Action Transmittal: Interstate Child Support Policy

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PURPOSE

This Action Transmittal updates interstate policy from AT-98-30: Interstate Child Support Enforcement Case Processing and the Uniform Interstate Family Support Act (UIFSA). It incorporates interstate policy from the 2010 Intergovernmental Final Rule and other sources, addresses requirements of UIFSA 2008, and discusses the 2019 revised versions of the Intergovernmental Forms approved by the federal Office of Management and Budget (OMB).

BACKGROUND

Both federal law and state law govern the processing of intergovernmental IV-D child support cases, which may include any combination of referrals between states, tribes, and countries. Most of the federal requirements governing interstate cases are in sections 454 and 466 of the Social Security Act (Act), and 45 CFR Parts 302 and 303. The laws address system requirements, costs and fees, and case processing. The most important state legislation is the Uniform Interstate Family Support Act (UIFSA). In this Action Transmittal, we particularly want to highlight federal laws and regulations governing interstate cases that are related to UIFSA.

Section 466(f) of the Act requires each state, as a condition of receiving IV-D funding, to "have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, including any amendments officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws."

The federal regulation that focuses on intergovernmental IV-D case processing is 45 CFR 303.7. Among its provisions are the following requirements:

- Use federally approved forms in intergovernmental IV-D cases (except in international cases when a country has provided alternative forms as part of its chapter in A Caseworker's Guide to Processing Cases with Foreign Reciprocating Countries).
- Cooperate with requests for the following limited services: Quick locate, service of process, assistance with discovery, assistance with genetic testing, teleconferenced hearings, administrative reviews, high-volume automated administrative enforcement in interstate cases under section 466(a)(14) of the Act, and copies of court orders and payment records. Requests for other limited services may be honored at the state's option.
- Notify the other IV-D agency within 10 working days of receipt of new information on an intergovernmental case.

- Establish a central registry for receiving, transmitting, and responding to inquiries on all incoming intergovernmental IV-D cases.
- Comply with initiating state IV-D agency responsibilities, including determine whether the noncustodial parent is in another jurisdiction and whether it is appropriate to use its one-state remedies to establish paternity and establish, modify, and enforce a support order. The initiating state agency must refer any intergovernmental IV-D case to the appropriate State Central Registry, tribal IV-D program, or Central Authority of a country for action, if one-state remedies are not appropriate.
- Comply with responding state IV-D agency responsibilities, including accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that jurisdiction. The responding state agency must provide any necessary services as it would in an intrastate IV-D case. The responding state agency must also process and enforce orders referred by an initiating agency, whether pursuant to UIFSA or other legal processes.
- Meet timeframes for various actions.
- Comply with provisions related to payment and recovery of costs.
- Impose an annual $35 fee in interstate cases according to 45 CFR 302.33(e).

In particular, we highlight two case processing approaches that are acknowledged in both federal law and UIFSA, one-state remedies and two-state case processing. As noted above, 45 CFR 303.7(c)(3) requires an initiating IV-D agency to "[d]etermine whether the noncustodial parent is in another jurisdiction and whether it is appropriate to use its one-state remedies to establish paternity and establish, modify, and enforce a support order, including medical support and income withholding." The long-arm provision in section 201 of UIFSA provides the bases for personal jurisdiction to establish parentage or a support obligation in a one-state action. Direct income withholding, a one-state enforcement remedy, is authorized by UIFSA sections 501 – 506. If an initiating state agency determines that a one-state remedy is not appropriate, it may initiate an interstate case by referring the case to a responding state agency for services. Most of UIFSA's provisions address two-state case processing.

Finally, UIFSA section 311, Pleadings and Accompanying Documents, provides that a petition to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state must "conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency." The OMB-approved Intergovernmental Forms were recently revised and are available on OCSE's website.

For a list of intergovernmental resources and hyperlinks, including law and policy referenced in this AT, please see the Resources section at the end of the AT.

TERMINOLOGY

In general, this AT uses terminology based on federal law and regulations. Sometimes federal terminology differs from that used in UIFSA. For example, federal law refers to the custodial parent and noncustodial parent whereas UIFSA refers to an obligee and obligor.

Federal law and UIFSA also differ regarding use of the adjective "initiating." The definition of an initiating agency in 45 CFR 301.1 includes an agency providing services in one-state as well as two-state cases: "Initiating agency means a State or Tribal IV-D agency or an agency in a country, as defined in this rule, in which an individual has applied for or is receiving services." As used in UIFSA, an initiating tribunal is a tribunal that forwards a pleading to another state or foreign country. The term is always used in the context of a two-state case. In this AT, the federal definition of "initiating agency" applies unless quoting from UIFSA.

Under both federal regulations and UIFSA, use of the adjective "responding" is always in the context of a two-state case. See 45 CFR 301.1 and UIFSA section 102.

DEFINITIONS

Unless specifically quoting from UIFSA, this AT uses terminology based on the following definitions in 45 CFR 301.1:

Initiating agency means a state or tribal IV-D agency or an agency in a country, as defined in this rule, in which an individual has applied for or is receiving services.

Intergovernmental IV-D case means a IV-D case in which the noncustodial parent lives and/or works in a different jurisdiction than the custodial parent and child(ren) that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV-D case may include any combination of referrals between states, tribes, and countries. An intergovernmental IV-D case also may include cases in which a state agency is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

Interstate IV-D case means a IV-D case in which the noncustodial parent lives and/or works in a different state than the custodial parent and child(ren) that has been referred by an initiating state to a responding state for services. An interstate IV-D case also may include cases in which a state is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

One-state remedies means the exercise of a state's jurisdiction over a non-resident parent or direct establishment, enforcement, or other action by a state against a non-resident parent in accordance with the long-arm provision of UIFSA or other state law.

Responding agency means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV-D case.

Uniform Interstate Family Support Act (UIFSA) means the model act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL), now called the Uniform Law Commission, and mandated by section 466(f) of the Act to be in effect in all states.

QUESTIONS AND ANSWERS

UIFSA (General)

Question 1: What is the relationship between FFCCSOA and UIFSA?

Answer 1: Both the Full Faith and Credit for Child Support Orders Act (FFCCSOA) (Pub. L 103-383) and UIFSA are designed to achieve a "one-order" system in interstate child support enforcement. FFCCSOA is a federal law codified in 28 U.S.C. 1738B that governs tribunals in each "state." The term "state" means U.S. states, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18). FFCCSOA requires courts and administrative agencies in the United States and its territories to give full faith and credit to any child support order properly issued by another state (as defined by FFCCSOA) with personal jurisdiction over the parties and subject matter jurisdiction. FFCCSOA does not require enabling state or tribal legislation, and became effective upon its enactment in 1994. UIFSA is a model act drafted by the Uniform Law Commission to govern parentage and support cases when the parties live in different jurisdictions. Section 466(f) of the Social Security Act requires states to enact UIFSA as a condition of receiving federal IV-D funds. Tribes are not required to enact UIFSA.

Question 2: In cases where there appear to be multiple orders, what laws and actions should a state agency consider in determining the controlling order?

Answer 2: When UIFSA was first approved by the NCCUSL and the American Bar Association in 1992, there were many cases with multiple valid current support orders because such orders were permissible under UIFSA's predecessor, the Uniform Reciprocal Enforcement of Support Act (URESA). A founding principle of UIFSA was to establish a system whereby the world of multiple support orders created by URESA could be reconciled to a "one-order-at-a-time world." UIFSA section 207, Determination of Controlling Child Support Order, contains rules for accomplishing that. These rules were subsequently incorporated into the requirements of

FFCCSOA. With passage of FFCCSOA in 1994 and the adoption of UIFSA by all states, the existence of multiple valid orders for current support has virtually disappeared.

However, there are circumstances where a second current support order exists because the second tribunal was unaware of a prior order. There are also circumstances when a tribunal modifies an order contrary to the modification rules of UIFSA, and there is a question about the validity of the modified order. In those circumstances, it is appropriate to ask a tribunal with personal jurisdiction over the parties to rule on the validity of the second order or subsequent modification. Any tribunal with personal jurisdiction over the parties and subject matter jurisdiction may make the determination of validity.

State law and procedures will determine how the issue is brought before the tribunal. For example, one avenue may be for the agency in the issuing state to file a motion asking the tribunal that issued the second order or modified the original order to vacate its order on the ground that it is void for lack of subject matter jurisdiction. Another possible approach could be for a child support agency to ask a tribunal in its own state to rule on the validity of another state's order, if the tribunal has personal jurisdiction over both parties.

There is no one way to proceed. However, the important points are that only a tribunal can rule on the validity of an order, and the tribunal must have personal jurisdiction over both parties and subject matter jurisdiction. The end goal is one controlling current support order.

Choice of Law

Question 3: Complications develop when the initiating state's laws and/or policy are different from those in the responding state. This difference occurs on issues such as the age of emancipation, interest, and statute of limitations. Does UIFSA clarify which state's law controls in interstate cases?

Answer 3: Yes. UIFSA contains several provisions addressing choice of law. According to UIFSA section 303, Application of Law of State, except as otherwise provided in UIFSA, a responding tribunal must apply its own laws in a UIFSA proceeding, including its laws and support guidelines governing the determination of a support duty and the amount payable as support. Provisions in UIFSA that provide different choice of law rules are in sections 604 and 611.

UIFSA section 604(a), Choice of Law, states that the law of the issuing state governs the nature, extent, amount, and duration of current payments under a registered order, as well as the existence and satisfaction of other obligations under the support order. The law of the issuing state also governs the computation and payment of arrears, and accrual of interest on the arrears, under the order. In the rare case where there were multiple support orders, with arrears accruing under several orders, once there is a determination of the controlling order

and consolidation of the arrears, section 604(d) provides that a tribunal must prospectively apply the law of the state that issued the controlling order, including its law on interest on arrears, on current and future support, and on the consolidated arrears.

With regard to the statute of limitations for enforcing arrears under a registered support order, section 604(b) provides that the statute of limitation of the issuing state or the registering state, whichever is longer, applies.

Section 604(c) states that the procedures and remedies for enforcing current support and collecting arrears and interest are governed by the law of the registering state.

