CHAPTER 3-000 COOPERATION AND GOOD CAUSE EXEMPTION: This chapter outlines the cooperation requirement and the good cause exemption from the cooperation requirement.

3-001 COOPERATION REQUIREMENT: All ADC, Medicaid, and Child Care Subsidy recipients must cooperate in good faith with Child Support Enforcement unless Department IV-D staff or designated IV-D contract staff determines there is good cause for failing or refusing to do so as specified in 466 NAC 3-003.

Cooperation includes any actions relevant to, or necessary for the achievement of child support enforcement objectives.

3-001.01 ADC Recipients: ADC recipients are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s)/alleged father of a child(ren) who receives ADC grant payments;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order;
5. Modification of a support order; and
6. Collection and distribution of support payments.

3-001.02 Medicaid Recipients: Medicaid recipients referred for IV-D services are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s)/alleged father of a child who receives medical assistance benefits;
2. Establishment of paternity;
3. Establishment of medical support;
4. Enforcement of medical support; and
5. Collection and distribution of medical support.

3-001.03 Child Care Subsidy Recipients: Child Care Subsidy recipients referred for IV-D services are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s) or alleged father of a child who receives child care subsidy benefits;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order;
5. Modification of a support order; and
6. Collection and distribution of support payments.

3-001.04 Responsibilities: Cooperation includes, but is not limited to actions relevant to achieve the objectives in 466 NAC 3-001.01, 3-001.02, and 3-001.03. ADC, Medicaid, and Child Care Subsidy recipients must:

1. Appear or respond when requested to provide written or verbal information that is reasonably available to the party;

2. Appear as a witness at judicial or other hearings or proceedings;

3. Provide information or attest to the lack of information;

4. Sign any necessary legal documents or Child Support Enforcement forms;

5. Pay to the Department any support payments received from the non-custodial party or other party after support is assigned;

6. Submit oneself and/or the child(ren) for genetic testing and otherwise assist in the establishment of paternity for a child for whom assistance is claimed;

7. Identify and provide relevant information about any third parties who may be liable for Medicaid costs;

8. Provide dependent social security numbers when requested;

9. Provide information about payments made directly from any third party;

10. Forward any payments made for medical expenses to the Department or to the health care provider; and

11. Repay the Department any support incorrectly paid.

3-002 NON-COOPERATION: Non-cooperation may be identified at any time the custodial party is not meeting the requirements. The custodial party will be advised of the penalty if s/he fails or refuses to cooperate and what action s/he must take to avoid the penalty. The determination of non-cooperation is the responsibility of Department IV-D staff or designated IV-D contract staff.

When a custodial party receiving public assistance fails to cooperate, and good cause is not claimed or is denied, Department IV-D staff or designated IV-D contract staff will notify the social service worker to initiate action for a sanction. If the custodial party later cooperates with Child Support Enforcement, or cooperation is not relevant to achieve the objectives specified in 466 NAC 3-001.01, 3-001.02, and 3-001.03, Department IV-D staff or designated IV-D contract staff will notify the social service worker to lift the sanction that had been requested because of non-cooperation.

3-003 GOOD CAUSE EXEMPTION FROM THE COOPERATION REQUIREMENT: The custodial party may claim a good cause exemption from the cooperation requirement at any time s/he believes that cooperation or proceeding to establish paternity or secure support is against the best interests of the child(ren) for whom support is sought when:

1. Cooperation is likely to result in physical or emotional harm to the child(ren);

2. Cooperation is likely to result in physical or emotional harm to the custodial party with whom the child(ren) is living which reduces the capacity to care for the child(ren) adequately;

3. The child(ren) was conceived as a result of incest or forcible rape;

4. Court proceedings are pending for the adoption of the child(ren) except in the case of stepparent adoption; or

5. The custodial party is working with an agency helping him/her to decide if s/he should place the child(ren) for adoption, and the custodial party has been working with the agency for this purpose not more than three months.

Between the time a good cause claim is received and the determination is made, the Department or County/Authorized Attorney will suspend all new activities to establish paternity or to establish or enforce support.

3-003.01 Corroborative Evidence: The custodial party is responsible for providing corroborative evidence as requested within 20 days from the day the good cause claim was made. Department IV-D staff or designated IV-D contract staff may approve additional time in exceptional cases when there is difficulty in obtaining the corroborative evidence. If the necessary evidence is not reasonably available to the custodial party, s/he may provide the location of the evidence. Information previously provided to the social service worker should be considered as corroborative evidence.

A good cause claim may be corroborated by, but is not limited to, the following types of evidence:

1. Birth certificates, medical records, or law enforcement records that indicate that the child was conceived as the result of incest or forcible rape;
2. Court documents or other records that indicate that legal proceedings for adoption are pending;
3. Court, medical, criminal, child protective services, social services, psychological, or law enforcement records that indicate that the alleged father or non-custodial party might inflict physical or emotional harm upon the custodial party or the child;

4. Medical records that indicate emotional health history and present emotional health status of the custodial party or the child, or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the custodial party or the child;
5. A written statement from a public or private agency confirming that the custodial party is being assisted in resolving the issue of whether to give up the child for adoption; or
6. Sworn statements from individuals, including but not limited to, friends, neighbors, relatives, clergy, social workers, and medical professionals who might have knowledge of the circumstances providing the basis of the good cause claim.

3-003.02 Determination of Good Cause: Within 30 calendar days of receiving the good cause claim, Department IV-D staff will evaluate the evidence and determine whether good cause exists. In determining good cause, Department IV-D staff or designated IV-D contract staff will consider the recommendations of the social service worker. Department IV-D staff or designated IV-D contract staff will notify the custodial party and the social service worker of the determination in writing.

3-003.02A Action Upon Good Cause Determination: The good cause determination includes the decision of whether good cause exists, and if so, whether IV-D services should proceed.

3-003.02A1 Good Cause Exists-Do Not Proceed With IV-D Services: If good cause exists and paternity establishment or support enforcement is not in the best interest of the child(ren), the Department or County/Authorized Attorney will not attempt to establish paternity or secure support until Department IV-D staff or designated IV-D contract staff determine there is no longer a risk of harm to the child(ren) or custodial party.

3-003.02A2 Good Cause Exists-Proceed Cautiously With IV-D Services: If good cause exists, but Department IV-D staff or designated IV-D contract staff determine that there is no risk of harm to the child(ren) or custodial party if certain child support actions continue without participation of the custodial party, child support actions must proceed. The Department or County/Authorized Attorney may ask the custodial party to assist with attempts to establish paternity, establish or modify a support order, and/or enforce the support order. If the custodial party refuses, s/he will not be determined uncooperative. The Department or County/Authorized Attorney will inform the custodial party that child support activities are proceeding.

3-003.02A3 Good Cause Does Not Exist: If good cause does not exist, child support actions must proceed. If the custodial party fails or refuses to cooperate and the Department or County/Authorized Attorney is unable to proceed without the cooperation of the custodial party, non-cooperation must be determined as specified in 466 NAC 3-002.

3-003.02B Effect on Non-custodial Party Application: The Good Cause determination extends to all parties involved in the case. Therefore, if the non-custodial party or alleged father applies for IV-D services, IV-D services will not be provided unless there is:

1. No longer a risk of harm to the child(ren) or custodial party; or
2. No risk of harm to the child(ren) if certain actions proceed.

The determination of risk is made by Department IV-D staff or designated IV-D contract staff.

The Department will consult the custodial party prior to the decision and the custodial party will be informed prior to proceeding with any child support activities.