that might be made by another person or other entity. Since \$225 is more than ten percent of the \$1,733, the cost of the insurance is not considered reasonable; and**

(2) available health coverage, but the nearest network provider is 60 miles one-way from the primary residence of the child(ren).

6. When applying the reasonable cost standard, child support staff use the gross income of the parent at the time the order is established to determine whether the actual premium cost of available coverage for the child(ren)'s portion only exceeds the five percent of the parent's gross income.

7. (a) When a request for review is received, OCSS staff use the first day of the second month following the date the Notice of Proposed Termination of Cash Medical Support as the termination date for the cash medical support.

(b) When OCSS staff deny a request for review of termination of cash medical support:

(1) staff update the child support case information on the automated Oklahoma Support Information System (OSIS) to remove the cash medical support amount in the current monthly child support obligation; and

(2) generate an amended Notice of Income Assignment to the employer that does not include the cash medical support amount.

(c) Examples of cases in which termination of cash medical support is appropriate include:

(1) OCSS staff have received notice that a parent's employer has enrolled the child in health insurance;

(2) OCSS staff have received notice that the child is enrolled in health insurance through a private insurance policy or group health insurance through another source, such as a third party custodian or spouse of a parent; and

(3) OCSS staff have received notice that the child is enrolled in alternative coverage such as Indian Health Services (IHS) or Defense Eligibility Enrollment Reporting System (DEERS).

(d) Examples of cases in which termination of cash medical support is not appropriate include:

(1) OCSS staff have information that a parent's employer has health insurance available but staff have not received notice that the employer has enrolled the child in health insurance; or

(2) OCSS staff have information that the child may be eligible for Indian Health Services (IHS) services or Defense Eligibility Enrollment Reporting System (DEERS) but have not received notice that the child is enrolled in this alternative coverage.

340:25-5-169. Establishment of medical enforcement only casesRevised 7-21-09

(a) **Medical enforcement only (MEO) status.** When a person receiving non-TANF (Temporary Assistance for Needy Families) Medicaid notifies Oklahoma Child Support Services (OCSS) that only IV-D services related to securing medical support are requested, OCSS updates the case as an MEO case and does not provide full child support services under OAC 340:25-1-1.2. OCSS follows Sections 302.33, 302.56, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations; Section 6058A of Title 36, Sections 112, 118F, 118.2, and 119 of Title 43; and Section 237 of Title 56 of the Oklahoma Statutes. ■ 1 & 2

(b) **Services provided on MEO cases.**

(1) OCSS establishes paternity, if necessary, and a child support order. The child support order must include:

(A) a provision for current child support as described in OAC 340:25-5-178;

(B) a provision for support for a prior period under OAC 340:25-5-179.1, when appropriate; and

(C) a provision for medical support as described in OAC 340:25-5-168.

(2) OCSS conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order that includes a provision for medical support when:

(A) the existing child support order does not include a medical support provision;

(B) no insurance is available for the child(ren); or

(C) a parent or custodial person claims that the available health insurance is not accessible or is not reasonable in cost.

(c) **Exception to MEO status.** OCSS opens a full-service case when OCSS receives a non-TANF Medicaid referral from the Family Support Services worker in which:

(1) assigned court-ordered child support is owed per OAC 340:25-5-117;

(2) the child(ren) is in a deprived or delinquent juvenile court action;

(3) assigned cash medical support is owed per OAC 340:25-5-117; or

(4) the custodial person is a child care subsidy recipient. ■ 1 through 3

INSTRUCTIONS TO STAFF 340:25-5-169

Issued 7-21-09

- 1. Oklahoma Child Support Services (OCSS) staff initially build all cases as full-service cases. When a child support order has been established, OCSS staff indicate that the custodial person has requested a medical enforcement only (MEO) case by updating the Custodial Person Data Update (CCPU) screen on the Oklahoma Support Information System (OSIS) with an MEO begin date.**
- 2. When the child(ren) on the case is on SoonerCare (Medicaid) and health insurance is ordered for the child(ren), OCSS staff update the case as an MEO case upon the request of the custodial person.**
- 3. When OCSS establishes a child support order with a medical support provision for cash medical support assigned to the Oklahoma Health Care Authority under OAC 340:25-5-117, OCSS staff must not update the case as an MEO case.**

340:25-5-170. Enforcement of medical enforcement only casesRevised 7-21-09

When a person receiving non-TANF Medicaid requests medical enforcement only services, Oklahoma Child Support Services (OCSS) enforces only the health insurance portion of the child support order through the use of the National Medical Support Notice as described in OAC 340:25-5-171. OCSS does not enforce the payment of child support or fixed medical support through the Order/Notice to Withhold Income for Child Support or any other enforcement remedy in a medical enforcement only case.