UIFSA section 611, Modification of Child-Support Order of Another State, also includes choice of law provisions. Modification of a registered order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by the registering state. This section also addresses duration of support. Per section 611(c) and (d), the duration of the support obligation is governed by the law of the state that issued the initial controlling order. The registering tribunal is prohibited from modifying the duration of support unless the law of the issuing state provides for its modification. Furthermore, once the obligor has fulfilled the support obligation under the initial controlling order, the registering tribunal cannot impose a further obligation of support.

Question 4: The initiating state has a law that a parent's obligation to support their child continues even after the parent's parental rights are terminated. The initiating state asks the responding state to establish a support order after the parent's rights were terminated. The responding state refuses to establish a support order because under the responding state's law it is not appropriate to enter a child support order against a parent whose parental rights have been previously terminated by a court. Is the responding state's refusal to establish a support order in this situation supported by UIFSA?

Answer 4: Yes. Under UIFSA section 303(1) and (2), Application of Law of State, a tribunal in the responding state is directed to follow local law in the establishment of a child support order. This section of UIFSA requires the responding tribunal to determine the duty of support and the amount of the child support payment in accordance with the laws and guidelines of the responding state. Because the law of the responding state in this example recognizes the termination of parental rights as also terminating a duty to provide support, the tribunal's refusal to establish a support order is appropriate.

Establishment of Parentage and Support

Question 5: Can a responding state IV-D agency refuse to accept an interstate IV-D case referral for order establishment if, in the opinion of the responding state agency, the initiating state has "long-arm" jurisdiction under UIFSA section 201, Bases for Jurisdiction over Nonresident?

Answer 5: No. A responding state IV-D agency may not refuse to accept an interstate IV-D case referral, sometimes called a two-state request, for order establishment because it believes that the initiating state could exercise long-arm jurisdiction. Federal regulations at 45 CFR 303.7(c)(3) provide that the initiating state IV-D agency is responsible for determining if its use of one-state remedies, such as long-arm jurisdiction, is appropriate. The responding state agency may not "second-guess" the decision of the initiating state agency. Federal regulations under 45 CFR 303.7(d)(1) require the responding state IV-D agency to "accept and process an intergovernmental request for services, regardless of whether the initiating agency elected not to use remedies that may be available under the law of that [the initiating agency's] jurisdiction."

Question 6: If an initiating state has not been able to establish a support obligation under 45 CFR 303.4, and sends the case for establishment to a responding state, can a responding state refuse to process an initiating state's request to establish an obligation for a prior period (i.e., when the family received public assistance), if the request is received after the family terminates public assistance and the request does not also include a request for establishment of a current support obligation?

Answer 6: According to sections 454(6) and 454(9) of the Act and 45 CFR 303.7(d)(6), a responding state must provide the same services in an interstate case as it would in an intrastate case. Therefore, if a responding state, in its intrastate caseload, provides services to establish an obligation for a prior period where there is no request for establishment of an ongoing current support obligation (such as when the child has reached the age of majority), the responding state is required to do so in response to a request from another state.

Question 7: Which state is responsible for paying the costs/fees associated with an interstate paternity establishment case?

Answer 7: In interstate paternity cases, 45 CFR 303.7(e)(1) requires the responding state IV-D agency to pay the costs of genetic testing. The responsibility for genetic testing costs was shifted to the responding state by the 2010 intergovernmental final rule for simplicity and consistency with the principle that the responding state is responsible for all the costs it incurs in processing intergovernmental IV-D cases. If paternity is established, the responding agency, at its election, may seek a judgment for the costs of testing from the alleged father who denied paternity, see 45 CFR 303.7(d)(6)(i).

Question 8: Which state is responsible for scheduling any required genetic testing associated with a paternity action in an interstate IV-D case?

Answer 8: Federal regulation, 45 CFR 303.7(d)(6)(i), requires the responding state IV-D agency to provide any necessary services as it would in an intrastate case, including paternity establishment services. Therefore, in an interstate IV-D case, the responding state agency is responsible for obtaining the services of an appropriate laboratory and scheduling the genetic testing if needed. The initiating state agency should cooperate with the responding state agency by ensuring that any individual residing in the initiating state appears and participates in the test. In addition, the initiating state agency should assist the responding state agency by ensuring that the genetic material taken from the individual in the initiating state is forwarded to the appropriate laboratory, as selected by the responding state agency.

Question 9: Can a state request assistance with genetic testing from another state without opening an intergovernmental IV-D case?

Answer 9: Yes. If an initiating state IV-D agency wants to establish paternity against a nonresident using a one-state long arm proceeding, the initiating state agency may request assistance with genetic testing from the assisting state agency as a limited service request under 45 CFR 303.7(a)(8), without opening an intergovernmental IV-D case. For example, the initiating state agency would obtain services from the appropriate laboratory in its state, and may ask the noncustodial parent's state agency to obtain and send a genetic testing sample from the noncustodial parent. To request this limited service assistance from the noncustodial parent's state agency, the initiating state agency should check action number 3, "Assistance with genetic testing," on the Child Support Enforcement Transmittal #3 – Request for Assistance Discovery form, and provide additional information related to the specific request in section II of the form. In a one-state proceeding, the initiating state agency is responsible for the payment of costs associated with required limited services, such as genetic testing. If, however, the initiating state agency ultimately initiates an intergovernmental case for the purpose of establishing paternity and support, 45 CFR 303.7(e) requires the responding state agency to pay the costs it incurs in processing the intergovernmental case, including genetic test costs. See Question 58.

Question 10: Is it appropriate for a responding state to require the initiating state to request establishment of parentage when there is already an acknowledgment of paternity?

Answer 10: No. Section 466(a)(5)(D)(ii) of the Act requires a state to have procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of a signatory to timely rescind the acknowledgment. Further, federal regulations at 45 CFR 302.70(a)(5)(vii) require a state to have "[p]rocedures under

which a voluntary acknowledgment must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity." 45 CFR 303.4(f) additionally requires states to "[s]eek a support order based on a voluntary acknowledgment in accordance with § 302.70(a)(5)(vii)."

UIFSA also addresses a signed paternity acknowledgment. Section 316(j), Special Rules of Evidence and Procedure, provides that a voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of a child.

Question 11: Can a party who had signed a paternity acknowledgment claim nonparentage as a defense in an intergovernmental IV-D case?

Answer 11: UIFSA section 315, Nonparentage as Defense, provides that a "party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense" in a UIFSA proceeding. The Official Comments to UIFSA section 315 recognize that:

- The law of the issuing state, where the paternity acknowledgment is signed, governs whether the paternity acknowledgment is a determination of parentage;
- The responding tribunal "must give effect to such an act of acknowledgment of parentage if it is recognized as determinative in the issuing state…;" and
- Any collateral attack on a parentage determination cannot be made in a UIFSA proceeding other than on fundamental due process grounds.

Question 12: Can a responding state agency refuse to process an intergovernmental referral requesting establishment of a child support order or enforcement of a current child support order if the initiating state does not provide a copy of the child's Social Security card or birth certificate with the intergovernmental forms packet?

Answer 12: No. A responding state IV-D agency cannot refuse an initiating agency's request for interstate services because of missing information or documents. Federal regulations at 45 CFR 303.7 govern intergovernmental IV-D case processing. They spell out the duties of the initiating agency, the interstate central registry, and the responding agency. If the documentation received with a case is incomplete and cannot be remedied by the central registry without help from the initiating agency, the central registry must notify the initiating agency of the missing information under 45 CFR 303.7(b)(2)(iii), and also forward the case to the local office for any action that can be taken pending necessary action by the initiating agency under 45 CFR 303.7(b)(3). The local responding agency also has responsibility to notify the initiating agency of additions or corrections that are needed to the forms or documentation, under 45 CFR 303.7(d)(2)(ii).

States should not request unnecessary or duplicative forms or documents; but, in some instances, certain forms or documents may be needed based on state policy or procedures, state law, or tribunal requirements. 45 CFR 303.7(c)(6) requires that within 30 calendar days of receipt of the request for information, the initiating IV-D agency must provide the responding agency with an updated intergovernmental form and any necessary additional documentation, or notify the responding agency when the information will be provided. Only if the responding agency documents failure by the initiating agency to take an action that is essential for the next step in providing services within the required time period is it appropriate for the responding agency to close the interstate IV-D case, under 45 CFR 303.11(b)(17). In an interstate case meeting that criteria for closure, the responding state must notify the initiating agency, in a record, 60 calendar days prior to closure of the case of the state's intent to close the case. See 45 CFR 303.11(d)(2).

Registration for Enforcement

Question 13: A responding state receives a transmittal requesting registration of a child support order for enforcement. UIFSA authorizes a responding state to initiate available administrative enforcement procedures without first registering the order. Can the initiating state control the action taken by the responding state and require the responding state to register the order with the tribunal?

Answer 13: No. The initiating state cannot require the responding state to register the order. Federal regulations require the responding state to process and enforce interstate cases using appropriate remedies applied in its own cases. UIFSA section 507, Administrative Enforcement of Orders, allows a responding state to initiate administrative enforcement procedures without first registering the order. In fact, section 507(b) requires the support enforcement agency in the responding state, prior to registering the order, to consider and, if appropriate, use any administrative enforcement procedures. If the obligor does not contest administrative enforcement, the order does not need to be registered.

Question 14: When the initiating agency requests registration of an order for enforcement, when is the order registered in the responding state and what is the effect of that registration?

Answer 14: In accordance with UIFSA section 603(a), Effect of Registration for Enforcement, a support order or income withholding order issued in another state is registered when the order is filed in the registering tribunal. UIFSA section 605, Notice of Registration of Order, states that the "registered support order is enforceable as of the date of registration." The fact that the nonregistering party has the opportunity to contest the registration action does not prohibit the enforcement of the order, or preclude the responding state from accepting and processing

child support payments. Therefore, a state should establish a payment account for the order in its State Disbursement Unit concurrent with the registration action.

Question 15: Does UIFSA require a standard procedure for the initiating state to follow to verify the record of arrearages?

