

CHAPTER 1-000 GENERAL BACKGROUND

1-001 AUTHORIZATION: In January 1975, the Social Security Act was amended to place specific requirements on States to address the problems of desertion and non-support of children. These amendments, titled the Child Support and Establishment Provisions, were incorporated as Part D to Title IV of the Act.

Known as the Child Support Enforcement Program, Title IV-D provides for establishing administrative procedures and financial incentives to encourage states to improve their child support enforcement activities.

1-002 PURPOSE AND SCOPE: The Department of Health and Human Services is designated as the agency that is responsible for the administration of the Child Support Enforcement Program. It is administered in accordance with equitable standards that are mandatory throughout the state.

1-003 ORGANIZATION: The Title IV-D Unit (Child Support Enforcement) is the single and separate organizational unit within the Department of Health and Human Services responsible for administering the Child Support Enforcement Program. The Department delegates some of its functions to counties and courts through cooperative agreements. The Department must ensure fiscal accountability and adherence to federal requirements as well as maintain records necessary for the efficient operation of the program.

1-004 IV-D SERVICES AVAILABLE: The IV-D services available from the Child Support Enforcement Program include the following:

1. Locating parents;
2. Establishing paternity;
3. Establishing court orders for child support;
4. Establishing court orders for medical support;
5. Enforcing IV-D orders;
6. Review and modification of support order(s); and
7. Collection and distribution of support.

1-005 CHILD SUPPORT ENFORCEMENT PROGRAM PARTICIPANTS

1-005.01 Non-Public Assistance (NPA) Recipients: Any individual who is not receiving public assistance is eligible for IV-D services upon application and payment of all applicable fees. Individuals applying for child support services, including individuals not currently receiving public assistance, do not have the option to refuse any applicable IV-D services.

1-005.01A Child Care Subsidy Recipients: As a condition of eligibility, custodial parties who are recipients of Child Care Subsidy benefits are required to apply for and receive all applicable IV-D services. Child Care Subsidy recipients referred for IV-D services are eligible for NPA IV-D services.

1-005.01B \$25 Annual Fee: The payee of the support order will be assessed a \$25 annual fee once \$500 of support has been disbursed. When a minimum of \$500 has been disbursed, the next collection(s) will be retained by the Department until the fee has been paid. The payor of the support order will be given full credit for the entire payment(s) received.

The annual fee will be assessed during each Federal Fiscal Year (FFY). Each CSE IV-D case as defined by the Federal Administration of Children and Families will be subject to the fee.

1-005.01B1 Intergovernmental Cases: Initiating states are required to assess and collect the annual fee.

1-005.01B2 Exception(s) to Being Assessed the Fee: A fee will not be assessed in a CSE IV-D case(s) where the:

1. Custodial party and/or dependent(s) are currently receiving ADC/TANF;
2. Custodial party and/or dependent(s) have previously received ADC/TANF in Nebraska and/or another state;
3. Dependent(s) are currently receiving IV-E foster care services in Nebraska and/or another state;
4. Dependent(s) have previously received IV-E foster care services in Nebraska and/or another state; or
5. Fee was assessed and collected in another state during the current FFY.

1-005.02 Public Assistance Recipients: Recipients of Aid to Dependent Children (ADC), Foster Care, Medicaid and Aid to the Aged, Blind and Disabled (AABD), who are referred to Child Support Enforcement, are eligible for all applicable Department services. AABD recipients are eligible if they receive Medicaid. Within five (5) days of being notified that a recipient receiving IV-D services is no longer eligible for public assistance, the Department or County/Authorized Attorney must notify the party that IV-D services will continue unless the party notifies the Department or County/Authorized Attorney that such services are no longer desired. When there is a debt owed to the state, the case must remain open, unless it qualifies for case closure. See 466 NAC 4-002.01.

1-005.02A \$25 Annual Fee: The payee of the support order will be assessed a \$25 annual fee once \$500 of support has been disbursed. When a minimum of \$500 has been disbursed, the next collection(s) will be retained by the Department until the fee has been paid. The payor of the support order will be given full credit for the entire payment(s) received.

The annual fee will be assessed during each Federal Fiscal Year (FFY). Each CSE IV-D case as defined by the Federal Administration of Children and Families will be subject to the fee.

1-005.02A1 Intergovernmental Cases: Initiating states are required to assess and collect the annual fee.