340:25-5-171. Enforcement of a medical support orderRevised 7-21-09

(a) When a parent has been ordered to provide health insurance for the child(ren) and has failed to voluntarily enroll the child(ren), Oklahoma Child Support Services (OCSS), uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which a parent is eligible. OCSS sends the NMSN to the noncustodial parent's employer as required by Section 666 of Title 42 of the United States Code, Section 609 of the Employee Retirement Income Security Act of 1974, Section 303.32 of Title 45 of the Code of Federal Regulations, and Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(b) When a child is eligible for enrollment in the United States Department of Defense's managed health care program, TRICARE, (a) of this Section does not apply. OCSS notifies the custodial person to contact the Defense Manpower Data Center Support Office at 1-800-538-9552 to enroll the child, using the Defense Enrollment Eligibility Reporting System registration process. ■ 1

(c) If the employer response to the NMSN indicates that enrollment cannot be completed because the cost of coverage exceeds the limits of earnings subject to income assignment under Section 1171.2 of Title 12 of the Oklahoma Statutes, OCSS applies OAC 340:25-5-168 to determine if other coverage is available at reasonable cost or if a cash medical order is appropriate. OCSS conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order if the review indicates that modification would result in an enforceable medical support order or that the child support order should be adjusted. ■ 2

(d) OCSS issues a non-compliance letter to the employer when the employer:

(1) has not returned the NMSN within 20 business days after the date of the NMSN notifying OCSS that:

(A) the employer does not offer group dependent health coverage;

(B) the employee is among a class of employees that is not eligible for family coverage under the employer's plans;

(C) the employee is not employed by the employer; or

(D) state or federal withholding limitations or prioritization of withholding prevent the required employee contribution to obtain coverage;

(2) has not forwarded the NMSN to the insurer within 20 business days after the date of the NMSN; or

(3) is the insurer and has not returned the NMSN within 20 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected. ■ 3

(e) OCSS issues a non-compliance letter to the insurer when the insurer has not returned the NMSN within 40 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected. ■ 4

(f) OCSS may initiate legal proceedings to request the court to fine employers and insurers when there is no response indicating full compliance with the requirements of the NMSN within ten business days after the date of the non-compliance letter. Fines may be imposed by the court for up to \$200 a month per child for each failure to comply with the requirements of the NMSN under Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(g) If the employer or insurer complies with the requirements of the NMSN, OCSS may dismiss the case against the employer or insurer.

(h) Employers and insurers must send any fine(s) imposed by the court, under Section 235 of Title 56 of the Oklahoma Statutes, by check or money order to OCSS, Attn: Finance, P.O. Box 53552, Oklahoma City, Oklahoma 73125-3552.

(i) In addition to issuing a NMSN, when the custodial person is ordered to provide medical support for the minor child(ren) and is not complying with the order, OCSS may either:

(1) enforce the medical support order by a license revocation action under Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action under Section 566.1 of Title 21 of the Oklahoma Statutes; or

(2) seek a modification of the order under OAC 340:25-5-198.2.

INSTRUCTIONS TO STAFF 340:25-5-171

Revised 7-21-09

1. TRICARE.

(1) Registration for TRICARE is required through the Defense Enrollment Eligibility Reporting System (DEERS). Active-duty and retired servicemembers are automatically registered in DEERS, but additional action is required to enroll eligible dependents.

(2) Federal Case Registry (FCR) data is sent to the Defense Manpower Data Center (DMDC) for matching. DMDC matches the FCR participants with its records and indicates which children are eligible and enrolled for TRICARE. DMDC then sends the health benefits matching information to states.

(3) The Oklahoma Support Information System (OSIS) reports that present data received from the DMDC matches are available through Document Direct of the Report Distribution System and include:

(A) CY909R01, The Child is Currently Enrolled in Medical Coverage;

(B) CY909R02, A Child is Eligible Based on the CP or NCP/PF (Noncustodial Parent/Putative Father) Current Medical Coverage, But is Not Enrolled; and

(C) CY909R03, A Child was Previously Enrolled But Not Currently Enrolled and Neither a CP Nor NCP/PF is Enrolled.