Answer 15: UIFSA section 602, Procedure to Register Order for Enforcement, requires an initiating state to forward to the responding state either a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage. UIFSA does not require a standard procedure or format for verifying the record of arrearages. The intergovernmental form, Letter of Transmittal Requesting Registration, includes a breakdown of the arrearage calculation, as well as a place to indicate the attachment of supporting documentation. Such documentation includes a sworn statement by the person requesting registration, a certified statement by the custodian of the records showing the amount of any arrearage, or an order determining arrears.

Question 16: When an order is registered for enforcement, and there are arrears alleged, can a tribunal in the responding state, in response to a challenge to the alleged arrears amount, determine that arrears are a different amount than those alleged by the initiating state in the intergovernmental IV-D transmittal packet?

Answer 16: Yes. If there is a challenge to the alleged arrears, a tribunal in the responding state can determine the arrearage amount based on evidence presented under UIFSA section 305, Duties and Powers of the Responding Tribunal. When an initiating state requests registration for enforcement or modification, UIFSA section 602, Procedure to Register Order for Enforcement, requires a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage. UIFSA section 606, Procedure to Contest Validity or Enforcement of Registered Support Order, provides that a nonregistering party may seek to assert any defense to an allegation of noncompliance with the registered order or the amount of any alleged arrearages pursuant to section 607. UIFSA section 607(a), Contest of Registration or Enforcement, lists the possible defenses available to a party contesting the validity or enforcement of a registered order. One of the defenses is that full or partial payment has been made. If a party presents evidence establishing that defense, the tribunal in the responding state may, under UIFSA section 305(b)(4), determine the correct arrearage amount. In doing so, UIFSA section 604, Choice of Law, requires the tribunal in the responding state to apply the law of the issuing state regarding the computation of arrearages and accrual of interest on the arrears. If, however, there has already been a judicial determination of the arrearage (also known as a money judgment), the responding tribunal should give that order full faith and credit, absent any constitutional challenge to the order.

UIFSA section 305(e) requires the responding tribunal to send a copy of the order to the parties and the initiating tribunal, if any, to provide information about actions taken by the responding tribunal. This requirement is consistent with 45 CFR 303.7(a)(7) requiring IV-D agencies to notify the other agency of new information in an intergovernmental case.

If the nonregistering party does not timely contest the validity or enforcement of the registered support order, the order and the alleged arrears are confirmed by operation of law at the expiration of the challenge period. See UIFSA section 605(b)(3), Notice of Registration of Order, and UIFSA section 608, Confirmed Order.

Question 17: Is it appropriate for a responding state to insist that an initiating state obtain a formal "judgment" (i.e., issued by a tribunal) for arrears before the responding state will enforce the arrears?

Answer 17: No. It is not appropriate and is unnecessary for a responding state to require an initiating state to obtain a formal judgment for arrears. Federal law does not require a sum certain money judgment in order for arrears to be enforceable. Under section 466(a)(9) of the Act, a state must have procedures requiring that any payment or installment of support under any child support order "is (on or after the date it is due) — (A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced." Section 466(a)(9) further requires that such past-due payments are entitled as a judgment to full faith and credit in any other state. Therefore, arrears under a support order have judgment status without the necessity of a tribunal entering a sum certain money judgment. However, if there is a defense raised that the arrearages are not correct and that full or partial payment has been made, UIFSA authorizes the responding tribunal to determine the correct arrears. See Question 16.

In addition, UIFSA does not require that arrears or the interest accruing on such arrears be reduced to a sum certain money judgment before a state can request registration for enforcement of such arrears and interest. UIFSA section 602, Procedure to Register Order for Enforcement, requires that the registration request must include "a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage." The requirements in UIFSA section 605, Notice of Registration of Order, also do not require a sum certain money judgment. Section 605 requires that the notice of registration must inform the nonregistering party "of the amount of any **alleged** arrears." (Emphasis added.)

As long as the initiating state has provided the responding state with a certified statement by the custodian of the records showing the amount of arrearages, the initiating state has complied with the registration requirement in UIFSA section 602.

Modification

Question 18: Under UIFSA, may a tribunal modify an order that has only been registered for enforcement in that state?

Answer 18: A tribunal may not modify an order registered for enforcement only unless there is jurisdiction to modify the order under other UIFSA provisions and a party has requested modification. UIFSA's section 603, Effect of Registration for Enforcement, subsection (c), requires the registering tribunal to recognize and enforce the order if the issuing tribunal had jurisdiction, but expressly prohibits the registering tribunal from modifying the order "except as otherwise provided" in UIFSA. A tribunal may only modify an order issued by another state if the requirements of UIFSA section 611, Modification of Child-Support Order of Another State, or section 613, Jurisdiction to Modify Child-Support Order of Another State When Individual Parties Reside in This State, are met.

Question 19: Does UIFSA allow a tribunal to modify a registered order issued by another state where no individual party continues to reside in the issuing state?

Answer 19: Yes. UIFSA section 611(a)(1), allows a tribunal to modify a registered support order of another state if (1) neither the child, nor the individual obligee, nor the obligor resides in the issuing state; (2) the petitioner is not a resident of the registering state; and (3) the registering tribunal has personal jurisdiction over the respondent. All these facts must be true in order for the tribunal to have jurisdiction to modify under section 611(a)(1).

In certain circumstances, UIFSA also allows a tribunal to modify a registered order when a party continues to reside in the issuing state. See Question 24.

Question 20: If a tribunal has jurisdiction to modify a registered order of another state under UIFSA section 611(a)(1), but the issuing state, due to its prior payment of public assistance to the family, has an interest in the arrears owed under the order, may the tribunal still modify the order?

Answer 20: Yes. The registering tribunal may still modify the order. UIFSA section 611, Modification of Child-Support Order of Another State, focuses on individual parties and the child. The fact that the child support agency in the issuing state may be owed arrears under the order does not affect modification jurisdiction and does not prohibit the registering tribunal from modifying, prospectively, an order issued by a tribunal in the issuing state.

Question 21: What is the role of the responding IV-D agency in assisting noncustodial parents in review and adjustment proceedings in interstate cases? Assume that the initiating agency in State A has registered a State A order in State B for enforcement because the noncustodial parent resides there. The custodial parent, who is receiving IV-D services, remains a resident of

State A. Therefore, the issuing State A has continuing, exclusive jurisdiction or CEJ to modify its order. The NCP in the registering state has subsequently requested assistance from the responding agency in seeking a modification. What action should the responding agency take?

Answer 21: Under 45 CFR 303.8(b)(1) when providing IV-D services, states must have procedures to review, and if appropriate adjust, support orders at the request of **either** parent. 45 CFR 303.7(d)(6)(vii) states that a responding agency must: "Provide any necessary services as it would in an intrastate IV-D case." Therefore, the responding state agency must provide the same assistance to a noncustodial parent with regard to seeking modification of an order as it would to a custodial parent applicant for services. Such services include assistance with initiating a request for modification to the state with modification jurisdiction under UIFSA. Of course, initiating a request for modification does not mean the IV-D agency or the attorney is representing the parent. See Question 33.

Since the case is currently receiving services through the IV-D program, a separate or additional application for IV-D services under 45 CFR 302.33 is not required even if the individual requesting a review is not the original applicant. Noncustodial parents in IV-D cases are entitled to notice of the right to request a review of the child support order and the right to request a review by virtue of being a party to a IV-D case. See section 466(a)(10)(C) of the Act.

Question 22: If the controlling order is modified in accordance with UIFSA, does the duration of support change to the age in the modifying state?

Answer 22: No. The duration of support does not change when a support order is modified. UIFSA section 611(d) provides that "[i]n a proceeding to modify a child-support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support." See also Choice of Law section above.

Question 23: What is UIFSA's "play away" rule with regard to modification?

Answer 23: As long as the issuing tribunal has continuing exclusive jurisdiction (CEJ) under UIFSA section 205, another tribunal is prohibited from modifying the controlling order. The only exception is if the parties have filed consents in a record in the issuing tribunal for the tribunal in another state to modify the order and assume CEJ. See UIFSA section 205, Continuing, Exclusive Jurisdiction to Modify Child-Support Order, and section 611, Modification of Child-Support Order of Another State.

The drafters of UIFSA also wanted to address the situation where a party wanted modification but there was no tribunal with CEJ and no consent between the parties. For these situations, UIFSA requires that the party seeking modification be a nonresident of the state where modification is sought. That requirement is referred to as the "play away" rule.

Based on UIFSA section 611(a)(1), the party seeking modification may register the support order in a state with personal jurisdiction over the other party, so long as that state is not the residence of the petitioner. Specifically, if section 613, Jurisdiction to Modify Child-Support Order of Another State When Individual Parties Reside in This State, does not apply, section 611(a)(1) allows a tribunal in a state where a support order has been registered to modify the order if, after notice and hearing, the tribunal finds that:

(1) Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state:

(2) The petitioner who is a nonresident of the registering state seeks modification; and

(3) The respondent is subject to the personal jurisdiction of the registering tribunal.

According to the official Comment to UIFSA section 611, the "play away" rule was created by the drafters of UIFSA to diminish the undesirable effect of parties using "tag" jurisdiction (serving someone when he or she was in the state visiting the child) in order to obtain a home-town advantage. "[T]he goal was to avoid the situation in which modification would be available in a forum having personal jurisdiction over both parties based solely on the ground that service of process was made in the would-be forum state."

Exceptions to the "play away" rule are noted in the following question and answer.

Question 24: If the parents live in different states from each other, must the requesting party always "play away" by requesting modification in the non-requesting party's state?

Answer 24: No. Modification is not always done in the non-requesting party's state. Under section 205, Continuing, Exclusive Jurisdiction to Modify Child-Support Order, if either of the parties or the child(ren) live in the order-issuing state, that state has continuing, exclusive jurisdiction (CEJ) to modify its order. If neither the obligee, the obligor, nor the child lives in the order-issuing state, that state still has CEJ to modify its order if the parties consent in a record or in open court for the tribunal to continue to exercise jurisdiction to modify its order. Under section 611, Modification of Child-Support Order of Another State, even if there is a CEJ state, the parties can file consents in the issuing tribunal for a tribunal in a state where the child resides or a state with personal jurisdiction over one of the parties to modify the order and assume CEJ.