1-005.02A2 Exception(s) to Being Assessed the Fee: A fee will not be assessed in a CSE IV-D case(s) where the:

1. Custodial party and/or dependent(s) are currently receiving ADC/TANF;
2. Custodial party and/or dependent(s) have previously received ADC/TANF in Nebraska and/or another state;
3. Dependent(s) are currently receiving IV-E foster care services in Nebraska and/or another state;
4. Dependent(s) have previously received IV-E foster care services in Nebraska and/or another state; or
5. Fee was assessed and collected in another state during the current FFY.

1-005.02B Mandatory and Optional Services: As a condition of eligibility, ADC and Foster Care recipients are mandated to receive Child Support Enforcement services and do not have the option to refuse any of these services.

Medicaid recipients are mandated to receive Child Support Enforcement services related to securing medical support, including the establishment of paternity when appropriate. Medicaid recipients do have the option of refusing other Child Support Enforcement services, (for example establishment and/or enforcement of a child support order), but the Medicaid recipient must notify the Department or County/Authorized Attorney that they are requesting only IV-D services that relate to securing medical support.

1-005.02C Assignment of Support: The application for and acceptance of ADC or the receipt of Foster Care constitutes an assignment to the Department of any right to:

1. Court ordered spousal or medical support; and
2. Child support, regardless if court ordered, which a recipient may have in his/her own behalf or on behalf of any other person for which the applicant receives public assistance.

Any party receiving Medicaid assigns his/her rights to medical support. A Medicaid recipient not receiving ADC or Foster Care assigns his/her rights only to medical support.

1-005.02D Requirement To Cooperate:

All ADC, Medicaid, and Child Care Subsidy recipients are required to cooperate in good faith with Child Support Enforcement Program unless a good cause exemption has been allowed in accordance with 466 NAC 3-003.

CHAPTER 2-000 DEFINITIONS:

Accessible Health Care Coverage means health care coverage is accessible if the covered child(ren) can obtain services from a plan provider with reasonable effort by the custodial party. When the administrative agency, court, or other tribunal determines that the only health care coverage option available through the non-custodial party is a plan that limits service coverage to providers within a defined geographic area, the administrative agency, court, or other tribunal shall determine whether the child lives within the plan's service area. If the child does not live within the plan's service area, the administrative agency, court, or other tribunal shall determine whether the plan has a reciprocal agreement that permits the child to receive coverage at no greater cost than if the child resided in the plan's service area. The administrative agency, court, or other tribunal shall also determine if primary care is available within 30 minutes or 30 miles of the child's residence. For the purpose of determining the accessibility of health care coverage, the administrative agency, court or other tribunal may determine and include in an order that longer travel times are permissible if residents, in part or all of the service area, customarily travel distances farther than 30 minutes or 30 miles. If primary care services are not available within these constraints, the health care coverage is presumed inaccessible. If health care coverage is not available or is inaccessible and one or more of the parties are receiving Title IV-D services, then cash medical support shall be ordered.

Aid to the Aged Blind and Disabled (AABD) means a program which provides financial and/or medical assistance to persons who are 65 or older or who are younger than 65 and are blind or disabled, as defined by the program.

Account activity summary means a statement sent to an obligee containing a summary of the support account activity.

Acknowledged father means a male who has executed a written acknowledgement of paternity.

Acknowledgement of paternity means a written process by which a man declares that he is the father of a child born to a woman to whom he is not married.

Administrative enforcement means a process by which Child Support Enforcement, rather than the court, takes enforcement action against a payor. Actions can include tax refund intercept program (TRIP), consumer credit reporting (CCR), income withholding (IW), administrative attachment, and license suspension.

Administrative offset means a program which can intercept certain federal payments for the purpose of collecting past-due support.

Administrative order means a support order established by Child Support Enforcement rather than the court.

Affidavit means a written, notarized statement signed under oath or by affirmation.

Age of majority means the age at which a child becomes legally responsible for him/herself. In Nebraska, the age of majority is 19.

Agent of a Child means a caretaker relative having custody of or responsibility for the child.

Aid to Dependent Children (ADC) means public assistance payments made on behalf of children who are deprived of the financial support of one or both of their parents by reason of death, disability or continued absence from the home. It was known in some states as Aid to Families with Dependent Children (AFDC). The Welfare Reform initiatives of 1996 now refer to the program as Temporary Assistance to Needy Families (TANF).

Alleged father means the man believed to be the biological father of a child, but not yet established as such.

Allocation means a determination of the proper apportionment of support payments to apply to more than one support order.

Appeal means a request for a review of a decision or an action that is in progress or proposed on a child support case.

Applicant means an individual who has applied for, or receives continued child support services under Title IV-D, including individuals who previously received a form of public assistance.

Apportionment means division into shares.

Application means the form by which the individual requests services.