(4) Oklahoma Child Support Services (OCSS) staff:

(A) updates OSIS medical support case information based on the information provided in the OSIS reports; and

(B) sends the custodial person the MEDTRI letter on OSIS to advise of the availability of TRICARE and provide enrollment instructions.

2. Examples of cases in which review of the order would result in an enforceable medical support order include:

(1) a parent can obtain health insurance coverage or alternative health coverage for the child(ren) at no additional cost;

(2) a parent can obtain private health insurance coverage at reasonable cost;

(3) a parent cannot obtain health insurance coverage at a reasonable cost and the court orders cash medical support; and

(4) the child support order can be modified to an amount that considers the premium cost. After modification of the order, the total amount of child support for all orders owed by the noncustodial parent plus the premium cost does not exceed limitations of the Consumer Credit Protection Act.

- 3. OCSS attempts to contact the employer by telephone to determine compliance if the National Medical Support Notice (NMSN) is not returned within 20 business days after the date of the NMSN.**
- 4. OCSS attempts to contact the insurer by telephone to determine compliance if the NMSN is not returned within 40 business days after the date of the NMSN.**

340:25-5-198.1. Review of a child support orderRevised 7-21-09

(a) **Purpose.** The purpose of the review process is to determine whether a child support order should be modified to ensure substantial compliance with the child support guidelines in Section 118 through 119 of Title 43 of the Oklahoma Statutes and OAC 340:25-5-178.

(b) **Notification requirements.** At least once every three years after a child support order is established, reviewed, or modified, the Oklahoma Child Support Services (OCSS) notifies all parties in a full-service case of the right to request a review of the child support order and the process for requesting a review.

(c) **Initiation of review.** OCSS reviews a child support order upon written request in a full-service case. OCSS conducts a review every three years in cases with a Temporary Assistance for Needy Families (TANF) assignment. OCSS determines the tribunal with jurisdiction under subsection (e) of the Full Faith and Credit for Child Support Orders Act (FCCSOA), codified in Section 1738B(e) of Title 28 of the United State Code and the Uniform Interstate Family Support Act (UIFSA) in Sections 601-101 through 601-901 of Title 43 of the Oklahoma Statutes to modify the order. ■ 1 If another tribunal has jurisdiction to modify the child support order, OCSS follows the provisions in (g) of this Section. If Oklahoma has jurisdiction to modify the child support order, OCSS follows the provisions of this subsection. OCSS completes the review and modification process within 180 days after a request is received or the non-requesting party is located, whichever is later.

(1) **OCSS initiative.** OCSS may review child support orders on its own initiative for any reason, at any time, without a request, under Section 118.1 of Title 43 of the Oklahoma Statutes. ■ 3 & 4 OCSS notifies the parties of the review with instructions for submitting financial and other information required for the review.

(2) **Party initiative.** OCSS reviews a child support order on the written request of any party in a full-service case when the criteria described in (A) through (C) of this paragraph are met.

(A) It has been more than 12 months since the child support order was established, reviewed, or modified. OCSS uses the date the order was entered to compute time periods. If an order is not entered after the review or modification process, OCSS uses the completion date of the review to compute time periods. The 12-month time period does not apply when a military reservist custodial person or noncustodial parent is called to active duty, per the

Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code. ■ 2

(B) The non-requesting party is located.

(C) There has been a material change in circumstances pursuant to Section 1181 of Title 43 of the Oklahoma Statutes. ■ 3

(3) **Medical enforcement only (MEO) cases.**

(A) When either the custodial person or the noncustodial parent requests a review, OCSS changes the services offered from an MEO to a full-service case. OCSS notifies the parties of the change in services provided. ■ 4

(B) When the noncustodial parent requests the review, the noncustodial parent must complete Form 03EN001E, Application for Child Support Services, described in OAC 340:25-5-110.1.

(d) Initial review. Within 15 days after receiving a request for a review, OCSS determines if the criteria described in paragraph (2) of subsection (c) of this Section are met. OCSS notifies the requesting person if the criteria for review are not met. If the criteria are met, OCSS may:

(1) request further information as necessary from the parties; or

(2) proceed with the review process when OCSS considers it has information sufficient to complete the process.