Question 25: If there is a state with continuing, exclusive jurisdiction under section 205, can the parties agree to modification by a different state?

Answer 25: Yes. Under section 205(b), a tribunal may not exercise CEJ to modify its order if all parties file consent in a record with the issuing tribunal that a tribunal of a different state may

modify the order and assume CEJ. That state must have jurisdiction over at least one of the parties or be the state of residence of a child of the order.

Question 26: Once a registered support order has been modified, what interest rate applies to arrears that accrued prior to registration and to arrears that may accrue prospectively under the modified order?

Answer 26: UIFSA addresses the interest rate that applies to arrears under an order, to consolidated arrears after registration of an order, and to arrears that may accrue prospectively upon modification of an order.

When a support order is registered in another state, failure of the nonregistering party to contest the validity or enforcement of the registered order in a timely manner results in confirmation of the order and enforcement of the order and the alleged amount of arrears, including interest on the arrears. See UIFSA section 605, Notice of Registration of Order. If the order is registered for modification under UIFSA section 610, Effect of Registration for Modification, the registering tribunal will apply its support guideline to determine the modified support amount. When the tribunal modifies the registered order, the modified order becomes the "new" controlling order in the case. From that point forward, the law of the state issuing the new controlling order (the modified order) governs the interest on arrears, both on the consolidated arrears under the "old" order(s) and on any arrears that prospectively accrue on current support under the modified order. See UIFSA section 604(d), Choice of Law.

In the rare case where multiple, valid support orders exist, the registering tribunal will determine which is the controlling order under UIFSA section 207 and will determine the total amount of consolidated arrears and accrued interest, if any, under all of the orders. The registering tribunal will apply the law of the state that issued each valid order to compute the amount of arrears and accrued interest under each order in accordance with section 604(a)(2) of UIFSA. After the registering tribunal determines which is the controlling order and issues an order pursuant to section 207(f) of UIFSA consolidating the amount of arrears and interest under all the orders, section 604(d) of UIFSA provides that the law on interest on arrears of the state issuing the controlling order applies prospectively to the consolidated arrears amount as well as to any arrears that continue to accrue under the controlling order.

UIFSA Case Processing Topics

Question 27: When does UIFSA require the initiating state to include certified copies of documents in the intergovernmental IV-D case referral?

Answer 27: UIFSA section 311, Pleadings and Accompanying Documents, requires that a petition to establish support, to determine parentage, or to register and modify a support order of another state or a foreign country include a copy of any known support order. Unless filed at the time of registration, the order does not have to be certified. UIFSA section 602, Procedure to Register Order for Enforcement, requires that any request for registration and enforcement of an order issued by another state or a foreign support order include two copies, including one certified copy, of the order to be registered, including any modification of the order. In addition, section 602 requires that a request for registration of another state's order be accompanied by either a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage. And UIFSA section 609, Procedure to Register Child-Support Order of Another State for Modification, requires that the child support order be registered "in the same manner provided in Sections 601 through 608 if the order has not previously been registered." Therefore, a petition to register and modify a support order of another state or a foreign country must be accompanied by the documents required for registration of the order, including two copies of the order to be registered, one of which must be a certified copy.

UIFSA does not specify what documents are needed when an initiating state requests a responding state to enforce its own order. Usually an initiating state will not need to include a certified copy of an order issued by a responding state tribunal. However, if the responding state agency requests certified copies of its own order, 45 CFR 303.7(c)(5) requires the initiating state IV-D agency to provide the responding agency with sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms required by the responding agency.

If certain documents are certified, UIFSA section 316, Special Rules of Evidence and Procedure, allows for their admissibility in order to assure that the tribunal will have available the maximum amount of information. For example, a copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is admissible to show whether payments were made. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child. See also Question 29 below, regarding transmitting documents electronically.

Question 28: What is a "certified copy" of an order or a document, such as a voluntary acknowledgment of parentage?

Answer 28: A certified copy of an order or other document is an authorized official copy of the original document. The designation of officials who can authorize the certification and the form of certification are based on the law or court rules of the issuing jurisdiction. A plain copy of an

order or other document is not a certified copy. An attestation by a notary that a document is a true copy of the original document is not considered a certification since an attested copy does not certify that the primary document is genuine. If there is a question about the certification, UIFSA section 317, Communications Between Tribunals, allows the responding tribunal to communicate with the issuing tribunal to obtain information about its laws governing certification and the legal effect of the order.

Question 29: May a child support agency transmit certified copies of orders or other documents through OCSE's Electronic Document Exchange (EDE) system?

Answer 29: Yes. Any documents, including certified copies, may be transmitted through EDE. UIFSA section 316(e) provides that documentary evidence transmitted from outside the state to a tribunal by electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission. See PIQ-18-01: Electronic Documents and Tribunals under UIFSA Section 316 for information about UIFSA requirements for electronic transmission of documents.

Question 30: If the initiating agency requests registration of an order for enforcement and transmits a certified copy of the order to the responding agency through EDE, must the agency also send another copy of the order because UIFSA section 602(a)(2) requires two copies?

Answer 30: No. If the initiating agency transmits the certified copy through EDE, it does not need to send a second copy of the order through EDE or another medium. The responding agency can make a duplicate of the order and file both copies with the tribunal, as required by UIFSA section 602(a)(2). See also PIQ-18-01.

Question 31: Does UIFSA provide a solution to the logistical problems associated with IV-D staff, parties or witnesses being required to travel long distances to appear before the appropriate tribunal in the responding state.

Answer 31: Yes. UIFSA section 316(a), Special Rules of Evidence and Procedure, states that the physical presence of a nonresident party in the responding tribunal is not required for the establishment, enforcement, or modification of a support order or a determination of parentage. In accordance with section 316(f), a tribunal **must** permit a party or witness residing outside the state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, at any proceeding held under the Act. We encourage state child support agencies to help coordinate such testimony, if requested by the tribunal.

Question 32: How should tribunals cooperate when receiving a request for assistance under UIFSA section 317, Communications between Tribunals, and section 318, Assistance with Discovery?

Answer 32: In response to a request pursuant to UIFSA section 317, a tribunal may provide a statement of the requested local law, the legal effect of any order entered in that state, or the status of a proceeding. In response to a request from outside the state pursuant to UIFSA section 318, the tribunal receiving the request may "compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside" the state. UIFSA's Official Comment to section 318 states that this "grant of authority is quite broad, enabling the tribunal of the enacting State to fashion its remedies to facilitate discovery consistent with local practice."

Question 33: Is the responding state responsible for providing "personal" legal representation services to an out-of-state petitioner in a UIFSA proceeding?

Answer 33: Federal regulations at 45 CFR 303.20(f)(1) require that a state IV-D agency have staff in sufficient numbers to achieve the standards for an effective program, including "attorneys or prosecutors to represent the agency in court or administrative proceedings" related to the establishment and enforcement of paternity and support orders. Although there are no federal statutory or regulatory requirements governing this matter, OCSE has previously stated that the IV-D agency does not provide legal services per se and that the traditional attorney client relationship does not exist. See 55 Fed. Reg. 33418 (Aug. 15, 1990). The issue of legal representation of parties is governed by state law, regulations, or bar association requirements.

In addition, UIFSA section 307, Duties of Support Enforcement Agency, subparagraph (f) states that the Act does not "create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency."

Direct Income Withholding

Question 34: What recourse do UIFSA and federal law provide when an out-of-state employer fails to honor a direct income withholding order that is regular on its face?

Answer 34: UIFSA section 501, Employer's Receipt of Income-Withholding Order of Another State, provides that states may avoid a two-state enforcement process and send income withholding orders directly to a person or entity defined, under the law of the employer's state, as the obligor's employer. Section 502, Employer's Compliance with Income-Withholding Order of Another State, requires an employer to treat an income withholding order issued in another state, which appears regular on its face, as if it had been issued by a tribunal of the employer's state.

Similarly, section 466(b)(9) of the Act requires a state to extend its withholding system to include withholding from income where the applicable support orders were issued in other states. Section 466(b)(6)(A)(i) of the Act provides that an employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

Both UIFSA and federal law also address noncompliance by an employer. UIFSA section 505, Penalties for Noncompliance, provides that an employer that willfully fails to comply with the direct income withholding order is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of the employer's state. Federal law states that the employer must be held liable for any amount that the employer fails to withhold following receipt by the employer of a proper notice of withholding. Additionally, the employer is subject to a fine. See sections 466(b)(6)(C) and 466(b)(6)(D) of the Act and implementing federal regulations at 45 CFR 303.100.

When a state issuing a direct income withholding order is faced with an employer who fails to honor it, the state issuing the withholding order should first contact the employer to try to resolve the issue. An employer's failure to honor direct income withholding orders may be due to a lack of understanding of state law in this area. The state issuing the direct income withholding order may also wish to contact the IV-D agency in the employer's state to determine why the direct income withholding order was not honored and work to resolve the problem so that it does not recur. If that fails, the state could terminate its direct withholding action and initiate an interstate enforcement case. Should the employer fail to honor an enforcement action initiated by the IV-D agency in the employer's state, then that state (i.e., the responding state) would be responsible for resolving the issue of the employer's noncompliance.

Question 35: Does UIFSA allow two or more states to issue direct income withholding orders to the employer on the same case?

Answer 35: Yes. UIFSA allows direct income withholding "by or on behalf of the obligee, or by the support enforcement agency." Therefore, it is possible for there to be more than one state that issues a direct income withholding order. For example, State A may be enforcing prospective support for the family residing in State A, while State B may be enforcing a debt for delinquent child support that is owed to State B as a result of a prior period of public assistance. However, if a state encounters problems with one or more additional states taking independent enforcement action on the same order, in the majority of situations, OCSE encourages all states to request the enforcement services of the IV-D agency in the noncustodial parent's state of residence. This results in a consolidated and coordinated enforcement action, with only one

state responsible for enforcement. In addition, this provides the employer with just one state for contact.