Arrearage means past due child support owed under a court order or an administrative order. If the obligor has arrearages s/he is said to be "in arrears".

Assigned means that a court ordered support payment is transferred to the state rather than being paid to the obligee.

Assignment means the legal transfer of the obligee's right to child support, medical support and/or spousal support to the Department of Health and Human Services (DHHS) in exchange for receipt of a cash assistance grant and other benefits.

Assistance (See definition of "Public assistance")

Attorney of a Child means a licensed lawyer who has entered into an attorney-client relationship with either the child or the child's resident parent to provide legal representation to the child or resident parent related to establishment of paternity, or the establishment, modification, or enforcement of child support. An attorney-client relationship imposes an ethical and fiduciary duty upon the attorney to represent the client's best interests under applicable rules of professional responsibility.

Authorized attorney means an attorney employed by the county subject to the approval of the county board, contracted by Child Support Enforcement or appointed by the court, who is authorized to investigate and prosecute child, spousal and medical support cases.

Banking Services means SDU related deposit and checking services to include daily deposits, payments, reconciliation, stop payment orders and the initiation and receipt of automated clearing house debits and credits.

Bankruptcy means the procedure by which an individual is relieved of debt(s) through an action in federal court.

Bench warrant means a document issued by the court which authorizes law enforcement to arrest an individual for failing to appear as ordered.

Billing statement means a monthly statement sent to an obligor containing support account summary information and remittance coupons.

Biological father means the natural father, but not necessarily the legal father, of a child.

Biological Father Registry means the registry that contains the names and addresses of any person:

1. Adjudicated by a court, to be the father of a child born out of wedlock;
2. Who has filed with the registry a notice of intent to claim paternity and to claim custody of the child;
3. Adjudicated by a court of another state or territory of the United States to be the father of the child;

Biological mother means the woman who gave birth to the child.

Bond means a sum of money deposited by an obligor to guarantee payment of required support.

Caretaker means a person, other than a parent, who is responsible for a dependent child's welfare and has physical custody of the dependent child.

Case registry means:

1. The Federal Case Registry (FCR) is a national database that acts as a repository for IV-D and non IV-D child support cases. The data is constructed from child support cases and order information, including identifying information for both parents and the dependent child(ren) for whom the order requires a provision of support; or
2. The State Case Registry (SCR) is a state database that contains records regarding services being provided on each IV-D child support case and support orders. This Registry also includes non-IV-D child support cases registered in all legal jurisdictions within the state that were established or modified on or after October 1, 1998.

Cash Medical Support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

Central registry means a centralized unit, maintained by every State IV-D agency that is responsible for receiving, distributing, and responding to inquiries on intergovernmental IV-D cases.

Certified copy means a copy of a document or record signed and verified as a true copy by a person who created and/or is the custodian of the document.

Certified Mail means a type of service of process. Certified mail service is made:

1. Within 10 days of issuance, sending the summons to the respondent by certified mail with a return receipt requested showing to whom and where delivered and the date of delivery; and
2. By filing with the court proof of service with the signed receipt attached.

Child born out of wedlock means a child whose parents were not married to each other at the time of birth. A child is not considered as born out of wedlock if the parents were married at the time of conception, but divorced at the time of birth.

Child support (CS) means the legal obligation of parents to contribute to the economic maintenance, of their children; enforceable in both civil and criminal contexts.

Child Support Enforcement means the administrative division within the Department of Health and Human Services that is responsible for the administration of the child support program. It is also called the IV-D agency.

Clerk of the District Court (CDC) means the elected county official with the duty of maintaining all district court-related records.

Code of Federal Regulations (CFR) means the rules established by the federal government which govern the standards and operations of the state's child support activities.

Collection means money received to be applied to a child support obligation, arrears, interest or other ordered judgments.

Conditionally assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls and which are owed to the family unless they are collected through federal income tax refunds offset. They are arrearages which were temporarily assigned to the state and became conditionally assigned to the state when the temporary assignment expired. If a conditionally assigned arrearage is collected through a federal income tax refund offset, the collection is retained by the state to reimburse the state and the federal government up to the cumulative amount of unreimbursed assistance paid to the family. Collections of conditionally assigned arrearages by any other enforcement mechanism are paid to the family.

Confidential Information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual's Social Security number, residential and mailing addresses, employment information, and financial information.

Consumer credit reporting (CCR) means a process by which the child support agency submits child support court orders with a total delinquency in excess of \$500 to consumer credit reporting agencies.

Contempt means a person's willful failure to comply with an order of the court which may result in a fine or imprisonment.