(e) Final review. Within 30 days after the deadline for the parties to submit requested financial and other information to OCSS under (d)(1) of this Section, OCSS completes the review process and notifies parties of its determination as to whether or not the support order should be modified. ■ 4 & 5

(f) Modification after review. When OCSS finds the existing support order deviates in excess of ten percent from the child support order guidelines, OCSS seeks a modification.

(g) Termination of the review process.

(1) The person requesting a review may withdraw the request after the review process begins, upon approval by OCSS. OCSS does not accept requests to withdraw the review after making a determination that the child support order should

be modified.

(2) If the requesting person fails to supply information requested by OCSS as instructed, OCSS may terminate the review process, unless OCSS or the non-requesting party requests the process continue. ■ 6

(3) When the review is initiated by OCSS, failure of the parties to return requested information does not stop the review process. OCSS proceeds, using the best information available.

(h) Interstate cases.

(1) When a tribunal other than an Oklahoma district or administrative court has jurisdiction under UIFSA to modify an order, OCSS obtains the information necessary for the review.

(A) OCSS transmits the documents to the IV-D agency in the other state within 20 days after receipt of the request to modify the order and of the completed documents from the person requesting the modification. ■ 7

(B) OCSS issues and enforces a subpoena to compel compliance with the request for documents if the non-requesting party fails to return the required documents or OCSS is unable to obtain the necessary information to proceed and an Oklahoma tribunal has personal jurisdiction over the non-requesting party.

(C) OCSS may terminate the review process in an interstate case as provided in subsection (g) under Sections 601-611 and 601-613 of Title 43 of the Oklahoma Statutes.

(2) If Oklahoma has jurisdiction to modify the order of another state, Native American tribe, territory, or foreign country as defined by subsection (b) of FCCSOA, codified in Section 1738B(b) of Title 28 of the United States Code, the order is registered in Oklahoma for modification under Section 1738B(i) and Sections 601-609 through 601-613 of Title 43 of the Oklahoma Statutes.

INSTRUCTIONS TO STAFF 340:25-5-198.1

Revised 7-21-09

1. Controlling order.

- (1) When Oklahoma is the only state that has entered a child support order, and both parents reside in Oklahoma, the modification occurs in Oklahoma.
 - (2) Oklahoma Child Support Services (OCSS) determines the controlling order and the proper forum state for a modification proceeding when:

 - (A) an order was entered outside Oklahoma; or
 - (B) one or both parents reside outside of Oklahoma.
 - (3) To assist in determining the controlling order and the state of continuing exclusive jurisdiction, child support staff use the Worksheet to Determine Controlling Order and the Modification Worksheet on the OCSS InfoNet.
 - (4) Child support staff may seek modification of the controlling order in an Oklahoma tribunal, even if another state or tribunal has jurisdiction to modify the order, when:

 - (A) an individual party or the child resides in Oklahoma;
 - (B) the custodial person and noncustodial parent sign a written consent to jurisdiction; and
 - (C) child support staff file a copy of the signed consent to jurisdiction with the Oklahoma and issuing tribunals.
2. For information regarding military reservists called to active duty, refer to the federal Office of Child Support Enforcement (OCSE) Information Memorandum IM-01-09, available from the OCSE Web site at <http://www.acf.dhhs.gov/programs/cse/pol/IM/2001/im-01-09.htm>.
 3. A material change of circumstances may include, but is not limited to:

 - (1) a change in residence or custody of one or more of the children listed in the child support order;
 - (2) a change of either parent's gross income;
 - (3) either parent becomes disabled and is receiving disability benefits from

the Social Security Administration;

(4) a child reaches the age of majority as prescribed in Section 112 of Title 43 of the Oklahoma Statutes;

(5) changes in child care expenses; or

(6) changes in court-ordered medical support including:

(1) the cost of health insurance;

(2) cash medical support is no longer appropriate because health insurance is being provided for the child(ren);

(3) health insurance is no longer available for the child(ren);

(4) health insurance is not accessible; or

(5) health insurance is not reasonable in cost.

4. Review of child support order.

(1) OCSS may initiate a review of the child support order:

(A) under OAC 340:25-5-198.1(c)(3) even when it has been less than 12 months since the last order or completed review;

(B) when a case includes a child(ren) receiving Oklahoma Department of Human Services child care subsidy benefits and the child support computation does not include any contribution toward child care expenses;

(C) the joint custody order does not include a child support order; or

(D) when the child support guidelines were not followed.