Question 36: Is it appropriate for a state to send a direct income withholding order to an employer in another state after requesting the IV-D agency in that state to register and enforce the child support order in the same case?

Answer 36: No. Such action is not appropriate under federal regulations governing IV-D agencies. If a state wants to pursue direct withholding after referring an interstate case to another state for enforcement, 45 CFR 303.7(c)(12) requires the initiating state agency to instruct the responding state agency to close its interstate case and to stop any withholding order or notice the responding agency has sent to an employer. The initiating agency must request closure before it transmits a direct income withholding order or notice to the employer in the same case, unless the two states reach an alternative agreement on how to proceed.

Question 37: Consider this scenario: The IV-D agency in State A issues a direct income withholding order to an employer located in State B, where the noncustodial parent/obligor is employed. The noncustodial parent/obligor lives in State C. The tribunal in State B stays enforcement of the withholding action based upon the obligor's challenge to the withholding. What should be the next action taken by the IV-D agency in State A?

Answer 37: UIFSA section 506, Contest by Obligor, authorizes an obligor to contest a direct income withholding action. Section 506(a) provides that the obligor may contest by registering the income withholding order in a tribunal of the employer's state and filing a contest as provided in Article 6, or by otherwise contesting the order in the same manner as if the order had been issued by the employer's state. If such a contest is requested, the obligor must give notice to the support enforcement agency providing services to the obligee. UIFSA does not provide additional direction regarding state responsibilities related to the contest.

In the event of a contest, the IV-D agency in State A should open an interstate IV-D case with the IV-D agency in State B. Opening an interstate case will permit the IV-D agency in State B, the responding state, to appear and represent the interests of State A, the initiating state, in any contested matter(s) regarding the income withholding action in the employer's state. Once any challenge or contest to the withholding action is resolved, State A may request case closure in State B and continue to enforce by direct income withholding, or may keep the interstate case open so that State B will be responsible for ongoing enforcement. If State A keeps the interstate case open, it should withdraw its direct income withholding request in coordination with State B.

Question 38: Does the out-of-state employer follow the laws of the state that issued the direct income withholding order in determining the timeframes for remitting withheld payments, or does the law of the employer's state control?

Answer 38: According to section 466(b)(6)(A)(i) of the Act, when an employer receives an income withholding order issued by another state, the employer must comply with the law of the employee's work-state regarding: the timeframes to implement the withholding instrument and remit withheld income; the employer's fee for processing the income withholding order; the maximum amount to be withheld; and the priorities for withholding and allocating withheld income for multiple child support obligees. UIFSA contains similar requirements in section 502(d)(3).

The OMB-approved Income Withholding for Support Order/Notice (IWO) must be used for income withholding in:

- Tribal, intrastate, and interstate cases enforced under Title IV-D of the Social Security Act,
- All child support orders initially issued in the state on or after January 1, 1994, and
- All child support orders initially issued (or modified) in the state before January 1, 1994, if arrearages occur.

Instructions to the form direct the employer to remit the payments according to the "withholding limitations, time requirements, and any allowable employer fees from the jurisdiction of the employee/obligor's principal place of employment."

Question 39: Does UIFSA contemplate the following situation: State A receives a request from the custodial parent to enforce a child support order from State B. The State B support order contains a provision ordering immediate income withholding. The noncustodial parent is residing and employed in State C. Can State A issue an income withholding order, based upon the State B underlying support order, and send it directly to the employer in State C?

Answer 39: Yes. Pursuant to sections 501 and 502(b) of UIFSA, an income withholding order issued in another state may be sent directly to an obligor's employer. If the income withholding order is regular on its face, the employer is required to honor it and treat it as if a tribunal of the employer's state had issued it. When State A sends the direct income withholding request to the employer based on the State B order, State A is not allowed to change the terms of State B's order regarding the address to which support payments must be forwarded. See AT-17-07: Interstate Payment Processing, pages 7-8.

Question 40: Can the state where the noncustodial parent resides require another state to initiate an intergovernmental IV-D case referral instead of a direct income withholding order?

Answer 40: No. The decision whether to pursue enforcement of a support order via a direct income withholding action or via a traditional two-state process rests with the initiating state agency. The federal regulation at 45 CFR 303.7(c) identifies responsibilities of an initiating state IV-D agency. One responsibility is to determine whether the noncustodial parent is in another jurisdiction and whether it is appropriate to use one-state remedies, including income withholding. If the initiating state agency believes that direct income withholding is the most appropriate service for a particular case, then that agency should pursue the direct income withholding remedy. If, however, enforcement actions other than income withholding are desired, then it would be appropriate for the initiating state agency to initiate an interstate IV-D case in a state where the noncustodial parent resides or has income or assets. See also AT-17-07: Interstate Payment Processing, Question 7.

Question 41: If State A receives information from the National Directory of New Hires indicating that the noncustodial parent's employer is located in State B, is State A required to send a direct income withholding order to the State B employer within 2 business days?

Answer 41: Regulations under 45 CFR 303.7(c)(1) and (3) first require the initiating state agency to determine if there is an existing child support order and whether direct income withholding is appropriate in a case. If State A determines direct income withholding is appropriate in the case, the timeframes for issuing notice of income withholding to the employer under 45 CFR 303.100(e)(2) – usually 2 business days – apply. However, if the order is from another state, State A may gather identifying case and payment location information for that out-of-state order before the income withholding timeframes apply. See AT-17-07: Interstate Child Support Payment Processing, Question 2, especially page 8.

Collections Allocation from Income Withholding in Multiple Cases Against a Noncustodial Parent

Question 42: Under federal regulations at 45 CFR 303.100, is a responding state required to allocate collections from income withholding among all cases against a single noncustodial parent?

Answer 42: Yes. In instances where there is more than one income withholding order in place against a single noncustodial parent, 45 CFR 303.100(a)(5) requires a state to allocate amounts available for withholding, giving priority to current support, up to the limits of the Consumer Credit Protection Act. The state must establish procedures for allocation of support in these instances, but in no case can the allocation result in withholding for one of the support

obligations not being implemented. See AT-97-13: Collection and Disbursement of Support Payments.

Collection of Arrears Owed Multiple States

Question 43: If multiple states have arrearages owed to them or to families, which arrearages are satisfied first?

Answer 43: Any state that is seeking to collect support to satisfy arrearages, whether they are assigned to the state or owed to a family, may use any appropriate IV-D enforcement technique to collect past-due support, such as Federal Income Tax Refund Offset, direct or regular income withholding, or requesting interstate services from other states. With the exception of 45 CFR 302.51(a) (requirement for payment to current support first) and 303.100(a)(5) (allocation across orders in withholding cases), federal law and regulations do not address distribution of collections when there are multiple support orders with arrearages**.**

Question 44: When a responding state is enforcing a case that has assigned arrears owed to itself and another state, does the responding state have the ability to choose which state's debt they pay first, or are there federal guidelines?

Answer 44: Section 457 of the Act sets forth distribution requirements in IV-D cases. However, it does not address distribution in more than one case at a time. Therefore, there are no federal requirements regarding the order in which arrearages owed to two or more states are to be satisfied.

OCSE encourages states to coordinate and communicate on the order in which arrears owed to two or more states are satisfied. As noted in Question 42, if there is more than one withholding order in place against the same income and noncustodial parent, the allocation requirements under 45 CFR 303.100(a)(5) apply.

Performance Incentives

Question 45: Do both states count collections for incentives purposes in interstate IV-D cases?

Answer 45: Yes. Amendments to the incentive system made by Title II of the Child Support Performance and Incentives Act of 1998 (P. L. 105-200), maintained the double-counting of interstate collections. Therefore, under section 458(c) of the Act, both the initiating and responding states may count collections in interstate cases for incentives purposes because the law treats interstate collections as having been collected in full by each state. See AT-17-07: Interstate Payment Processing.

Initiating and Responding State Agency Responsibilities

Question 46: Is an all-inclusive set of the intergovernmental forms required in every action requested under UIFSA?

Answer 46: No. The initiating state does not need to send all of the federal intergovernmental forms to the responding state. The OCSE Intergovernmental Forms Matrix identifies which forms to use when requesting a specific action under UIFSA. For example, if an initiating state agency wants to register for enforcement an order issued by a state that is not the responding state, the initiating state agency should send Child Support Enforcement Transmittal #1 – Initial Request, Child Support Agency Confidential Information form, and the Letter of Transmittal Requesting Registration. The Intergovernmental Forms Matrix only addresses required intergovernmental forms; the Matrix notes that additional documents and information may be required, based on law and the circumstances of the case. See PIQ-20-01: Using the Federal Intergovernmental Forms for Case Processing.

Question 47: Are initiating states responsible for sending complete intergovernmental IV-D case referral packets to the responding states? What may a responding state do if it fails to receive a complete referral packet?

Answer 47: Yes. Initiating states are responsible for sending appropriate referral packets to responding states. The federal regulations at 45 CFR 303.7(c)(5) require an initiating state IV-D agency to provide the responding agency with "sufficient, accurate information to act on the case by submitting with each case any necessary documentation and intergovernmental forms required by the responding agency." The central registry in the responding state is required to review the documentation to ensure it is complete. If there is missing information, it must notify the initiating agency of the missing documentation. In the meantime, it must forward the case for any action that can be taken pending receipt of the information from the initiating agency. Under 45 CFR 303.7(d)(2), upon receipt of an intergovernmental case from the central registry, the responding agency must notify the initiating state of any "necessary additions or corrections to the form or documentation." In addition, 45 CFR 303.7(d)(2)(iii) requires the responding state agency to "process the case to the extent possible pending necessary action by the initiating agency."

Question 48: What are the responsibilities of an initiating state when it receives a request for additional information or documents from the responding state?

Answer 48: Federal regulations at 45 CFR 303.7(c)(6) require the initiating state agency to provide the responding agency with an updated intergovernmental form and any necessary additional information within 30 calendar days of receiving a request for additional

information. If the additional information is not immediately available to the initiating state agency, it should notify the responding state agency when the information will be provided.

Question 49: How long does the responding state have to respond to a request for updated information from the initiating state?