Cooperation means a condition of ADC eligibility whereby the recipient assists the child support agency as requested in identifying and locating the non-custodial parent, establishing paternity, and/or obtaining child support payments.

Cooperative agreement means a contract between the Department and outside entities to provide IV-D services or perform IV-D functions as specified in federal and state statutes or regulations.

County attorney means an attorney who is an elected county official who represents the state, and is authorized to investigate and prosecute child, spousal, and medical support cases.

Court order number means the number assigned by a clerk of the court to a legal document/action filed in the county.

Criminal Non-Support means the willful and unreasonable failure to support one whom the law requires a person to support (for example, child, medical and spousal support).

Current support means the amount of financial support which is paid in the month it is due.

Current spousal support means alimony or maintenance support for a spouse or former spouse when ordered as part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Custodial party (CP) means the individual or organization who has primary care and control of the dependent child(ren). Custodial party may be a parent, relative or other individual who has the responsibility for the child(ren).

Custody means the legal determination of responsibility for the care and control of a child.

Custody or Visitation Determination means a judgment, decree, or other order of a court providing for custody or visitation of a child, and includes permanent and temporary orders, initial orders and modifications.

Decision Maker means Administrative Agency, Court or Other "Tribunal".

Default means the failure of a defendant to appear or file an answer in response to a summons or complaint in a civil case.

Default judgment/order means a decision made by the court when the defendant fails to respond.

Defendant means a person who must respond to a complaint filed in court.

Delinquent support means support payments that are past due.

Department means the Department of Health and Human Services and if the department designates, includes a county attorney or authorized attorney.

Dependent child means a minor person who is entitled to support from his/her parents or others in place of his/her parents.

Direct income withholding means a procedure, whereby an income withholding order can be sent directly to the non-custodial party's employer in another state, without the need to use the IV-D agency or court system in the non-custodial party's state.

Director means the Director of the Department of Health and Human Services or his/her designee.

Disbursement means the paying out of collected support.

Dismissal means an order terminating an action, suit or motion without trial of the issues.

Dismissal with prejudice means a dismissal that does not allow the parties to bring or maintain another action on the same claim.

Dismissal without prejudice means a dismissal that allows the parties to bring or maintain another action on the same claim.

Dissolution of marriage means the termination of a marriage by a decree of a court of competent jurisdiction.

Distribution means the apportionment of child support collected to the various types of debt within a child support case according to the guidelines established by state and federal laws.

Divorce (See definition of "Dissolution of marriage").

Docket means a chronological record of actions taken in a court case and which is maintained by the court.

Due process means providing sufficient notice of legal and/or administrative actions, including notices and hearings to the participants, and advising him/her of their rights, and providing an opportunity to be heard.

Duration of lien means the point at which a support judgment ceases to be a lien on real or registered personal property. In Nebraska the period is ten years from the date the youngest child becomes of age or dies, or the most recent action was issued to collect the judgment, whichever is later.

Electronic funds transfer (EFT) means the process by which money is transmitted electronically from one bank account to another.

Emancipation means the attainment of legal majority, either by reaching age 19 (in Nebraska), by marrying, entering the military before age 19, or by meeting other criteria as determined by the court. Emancipation releases a child from parental control and supervision and also releases a parent from the responsibility to support the child.

Employee means an independent contractor or a person who is compensated by or receives income from an employer or other payor, regardless of how such income is denominated.

Employer means any individual, partnership, limited liability company, firm, corporation, association, political subdivision, or department or agency of the state or federal government, labor organization, or any other entity with an employee.

Employer list means a document for employers listing obligors on income withholding and their monthly support due. This document is designed to accompany a support payment that will assist in associating the payment to the obligor.

Enforcement means an action taken to obtain payment of a support obligation.

Establishment means the process of obtaining a legal finding of paternity and/or obtaining a court or administrative order to put a support obligation in place.

Execution means the legal process of enforcing a judgment, usually by seizing and selling the property of the obligor.

Execution on Child Support Lien means an action taken to enforce the underlying judgment.

FIDM means the Financial Institution Data Match program administered by the IV-D program to match delinquent payors with financial institution accounts.

Family Violence Indicator (FVI) means a designation in the Federal Case Registry (FCR) used to prevent disclosure of the location of a custodial party and/or a child believed by the state to be at risk of family violence.

Federal Case Registry (See definition of "Case registry")

Federal Employer Identification Number (FEIN) means the unique nine-digit number assigned to all employers by the Internal Revenue Service (IRS).