(2) When child support staff have information from the custodial person that the noncustodial parent is not exercising shared parenting under Section 118E of Title 43 of the Oklahoma Statutes, child support staff recommend that a child support order with a shared parenting adjustment in the child support computation be modified to eliminate that adjustment.

(3) When a noncustodial parent notifies OCSS that he or she now has physical custody of the child(ren), child support staff follow the procedures in OAC 340:25-5-201.1 for verification of this information. Child support staff allege in the Motion to Modify that the material change of circumstances warranting a modification of the child support order is that the child(ren) does not currently reside with the parent to whom legal custody was granted.

5. Consideration of Social Security benefits during review.

(1) When the child(ren) is receiving Social Security benefits from the noncustodial parent's claim, either disability or retirement, child support staff follow OAC 340:25-5-178 Instructions to Staff 2 when preparing the child support guidelines computation form during the review process.

(2) OCSS initiates a review when either parent becomes the recipient of Supplemental Security Income benefits for himself or herself.

6. If OCSS terminates a review because a party fails to provide information requested by OCSS, OCSS does not consider the review completed. When a review is terminated and a party subsequently requests a review, child support staff review the last order or completed review date to determine when it has been 12 months since the support order was reviewed at the request of a party.

7. Child support staff use the Paperwork Checklist for Interstate Actions in the Interstate Actions Made Easy guide located on the OCSS InfoNet to determine which forms to send to a responding state to request a modification. Prior to transmitting documents to a responding state, OCSS calculates past child support, including interest; obtains certified copies of orders and requires parties to complete any necessary documents. OCSS uses the documents in interstate cases prescribed by the federal Office of Child Support Enforcement (OCSE) Action Transmittals AT-05-03, AT-05-04 and AT-05-05, available from the OCSE Web site at <http://www.acf.hhs.gov/programs/cse/pol/AT/2005/at-05-03.htm>, <http://www.acf.hhs.gov/programs/cse/pol/AT/2005/at-05-04.htm>, and <http://www.acf.hhs.gov/programs/cse/pol/AT/2005/at-05-05.htm>.

340:25-5-351. Allocation and distribution of collectionsRevised 7-21-09

(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.

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

(1) Oklahoma Child Support Services (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. ■ 1

(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 (e) of this Section, OCSS applies arrearage collections owed to the custodial parent before paying temporarily or permanently assigned arrears owed to a state.

(4) Temporarily assigned arrears are paid before permanently assigned arrears. If the support amount ordered for a prior period is less than the cumulative amount of cash assistance from the IV-A and IV-E programs, the support is permanently assigned. In cases involving unreimbursed assistance, OCSS retains current monthly support collections in excess of the current assistance payment under Temporary Assistance for Needy Families (TANF) to reimburse the State of Oklahoma for past assistance.

(5) OCSS applies payments to interest owed to a particular custodial person after current child support and the principal arrears balance is paid in full. All interest debt is referred and distributed for Internal Revenue Service (IRS) offset as arrears owed to the custodial person and not as a state debt or as assigned cash medical support. When OCSS has been unable to locate the custodial person after reasonable efforts, OCSS applies interest collections from an IRS offset to state debt.

(c) **Initial allocation to monthly current support obligations.** Except as provided in (e) 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 assigned 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.

(d) **Allocation to monthly past-due support obligations under payment plans.** Except as provided in (e) 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.

(e) **Allocation and distribution to total amount in arrears.**

(1) OCSS allocates federal income tax refund offset collections to the total amount in arrears.

(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.

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

(g) **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 (c) 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.

(h) **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: ■ 2

(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).

(i) **Interest.** OCSS distributes interest last in single family, multiple family, and

interstate cases.

INSTRUCTIONS TO STAFF 340:25-5-351

Revised 7-1-08

- 1. Child support staff coordinate manual and automated actions on all IV-D cases that meet the criteria for collection action so resulting collections are shared among all families.**
- 2. Child support staff review the information provided by the initiating state regarding whether the past-due balance on the case is owed to the custodial person or to the other state and time periods for balances assigned to the state(s). If the information provided is unclear or incomplete, child support staff do not build the case obligation in Oklahoma Support Information System (OSIS) until they receive information from the initiating state. Child support staff monitor interstate cases to insure that the information regarding the assignment of balances is complete and up to date, and request additional information from the initiating state as necessary. If the initiating state fails to provide the necessary information, child support staff initiate the closure process under OAC 340:25-5-123.**