Answer 49: As stated above, federal regulations at 45 CFR 303.7(c)(6) require the initiating state IV-D agency to respond to requests for additional or updated information within 30 calendar days of receipt of this request. However, federal regulations do not specify timeframes for a responding state IV-D agency to respond to similar requests from the initiating agency. Nevertheless, in the interest of efficient interstate case processing, OCSE strongly encourages a responding IV-D agency to also respond within 30 calendar days of the receipt of such a request from an initiating IV-D agency. In addition, under general responsibilities, 45 CFR 303.7(a)(5) and (7), respectively, both agencies in an intergovernmental case are required "to transmit requests for information and provide requested information electronically to the greatest extent possible," and "to notify the other agency within 10 working days of receipt of new information on an intergovernmental case."

Question 50: If a state IV-D agency has not received a timely response to a request it has made of another state IV-D agency, what next steps should it take?

Answer 50: Section 454(9) of the Act and 45 CFR 302.36 require states to cooperate in serving families across state lines. However, OCSE acknowledges that intergovernmental case processing can be challenging and is concerned that some states may not be meeting case processing deadlines. OCSE encourages states to continue to work interstate cases to the extent possible and to communicate with staff and the central registry within their own state and in other states. Under federal regulations, 45 CFR 303.7(b)(4), a state's central registry is required to provide an intergovernmental case status update within 5 working days of receipt of the request.

As noted in the intergovernmental final rule, a procedure exists for state IV-D agencies to work with OCSE in situations where they may need assistance resolving intergovernmental case issues with other states. Under the procedure, states may contact their federal regional program manager, report the issue, and work with the program manager and other states to resolve the issue. In addition, case closure regulations under 45 CFR 303.11(b)(17) provide a responding state IV-D agency the option to close a case when it can document that the initiating state has failed to take an action that is essential for the next step in providing services, and provides notice according to 45 CFR 303.11(d). This criterion was devised so that responding state IV-D agencies would have grounds to close unworkable cases. The responding state IV-D agency should make a thorough good faith effort to communicate with the initiating

state agency before initiating case closure procedures under 303.11(b)(17). See Case Closure in this AT.

Question 51: When a responding state has already opened an intergovernmental case, is it appropriate for the initiating state to direct requests for subsequent action on the case to the responding state's Central Registry?

Answer 51: Within 10 working days of the responding state's central registry receiving a request to open an interstate case on the Transmittal #1 – Initial Request, the central registry must acknowledge the request, and inform the initiating agency where it sent the case for action. See 45 CFR 303.7(b). After receiving this acknowledgment and information, the initiating state should communicate directly with the identified responding state local entity.

The appropriate intergovernmental form for subsequent requests is the Child Support Enforcement Transmittal #2 – Subsequent Actions. According to the form instructions, either the initiating or responding IV-D agency may use this form to request or provide additional information or services in a previously referred IV-D intergovernmental case. The initiating agency should send the form to the local entity working the case, unless directed otherwise by the responding state's central registry or the local entity working the case is unknown.

Question 52: Upon the request of the initiating state, is a responding state required to forward a case to another state (where the noncustodial parent now resides)?

Answer 52: Yes. If the noncustodial parent is located in another state, the responding state agency is required by 45 CFR 303.7(d)(3) to return the intergovernmental forms and documentation to the initiating agency, or, if directed by the initiating agency, forward the intergovernmental forms and documentation to the central registry in the state where the noncustodial parent has been located. The request to forward or return forms and documentation may be more common in international cases than in interstate cases.

If a long period of time has passed from when the documents in the intergovernmental case were initially sent to the responding state, the forms and information from the initial transmittal package may no longer provide current information. In that situation, the initiating agency may decide it is preferable to request that the responding state return the documents in order to create a new transmittal package to transmit to the new state.

In addition, if a tribunal inappropriately receives a pleading in a UIFSA proceeding, UIFSA section 306, Inappropriate Tribunal, requires the local tribunal to forward the pleadings and accompanying documents to the appropriate tribunal in the responding state or another state, and notify the petitioner where and when the pleading was sent. The tribunal must take such action, whether or not it is requested to do so by the initiating state. UIFSA's Official Comment

to section 306 states that "[s]uch a procedure is much to be preferred to returning the documents to the initiating tribunal to begin the process anew. Cooperation of this sort will facilitate the ultimate goals of the Act." The Comment also notes that the section does not contemplate that a state tribunal will forward documents to a tribunal in a foreign country.

Question 53: What should the responding state do if the initiating state has requested that its intergovernmental forms or documents be returned or forwarded to another jurisdiction, but the responding state uses electronic filing and no longer has the original documents to forward or return?

Answer 53: If the responding state uses electronic filing and has not retained the original documents, the responding state should communicate with the initiating agency to determine next steps. The initiating agency may contact the state where the noncustodial parent has been located to determine if that new state will accept some or all of the documents in the electronic format, in which case, the responding state can forward them.

Question 54: In an interstate case, which state, the initiating or responding, is responsible for reporting the obligor's debt to the consumer reporting agencies?

Answer 54: Section 466(a)(7) of the Act requires that all states have procedures for periodically reporting obligors and the amount of their delinquent child support to consumer reporting agencies. 45 CFR 303.7(d)(6)(iii) places responsibility for reporting overdue support to the consumer reporting agencies with the responding state IV-D agency.

Question 55: In an interstate case, which state is responsible for submitting the case for federal enforcement remedies, such as federal income tax refund offset, passport denial, or Multistate Financial Institution Data Match (MSFIDM)?

Answer 55: From an interstate perspective, the responding state is responsible for pursuing all appropriate state enforcement activities using remedies applied in its own cases. With respect to federal enforcement remedies, under 45 CFR 303.7(c)(8), the initiating state is required to submit all past-due support owed in a case that meets the certification requirements under 45 CFR 303.72 for federal tax refund offset. While OCSE prefers the initiating agency to also submit past-due support to OCSE for the other federal enforcement remedies, such as administrative offset, passport denial, insurance match, and MSFIDM, the responding state may use these enforcement tools, if doing so would be in the best interests of the child and family. For example, the responding state may choose to certify a case for administrative offset where the initiating state would not, since administrative offset is optional. It is important for the initiating and responding states to coordinate closely with their use of federal enforcement tools in order to eliminate potential confusion and duplicative efforts in interstate cases.

Requests for Limited Services

Question 56: What are the roles of the respective IV-D agencies in situations where a state elects to proceed against a nonresident by exercising available long-arm jurisdiction and requests a tribunal in the respondent's state to provide assistance with discovery or some other limited service?

Answer 56: Federal regulations at 45 CFR 303.7(c)(3) provide that the initiating state IV-D agency is responsible for determining if its use of one-state remedies, such as exercising long-arm jurisdiction, is appropriate. Other state IV-D agencies may not "second-guess" the decision of the initiating state. As noted in the question, the initiating agency may need assistance from the respondent's state agency or another state agency related to the long-arm proceeding. 45 CFR 303.7(a)(8) requires a IV-D agency to "[c]ooperate with requests for the following limited services: Quick locate, service of process, assistance with discovery, assistance with genetic testing, teleconferenced hearings, administrative reviews, high-volume automated administrative enforcement in interstate cases under Section 466(a)(14) of the Act, and copies of court orders and payment records." Pursuant to 45 CFR 303.7(a)(8), assisting agencies must honor requests for required limited services regardless of whether the assisting agency has an open case and without requiring the initiating state agency to open an intergovernmental IV-D case.

To make such a request, the initiating state agency should send the assisting state agency a Child Support Enforcement Transmittal #3 – Request for Assistance/Discovery, checking the appropriate box. The transmittal should include necessary documentation (such as rules of procedure, forms, and discovery documents) that the assisting state agency may need to provide the requested assistance. When the requested action is completed, no further action is required of the assisting state. Case closure criteria do not apply since there is no interstate case in the assisting state.

Additionally, UIFSA section 318, Assistance with Discovery, authorizes a tribunal to respond to a request for assistance with discovery by compelling a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside the state.

Question 57: What is the required timeframe for responding to requests for limited services?

Answer 57: As noted in Question 56, federal regulations under 45 CFR 303.7(a)(8) require states to cooperate with requests for the specific limited services and to honor requests for other limited services at the state's option. There is no timeframe to respond to these requests; however, in intergovernmental IV-D cases, 45 CFR 303.7(c)(6) provides for a 30-calendar-day timeframe within which an initiating state must respond to a responding state's request for additional information or documentation. OCSE strongly encourages states to apply the 30-day

timeframe applicable to requests for information within an intergovernmental case to limited services requests for assistance.

Question 58: When a state agency uses its long-arm statute to establish paternity and support and requests another state agency to provide the limited service of service of process on the nonresident parent, which state is responsible for paying the costs of the limited service?

Answer 58: If an initiating state agency using its long arm statute needs assistance with service of process on a nonresident, 45 CFR 303.7(a)(8) requires a state IV-D agency to cooperate with the initiating state agency's request for the limited service of service of process. A request for a limited service is not an intergovernmental IV-D case governed by the payment provisions of 45 CFR 303.7(e). The Child Support Enforcement Transmittal #3 form uses the terms "requesting agency" and "assisting agency" to emphasize the fact that limited service requests are not considered intergovernmental IV-D cases, and the assisting agency is not considered a responding agency. Because 45 CFR 303.7(e) does not apply to limited services requests, the assisting agency is not required to pay the costs of the limited service.

To cover the cost of the limited service, the assisting agency may require the requesting agency to pay the costs directly to the service provider, such as the sheriff's office or the court; may seek reimbursement from the requesting agency of costs the assisting agency incurs in providing the limited service, or may choose to pay the cost of the limited service itself.

Federal regulations at 45 CFR 302.33(d) address rules for cost recovery in IV-D cases. The cost recovery rules and policies for the requesting state that pays the limited service costs will govern whether and how the costs for limited services will be recovered.

If, however, the initiating state agency ultimately initiates an intergovernmental case for the purpose of establishing paternity and support, 45 CFR 303.7(e) requires the responding state IV-D agency to pay the costs it incurs in processing the intergovernmental case. Such costs may include the costs of service of process.