Federal Fiscal Year (FFY) means the annual accounting period of the federal government which begins on October 1 and ends on September 30 of the next calendar year. The fiscal year is identified by the calendar year in which it ends and commonly is referred to as "FFY". For example, FFY 2000 began October 1, 1999 and ended on September 30, 2000.

Federal Information Processing Standard (FIPS) means a unique code that identifies the child support jurisdiction such as states, counties, and state central registries.

Federal Parent Locator Service (FPLS) means a computerized national location network operated by the Federal Office of Child Support Enforcement (OCSE), to assist states in locating responsible persons in order to establish paternity and enforce support obligations, and for other authorized purposes. ~~for the purpose of enforcing child support payments and/or medical support. This service is also used for the purposes of establishing custody and visitation rights, investigating parental kidnapping, and processing adoption or foster care cases. The information provided is obtained from various federal agencies.~~

Final termination of assignment means the ending of an assignment of support so that no additional funds will be transmitted to the Department. A final termination is filed when an ADC or FC case is closed, and no debt is owed to the state.

Foreign Reciprocating Country means a foreign country with which the United States has signed a bilateral agreement ensuring reciprocity in child support enforcement.

Foreign support order means support ordered by a court of competent jurisdiction and/or other legal process as established by state law in another state on behalf of a minor child and/or spouse or former spouse.

Foster care (FC) means federal or state programs administered by the Department of Health and Human Services that provide financial support to persons, families, or institutions caring for children in state custody. FC includes subsidized guardianship but does not include subsidized adoption.

Full Faith and Credit means the constitutional requirement that a state must honor an order or judgment entered in another state.

Full service means the entire range of services offered by the IV-D program, including: location; case initiation; paternity establishment; child and medical support establishment; collection and distribution; enforcement; review and adjustment of orders and administrative enforcement options to encourage payment.

Garnishment means a legal proceeding under which part of a person's wages and/or assets is withheld for payment of a debt.

Genetic testing means the analysis of inherited factors to determine biological paternity.

Good cause means a determination that an ADC recipient is excused from cooperating with the child support enforcement process.

Gross Income means income derived from all sources, except all means-tested public assistance benefits which include any earn income tax credit and payments received for children of prior relationships.

Guidelines means a standard method for setting the amount of child support obligations based on the income of the parent(s) and other factors. The Nebraska Supreme Court establishes the guidelines.

Health Care Coverage means a health benefit plan or combination of plans, including fee for service, health maintenance organization, preferred provider organization, and other types of coverage available to either party, under which medical services could be provided to dependent children, other than public medical assistance programs, that provide medical care or benefits.

Health insurance means a fee for service, Health Maintenance Organization (HMO), Preferred Provider Organization (PPO), and other types of coverage which is available to either parent, under which medical services could be provided to dependent child(ren).

Hearing means a proceeding in which a judge or hearing officer listens to testimony and argument and makes a decision based on the information presented and the law as it applies to the fact.

Income withholding means an action resulting in the automatic deduction of a child support obligation(s) from the obligor's income or wages. Income withholding may also be referred to as wage withholding.

Independently verified means the process of acquiring and confirming confidential information through the use of second source by Nebraska IV-D staff.

Initiating jurisdiction means the court or administrative agency requesting action in an intergovernmental support matter.

Initiating state means the state that first makes a request of another state in an intergovernmental action.

Interception means a method of securing child support by taking non-wage payments made to a non-custodial party. Non-wage payments subject to interception include federal tax refunds, state tax refunds, unemployment benefits, lottery prize winnings, and some government payments.

Intergovernmental case means a case in which the dependent child and non-custodial party live in different jurisdictions, or where two or more jurisdictions are involved in some case activity, such as enforcement.

Intrastate action means an action requested from one jurisdiction within the State of Nebraska to a different Nebraska jurisdiction.

IV-A ("Four-A") means Title IV-A of the Federal Social Security Act. It established the Federal-State program known as ADC or TANF.

IV-B ("Four-B") means Title IV-B of the Federal Social Security Act. It established the Federal-State program known as Foster Care.

IV-D ("Four-D") means Title IV-D of the Federal Social Security Act. It established the Federal-State program known as Child Support Enforcement.

IV-D agency means a single and separate organizational unit in a state that has the responsibility for administering the State Plan for child support under Title IV-D of the Federal Social Security Act.

IV-D case means a child support case where at least one of the parties, either the custodial party (CP) or the non-custodial party (NCP), has requested or received IV-D services from the State's IV-D Agency. A IV-D case is composed of a custodial party, non-custodial party, or putative father, and dependent(s).

IV-E ("Four-E") means Title IV-E of the Federal Social Security Act. It established the Federal-State program known as Foster Care.

Judgment means a decree or decision of a court, which may result in an obligation being owed by a party. In Nebraska, all support orders automatically become judgments.

Judgment Creditor means one who has obtained a judgment against a debtor, under which s/he can enforce execution. A person in whose favor a money judgment is entered or a person who becomes entitled to enforce it. Owner of an unsatisfied judgment.

Judgment Debtor means a person against whom judgment has been recovered, and which remains unsatisfied.

Jurisdiction means the legal authority which a court or administrative agency has over particular persons and over certain types of cases, usually in a defined geographical area.

Last reported arrears means the amount of arrears last reported to the IRS or Nebraska Department of Revenue.

Legal father means a man who is recognized by law as the male parent of a child.

Legal Guardian means an individual appointed by a court of competent jurisdiction to be in charge of the affairs of a person who cannot effectively manage his/her own affairs because of his/her age or incapacity.

License Holder means a person who is currently licensed and/or meets the requirements of a licensing authority to engage in an activity, business or occupation that would be unlawful without the presence of a license.

Lien means a claim upon property to prevent sale or transfer of that property until a debt is satisfied.

Location means the process by which a custodial and/or non-custodial party or alleged father is found for the purpose of establishing paternity, establishing and/or enforcing a child support obligation, establishing custody and visitation rights, processing adoption or foster care cases, and investigating parental kidnapping.

Locate only means a type of request for IV-D services in which the only child support service requested is finding the custodial and/or non-custodial party.

Long arm jurisdiction means the legal provision that permits one state to claim personal jurisdiction over someone who lives in another state. There must be some meaningful connection between the person in the state that is asserting jurisdiction in order for a court or agency to reach beyond its normal jurisdictional border.

Medicaid means a form of public assistance providing medical aid for people whose income falls below a certain level. This includes Kids Connect and the State Children's Health Insurance Program (SCHIP).

Medicaid Only IV-D Case means a IV-D case open due to a referral based on the recipient receiving Medicaid benefits.

Medical Assistance (MA) Only means a form of public assistance administered by a State's IV-A program, which provides benefits to recipients only in the form of medical rather than financial assistance.

MSFIDM means Multi State Financial Institution Data Match program administered by the Federal IV-D program to match delinquent payors with financial institution accounts.

Medical reimbursement means a form of medical support in which an administrative order or court order exists requiring payment of past medical expenditures which may include birth related medical expenses.

Medical support (MS) means:

1. Health insurance is defined to include a fee for service, health maintenance organization (HMO), preferred provider organization (PPO), and other types of coverage which is available to either parent, under which medical services could be provided to dependent child(ren).

2. Cash Medical Support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

Military allotment means a voluntary or involuntary wage withholding actions against active duty military pay.

Minor means an individual age 18 or younger who has not been legally emancipated.

Modification means a court ordered change to an existing support order.

Nebraska Child Support Payment Center means the single centralized collection site in Nebraska where support payments are received, receipted, and disbursed.

Net income means the amount of income subject to withholding after deduction of exemptions that are allowable in accordance with the Nebraska Child Support Guidelines, and have been subtracted from the gross or total income.

Never-assigned arrearage means all arrearages in never assistance cases, and in former assistance cases, means those arrearages that accrue after the family's most recent period of assistance ends.

Non-ADC means the type of IV-D case open due to a referral based on the recipient receiving Medicaid benefits.

Non-cooperation means the failure of a public assistance recipient to meet the cooperation requirements.

Non-custodial Party means the parent who does not have primary care, custody, or control of the child.

Non-IV-D means neither the custodial or non-custodial party has requested child support services.

Non-monetary transactions means adjustment to amounts owed or due that does not involve currency, such as court waived arrearages, or a signed receipt of payment from the obligee.

Non-Parent Relative means a relative other than a parent, including but not limited to a grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

Non-public assistance (NPA) means the type of IV-D case in which the recipient of IV-D services does not receive ADC, foster care, or Medicaid.

Obligation means the amount of money to be paid as support by a non-custodial parent. An obligation can take the form of financial support for the child, medical support, or spousal support. It is a recurring, ongoing obligation, not a onetime debt.

Obligee means the party to whom support is owed.

Obligor means the party owing a duty of support.

Office of Child Support Enforcement (OCSE) means the federal agency responsible for the administration of the child support program, as created by Title IV-D of the Social Security Act in 1975.

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

Order means a legal directive from a judge or properly empowered administrative officer.

Order date means the date a court order becomes official; usually the date that the order is file-stamped by the clerk's office.