Protecting Information

Question 59: Must the Personal Information Form for UIFSA 311, one of the federal intergovernmental forms, be attached to the Uniform Support Petition when seeking to establish parentage? If it must be attached, is it permissible to redact the Social Security numbers?

Answer 59: The Personal Information Form for UIFSA § 311 was developed in order to comply with the requirements in UIFSA section 311, Pleadings and Accompanying Documents. That section requires a petition or accompanying documents to provide, so far as known, certain identifying information that includes the Social Security numbers of "the obligor and the

obligee or the parent and alleged parent" and "of each child for whose benefit support is sought or whose parentage is to be determined." The requirement to include Social Security numbers in the pleadings has been in UIFSA since its first enactment in 1992.

The only exception under UIFSA to providing the information required by section 311 is if exceptional circumstances exist under UIFSA section 312, Nondisclosure of Information in Exceptional Circumstances.

However, UIFSA is not exclusive of additional protective steps that may otherwise be required or applicable under state law, rule, or court procedure. UIFSA section 104, Remedies Cumulative, provides that the remedies under UIFSA do not affect the availability of remedies under other law.

Federal regulations at 45 CFR 303.7(a)(4) require child support agencies to use federally approved forms in intergovernmental IV-D cases. Therefore, in outgoing cases, the IV-D agency must include a Personal Information Form for UIFSA § 311 with every Uniform Support Petition it forwards in an interstate case, including a petition to establish parentage. If there is an allegation in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, section 312 requires that the information must be sealed and may not be disclosed to the other party or the public. Some jurisdictions seal information by redacting it. In the absence of such a sworn allegation, however, section 311 requires the information. Because the intergovernmental forms comply with requirements in UIFSA, which is also state law, it is important for the state IV-D agency and the courts to develop policy on how best to comply with state law and protect parties' personally identifiable information.

Question 60: Is the Personal Information Form for UIFSA § 311 required when requesting registration for enforcement?

Answer 60: No. Section 311, Pleadings and Accompanying Documents, only applies when a petitioner is seeking to establish a support order, to determine parentage of a child, or to register and modify a support order – all of which are actions requiring a petition or similar pleading. A request for registration for enforcement does not require a petition. Therefore the Personal Information Form for UIFSA § 311 is not required when requesting registration for enforcement.

UIFSA section 602, Procedure to Register Order for Enforcement, lists the documents required for registration for enforcement:

- A letter of transmittal requesting registration and enforcement;

- Two copies, including one certified copy, of the order to be registered, including any modification of the order;
- A sworn statement by the person requesting registration or a certified statement by the custodial of the records showing the amount of any arrearage;
- The name of the obligor and, if known, the obligor's address and SSN; the name and address of the obligor's employer and any other source of income of the obligor; and a description and the location of property of the obligor in the registering state that is not exempt from execution; and
- Unless there are exceptional circumstances, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

All of the information required by the last two bullets are in the intergovernmental Letter of Transmittal Requesting Registration.

Question 61: Must the Personal Information form be included in the service packet to the parties? The form says it may be disclosed to the parties. Should that only be upon their request?

Answer 61: UIFSA section 311, Pleadings and Accompanying Documents, requires that a petitioner file a petition or similar pleading when seeking to establish a support order, to determine parentage, or to register and modify a support order of another state or foreign country. Unless the nondisclosure provision of section 312 applies, the petition or accompanying documents must provide certain personal information, including the parties' and children's Social Security numbers. The Personal Information Form for UIFSA § 311 is intended to safeguard the privacy of individuals by providing a means to record the personal information required by section 311 on a separate document rather than requiring it to appear on all of the forms needed to process the case. This form is filed with the tribunal in the responding state, but should not be filed in a public access file because it contains personally identifiable information (PII). Absent a nondisclosure affidavit or pleading sufficient under UIFSA section 312, Nondisclosure of Information in Exceptional Circumstances, this PII form is considered part of the petition and accompanying documents that are served on the respondent. UIFSA Section 303, Application of Law of State, provides that "[e]xcept as otherwise provided" in UIFSA, a responding tribunal "shall apply the procedural and substantive law generally applicable to similar proceedings originating" in the state. That means the responding state's laws and court rules regarding service of pleadings and accompanying documents – including any redaction of personally identifiable information within them – will apply.

Question 62: If there is a family violence indicator (FVI) associated with a party in an intergovernmental case, does that constitute a nondisclosure finding/affidavit for purposes of checking that box on various intergovernmental forms?

Answer 62: No. The FVI in a state's child support system does not satisfy the requirements of UIFSA sections 311 and 312.

Section 311, Pleadings and Accompanying Documents, requires a petitioner to provide specific information in a petition to establish a support order, determine parentage, or register and modify a child support order. This includes "the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined."

Section 312, Nondisclosure of Information in Exceptional Circumstances, sets forth the only exception to the requirements in section 311. It states that "if a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public."

The presence of an FVI on a state's child support system does not comply with section 312's requirement that there must be an allegation in an affidavit or a pleading under oath that the health, safety, or liberty of the parent or child would be jeopardized by disclosure of some or all of the identifying information. If there is an FVI on a case participant in the initiating state, it will be necessary for the agency to include the required allegation in an affidavit or a pleading under oath if it wants the responding state to seal the identifying information and not disclose it to the other party or the public. UIFSA does not require that the affidavit or the pleading signed under oath be notarized or certified. If there is a nondisclosure finding or order issued by a tribunal, it should also be included with the intergovernmental forms. See IM-19-06: Model Procedures for Domestic Violence Cases.

Interstate Liens

Question 63: In implementing interstate lien provisions under section 466(a)(4) of the Act, will the state issuing the lien file it in another state or will the issuing state request the assistance of the state where the property is located in filing the lien?

Answer 63: Under section 466(a)(4)(B) of the Act, the state issuing the interstate lien is responsible for filing it with the appropriate lien recording entity in the state where the property is located. States are required to use the federally approved Notice of Lien form to file

liens in interstate cases. See OCSE's Intergovernmental Reference Guide for detailed information on lien procedures in each state.

Communication

Question 64: Is it appropriate practice for the initiating state to refer parents to contact the state Central Registry and local IV-D agencies in the responding state?

Answer 64: No, the practice is not appropriate. The intent of the federal regulations at 45 CFR 303.7 is to foster an ongoing relationship between the initiating and responding IV-D agencies. It was never intended that the responding agency would be in direct contact with the custodial party in the initiating state. The initiating state IV-D agency must keep the parent in the state apprised of significant actions taken in his or her case. We urge frequent contact between IV-D agencies to ensure that the best interests of the parents and children are being considered by the responding state IV-D agency. In some circumstances, such as for the purposes of an OCSE intergovernmental demonstration grant, the agencies may agree to an alternative arrangement to allow the responding agency to make direct contact with the parent in the initiating state or vice versa.

Question 65: It is very difficult to contact a caseworker in another state to resolve problems or ask questions. To expedite interstate case processing, could the initiating state provide contact information of its appropriate staff to the IV-D staff working the same case in the responding state, and vice-versa?

Answer 65: The federally approved intergovernmental forms specifically provide for the contact names, emails, and telephone/fax numbers for staff in both the initiating and responding states. States may also find useful interstate communication tools and information through the OCSE Child Support Portal.

Effective communication between states is critical to successful intergovernmental case processing. If a state is experiencing ongoing communication problems with a particular state, OCSE encourages elevating the problems within the state and contacting the OCSE regional contact, as appropriate.

Interstate Payment Processing

Question 66: How does payment processing in interstate cases work, especially when one or all of the individual parties to a child support order are no longer in the state that issued the order?

Answer 66: Interstate payment processing procedures vary depending on the approach the state chooses in processing the case. See AT-17-07: Interstate Child Support Payment Processing for information and scenarios.

Question 67: What are the responding state's responsibilities with respect to collections sent to the initiating state and for tracking arrearage balances, including showing distribution in current assistance, former assistance, and never assistance cases?

Answer 67: Responding state IV-D agencies are not responsible for distribution under section 457 of the Act in interstate IV-D cases. The initiating state agency must distribute amounts received from responding states in accordance with section 457 of the Act (see OCSE-AT-97-17).

Under 45 CFR 303.7(d)(6)(v), the responding state IV-D agency is responsible for collecting and monitoring any support payments from the noncustodial parent and forwarding payments to the location specified by the IV-D agency in the initiating state.

Under 45 CFR 302.32(b), the responding state's State Disbursement Unit (SDU) must, within two business days of receipt by the SDU, send the amount collected in an interstate IV-D case to the SDU in the initiating state.

The responding state IV-D agency must include sufficient information to identify the case, indicate the date of collection as defined under 302.51(a), and include the responding state's case identifier and locator code. Under 45 CFR 303.7(d)(8), the responding state IV-D agency must identify any fees or costs deducted from support payments when forwarding payments to the initiating state agency.

Question 68: Which state is responsible for keeping payment records for an interstate IV-D case: the initiating state, the responding state, or the state that issued the Controlling Order?

Answer 68: Both initiating and responding child support agencies are responsible for keeping payment records in IV-D cases.

UIFSA also addresses accounting of child support payments. The Official Comment to section 209, Credit for Payments, indicates that "The issuing tribunal is ultimately responsible for the overall…accounting for the payments made on its order from multiple sources." See also UIFSA sections 604(d) and 611. Note that the issuing state may not be the initiating or the responding state.

For consistency with UIFSA's premise that the issuing state is responsible for the accounting of payments under its order, when the issuing state is neither the responding nor initiating state in a IV-D case, the initiating state agency, upon receipt and distribution of collections in an interstate case, should notify the issuing state of payments under its order to ensure accurate accounting by the issuing state.

For a thorough discussion of this topic, see AT-17-07: Interstate Payment Processing, especially pages 2-3 and 11-12.

Interstate Case Closure

Question 69: When all of the individual parties to an order no longer reside in a state, must that state continue providing IV-D services to the custodial parent or may it close the case? Can the state automatically transfer the case to the custodial parent's new state of residence? What if the custodial parent requests services in the new state of residence?