Original submittal means the original arrears amount submitted to the Tax Refund Intercept program (TRIP). The arrears can be a state debt, payee debt or a combination of the two.

Overpaid Party means an individual who received support payments in error.

Overpayment means support payments that are distributed, disbursed or paid in error.

Partial termination of assignment means current support collections, future arrears, and potentially a portion of past arrears collections will go to the former ADC (TANF) recipient, while arrearage collections (overdue support) still go to the state to reimburse a debt owed to the state.

Paternity establishment means the legal process to determine the parentage of a child born out of wedlock.

Payee means the person or organization in whose name support money is paid.

Payment plan means a written agreement, entered in to by the County/Authorized Attorney or the Department and an obligor, by which the parties agree to terms to address the payment of past-due support.

Payment record means the official record of payments made on a support order.

Payor means the person ordered to pay support. For purposes of administrative attachment, payor includes a person, partnership, limited partnership, limited liability partnership, limited liability company, corporation, or other entity doing business or authorized to do business in the State of Nebraska, including a financial institution, or a department or an agency of state, county, or city government.

Permanently assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls which:

1. Are or were assigned under an assignment of support rights in effect on September 30, 1997; and
2. Accrued under an assignment entered into on or after October 1, 1997, while a family is receiving assistance.

Personal Property means anything subject to ownership that does not involve land or an interest in land.

Petition means a formal written request filed with a court for a certain action to be taken.

Petitioner means the person seeking an order, judgment or decree.

Plaintiff means the person seeking an order, judgment or decree.

Pre-Offset means the time period between the submission of a court ordered arrears qualified for the Tax Refund Intercept program and the time the tax refund is actually intercepted.

Presumption means an assumption of fact resulting from a rule of law, which requires that the fact be assumed unless established otherwise.

Pro Rata Basis means a federally mandated requirement to divide, share or distribute support collections proportionately among all appropriate orders.

Procedure means the action necessary to implement child support regulations.

Process means a systematic series of actions to achieve a specific purpose. Location, establishment of paternity, mandatory income withholding are all considered child support processes.

Public assistance means benefits granted from state or federal programs to aid eligible recipients.

Putative father (See definition of "alleged father")

Real property means land, and all buildings, fixtures, and improvements affixed to land.

Reasonable Cost means cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the party responsible for providing medical support does not exceed three percent of his/her gross income. In applying the three percent standard the cost is the cost of adding the child(ren) to existing health care coverage or the difference between self-only and family health care coverage.

Rebuttable Presumption means a presumption that can be overturned if sufficient proof is presented.

Recipient means an individual or an organization that is receiving or has received public assistance and/or child support services.

Reciprocity means the process by which one jurisdiction grants certain privileges to another jurisdiction on the condition that it receives the same privileges.

Record means the collection of all the information that is known about an individual.

Registration means a legal procedure which extends the jurisdiction in one state to the jurisdiction of another state. For child support purposes, this is referred to as the registration of a foreign judgment.

Reimbursement means the repayment of support accrued or money distributed incorrectly.

Relevant licensing authority means a board, bureau, commission, committee, department, political subdivision, or other public or private entity that is authorized under the laws of the State of Nebraska to grant, issue, or renew a professional, occupational, or recreational license.

Release of lien means the removal of a claim against property in which a claim had been placed as security against the payment of a support debt.

Remittance coupon means a document designed to accompany a support payment that will assist in associating the payment to the obligor.

Reopened case means a case reopened for ADC and/or medical assistance within two years of the last case closing date.

Request date means the date the applicant requests services.

Respondent means the person who must respond to a petition filed in court.

Responding jurisdiction means the court or administrative agency with jurisdiction over a non-custodial parent or child support order on which an initiating state has requested action.

Responding state means a jurisdiction in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating jurisdiction under the Uniform Intergovernmental Family Support Act (UIFSA) or a law or procedure substantially similar to that Act.

Retroactive payment means a support payment made for a previous month.

Review and modification means a process in which the IV-D agency:

1. Obtains current financial information from both parties in a support case;
2. Evaluates the information to decide if a support order needs to be adjusted; and
3. If appropriate, takes steps to increase or decrease support or to add medical coverage.

SNAP means Supplemental Nutrition Assistance Program, formerly known as the Food Stamp Program.

Sanction means a penalty imposed against a recipient of public assistance for failure to cooperate with the IV-D agency.

Satisfaction means the payment or discharge of an obligation.

Service of process means the act of delivering a writ or summons to a party for the purpose of obtaining jurisdiction over that party

Spousal support means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with the child for whom the individual also owes support.