Answer 69: When the custodial parent receiving IV-D services relocates to another state, the state providing services may not close its IV-D case or automatically transfer the case to the custodial parent's new state of residence. The state must continue to provide services to the custodial parent unless the case meets one of the conditions for case closure under 45 CFR 303.11. Relocation to another state by the custodial parent is not a valid reason for closing the case, even if the parent applies for services in a new state. A valid case closure criterion, for example, is if the custodial parent in a non-assistance case requests closure of the case, under 45 CFR 303.11(b)(12).

In a situation where two states are providing services to the same parent, it is important for the states to communicate with one another and the parent to prevent duplicate establishment or enforcement services and to identify opportunities for appropriate case closure.

Question 70: When can an initiating state agency close an interstate case and what are its responsibilities relative to the responding state?

Answer 70: An initiating state may close its case under any appropriate case closure criteria under 45 CFR 303.11. If an initiating state closes an interstate case, it must notify the responding state of the closure and the basis for the closure within 10 working days, under 45 CFR 303.7(c)(11). Alternatively, if an initiating state determines that it no longer wants the services of the responding state in the case, for example, if the noncustodial parent moves to a new state, the initiating state may request closure of the case in the responding state even while keeping its own case open.

Question 71: When can a responding state IV-D agency close its interstate case? Can a responding state agency close an interstate case when the initiating state agency will not provide information that the responding state needs in order to take the next step in case processing?

Answer 71: A responding state agency can only close a responding case using case closure criteria under 45 CFR 303.11 (b)(17) through (19):

> (17) The responding agency documents failure by the initiating agency to take an action that is essential for the next step in providing services;

(18) The initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(11);

(19) The initiating agency has notified the responding State that its intergovernmental services are no longer needed.

45 CFR 303.11(b)(17) allows a responding agency to close an intergovernmental case if it documents failure by the initiating agency to take an action that is essential for the next step in providing services. Additionally, 45 CFR 303.11(d)(2) requires the responding agency to give 60-calendar-days' notice to the initiating agency of the intent to close the case. If the initiating agency provides information in response to the notice that could lead to progress in the case, the responding agency must keep the case open. A responding state agency should use this case closure criterion sparingly and not as an automated action. States that experience systemic interstate case closure issues should elevate the concerns within their states and may contact their OCSE regional specialist.

Question 72: What should the responding state do if it receives information that indicates the case meets one of the initiating state case closure criteria?

Answer 72: If the responding state IV-D agency obtains information that indicates the initiating state IV-D agency could close its case, for example, the noncustodial parent is deceased, under 45 CFR 303.11(b)(4), or the noncustodial parent's sole income is from Supplemental Security Income (SSI) payments, under 45 CFR 303.11(b)(9), the responding state should promptly communicate that information to the initiating state IV-D agency and wait for instructions regarding case closure.

Question 73: Can a responding state close the interstate case under 45 CFR 303.11(b)(17), for failure of the initiating state to take an action essential for the next step, if the initiating state is unable to provide an employer or a residential address for the noncustodial parent?

Answer 73: No. The inability of the initiating state to provide a current employer or residential address for the noncustodial parent does not constitute a failure to take an action essential for the next step in providing services. The responding state cannot close its case for this reason. The responding state, typically the state in which the noncustodial parent lives, has access to more locate resources within its state, such as records from courts, the driver's license bureau, and unemployment office, and is, therefore, in the best position to search for the noncustodial parent.

Question 74: Must a responding state close an interstate case when notified by the initiating state to do so? What if the responding state has its own interest in the case?

Answer 74: In some instances, the responding state may have its own, separate interest in a case, such as to collect state-owed arrears or because it received an application for services in the case. While the responding state must close the interstate case in response to notice from the initiating state, it may maintain its own case relative to the parties and the order, as appropriate.

Question 75: When an initiating state sends an interstate IV-D case referral that has incomplete documentation, may the responding state immediately initiate case closure and provide a 60-day closure notice under 45 CFR 303.11(b)(17)? What federal timeframes apply to this situation?

Answer 75: Federal intergovernmental regulations under 45 CFR 303.7(b)(2) require a responding state Central Registry to acknowledge receipt of a case and request any missing documentation within 10 working days of receipt of a referral. 45 CFR 303.7(c)(6) requires the initiating state to provide the responding agency with updated forms and documentation, or notify the responding agency when the information will be provided, within 30 calendar days of receipt of the request for the missing information. Therefore, the responding state should allow the initiating state at least 30 calendar days to respond to the request for information that was missing from an interstate referral package. If that time period expires with no response, the responding state may consider initiating a 60-day notice for case closure for failure to provide information necessary for the next step in the case, under 45 CFR 303.11(b)(17).

Section 454(9) of the Act addresses interstate cooperation, which is critical to the success of the IV-D program. As noted in the 2010 final intergovernmental rule, "the responding State should make a thorough, good faith effort to communicate with the State before initiating case closure procedures." With this in mind, responding states should use case closure under 45 CFR 303.11(b)(17) sparingly and not as an automated action at case opening.

Training

Question 76: What UIFSA training resources are available from OCSE?

Answer 76: OCSE has developed a number of training resources on intergovernmental topics, including a six-part webinar training series on interstate case processing. See the OCSE website for more information.

RESOURCES

Federal Statutes

The Full Faith and Credit for Child Support Orders Act (FFCCSOA) (Pub. L 103-383), codified at 28 U.S.C. 1738b

Section 454 of the Social Security Act, codified at 42 U.S.C. 654. State plan for child and spousal support

Section 457 of the Social Security Act, codified at 42 U.S.C. 657. Distribution of collected support

Section 458A(c) of the Social Security Act, codified at 42 U.S.C. 658a. Incentive payments to states

Section 466 of the Social Security Act, codified at 42 U.S.C. 666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

Federal Regulations

Notice of Proposed Rulemaking (NPRM) to revise federal requirements for establishing and enforcing intergovernmental support obligations in Child Support Enforcement (IV-D) program cases receiving services under title IV-D of the Social Security Act, 73 Fed. Reg. 74408 (Dec. 8, 2008)

Final Rule on Intergovernmental Child Support, 75 Fed. Reg. 38612 (Jul 2, 2010)

45 CFR 301.1 General definitions

45 CFR 302.32 Collection and disbursement of support payments by the IV-D agency

45 CFR 302.33 Services to individuals not receiving title IV-A assistance

45 CFR 302.51 Distribution of support collections

45 CFR 303.7 Provision of services in intergovernmental IV-D cases

45 CFR 303.8 Review and adjustment of child support orders

45 CFR 303.11 Case closure criteria

45 CFR 303.20 Minimum organization and staffing requirements

45 CFR 303.100 Procedures for income withholding

Federal Policy Guidance

AT-97-10: Policy Questions and Responses to Miscellaneous Issues regarding Provisions of P.L. 104-193, the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA)

AT-97-13: Collection and Disbursement of Support Payments

AT-97-17: Instructions for the distribution of child support under section 457 of the Social Security Act (the Act)

AT-98-30: Interstate Child Support Case Processing and the Uniform Interstate Family Support Act (UIFSA)

AT-08-12: Child Support Enforcement Program; Intergovernmental Child Support

AT-10-06: Final Rule: Intergovernmental Child Support

AT-14-11: P.L. 113-183 UIFSA 2008 Enactment

IM-15-01: Uniform Interstate Family Support Act (2008) and Hague Treaty Provisions

IM-16-02: 2008 Revisions to the Uniform Interstate Family Support Act

AT-16-06: Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

DCL-17-01: Child Support Final Rule Fact Sheets

IM-17-02: Intergovernmental Forms Training

AT-17-07: Interstate Child Support Payment Processing

AT-17-09: 2017 Revisions to the IWO Form and Instructions

PIQ-18-01: Electronic Documents and Tribunals under UIFSA Section 316

AT-19-08: OMB-Approved Standard Intergovernmental Child Support Enforcement Forms – December 2019

Federal Intergovernmental Forms and Tools

OCSE Intergovernmental Forms Matrix

OCSE Intergovernmental Reference Guide

List of Intergovernmental Forms

1. Child Support Agency Confidential Information – Safeguards the privacy of individuals by providing a means to record their personal identifiable information on a separate document that is not to be filed with a tribunal or shared with the other party
2. Child Support Locate Request – Used by a IV-D agency for requesting locate information from another state if a CSENet agreement is not in place
3. Declaration in Support of Establishing Parentage – Supplements the Uniform Support Petition when parentage is at issue in an intergovernmental case
4. General Testimony – Provides a framework for stating detailed information and evidence to support the action requested in the petition
   General Testimony Instructions – Provides instructions for stating the detailed information and evidence to support the action requested in the petition
5. Letter of Transmittal Requesting Registration – Completed by initiating jurisdiction to request registration of an existing order for enforcement and/or modification
6. Notice of Determination of Controlling Order – Provides a standard format for alerting entities in other jurisdictions about a controlling order determination
7. Personal Information Form For UIFSA 311 – Records, in a separate document, the personal identifiable information required by UIFSA § 311, eliminating repetition of the required personal identifiable information in the Uniform Support Petition, Declaration in Support of Parentage, and General Testimony
8. Child Support Agency Request for Change of Support Payment Location Pursuant to UIFSA § 319 – Used by a child support agency, under specific limited circumstances allowed under UIFSA § 319(b), to change the payment location of a support order issued by another state, or to respond to such a request
9. Child Support Enforcement Transmittal #1 – Initial Request – A “cover letter” required to refer IV-D interstate cases to a responding state’s central registry
10. Child Support Enforcement Transmittal #1 – Acknowledgment – Provides a standard format for a responding child support agency to acknowledge receipt of a Transmittal #1

request and to notify the initiating agency of any additional forms or information needed

11. Child Support Enforcement Transmittal #2 – Subsequent Actions – Used by the initiating or responding jurisdiction to request/provide additional information in previously referred cases
12. Child Support Enforcement Transmittal #3 – Request for Assistance/Discovery – Used when the requesting jurisdiction is working its case locally and needs limited assistance from another jurisdiction
13. Uniform Support Petition – Legal pleading needed for the responding state to initiate action