State means any state of the United States, and any commonwealth, territory, or possession of the United States or the District of Columbia.

State debt means the amount of money owed to the state at the time of partial termination of an assignment of rights.

State Disbursement Unit (SDU) means a single entity in each state where support payments are received, receipted, distributed and disbursed. The SDU may be an agency of state government or a vendor under contract with the State's IV-D agency.

State Parent Locator Services (SPLS) means a computerized support enforcement system ~~the service operated and used~~ by Child Support Enforcement to locate responsible persons in order to establish paternity and enforce support obligations, and for other authorized purposes. ~~or for making or enforcing of visitation and custody orders. This service may also be used in parental kidnapping cases.~~

State Ward Fund means the account as described in Neb. Rev. Stat. §43-907.

Statute means a law passed by a legislative body.

Statute of limitations means a law which prescribes the time period within which certain described causes of action may be filed.

Subpoena means a writ or order commanding an individual's appearance at a particular place and time to give testimony.

Substantial Change in Circumstances means, but is not limited to, a change in employment, earning capacity, or income or receipt of an ongoing source of income from a pension, gift, or lottery winnings.

Summons means an instrument used to initiate a civil action or special proceeding and is a means of acquiring jurisdiction over a party.

Support means a monetary payment used to provide necessary shelter, food, clothing, care, medical coverage, medical attention, education expenses, funeral expenses, or any other reasonable and necessary expenses. Support can also include interest as provided by law.

Support order means an order, decree, or judgment for child, spousal, or medical support or for payment of any arrearage of support issued by a court or agency of competent jurisdiction.

Targeted payment means the allocation of a payment determined by a court order or administrative decision.

Tax offset (See definition of "Offset").

Temporarily assigned arrearages means those arrearages which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls, which accrued prior to the family receiving assistance and which were assigned to the state after September 30, 1997. These arrearages are not permanently assigned and the temporary assignment will expire when the family leaves the assistance program or on October 1, 2000, whichever date is later.

Temporary support order means a support order intended to be for an interim period of time prior to the establishment of a final order.

Termination of parental rights means breaking the legal tie between a parent and child which ends a parent's rights and responsibilities regarding the child. When parental rights are terminated, the parent is no longer obligated for the ongoing support of the child.

Third Party Liability Unit (TPLU) means the subdivision of DHHS which administers the program that pays the difference between the amount of the medical bill and the amount the insurance company has paid. A case is referred to the TPLU only when a public assistance recipient has medical insurance in addition to coverage provided by the public assistance program.

Timely notice means a notice of case action, dated and mailed in compliance with the time frames specified by the applicable statute, regulation, or court rule.

Title XIX means the section of the Federal Social Security Act which authorizes and regulates the Medicaid program.

Title XXI means the section of the Federal Social Security Act which authorizes and regulates the State Children's Health Insurance Program.

Tribunal means a court, administrative agency, or quasi-judicial entity authorized under State law to establish, enforce, or modify support orders or to determine parentage.

Unassigned during assistance arrearages means all previously assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued during the receipt of assistance.

Unassigned pre-assistance arrearage means all previously assigned arrearages which exceed the cumulative amount of unreimbursed assistance when the family leaves the assistance program and which accrued prior to the receipt of assistance.

Unemployment insurance benefits (UIB) means temporary benefits given to a person who has lost his/her employment. The Department of Labor administers UIB.

Uniform Interstate Family Support Act (UIFSA) means the federally required state laws which provide mechanisms for establishing and enforcing child support.

Uniform Reciprocal Enforcement of Support Act (URES) means the previous federally required state laws which provided the mechanism for establishing, enforcing and modifying support obligations in intergovernmental cases. Enacted in 1950, they have been replaced by UIFSA, although some provisions remain in effect in some states.

Unreimbursed assistance (URA) means the cumulative amount of ADC benefits or foster care payments made by the State since February 1976, minus any support collections received and retained by the Department.

Wage Withholding (See definition of "Income withholding")

Willful failure means the knowing and intentional violation of a legal duty.

Worker's compensation means a benefit issued for work related injuries to an eligible employee.

CHAPTER 4-000 CASE INITIATION AND CLOSURE

This chapter outlines the requirements and criteria for establishing and closing a Child Support Enforcement case.

4-001 CASE INITIATION

4-001.01 Application Requirements: The Department or County/Authorized Attorney must:

1. Make application for child support services readily accessible to the public;
2. Furnish an application on the day the individual makes the request in person or send an application to the individual within no more than five working days of a written or telephone request;
3. Provide with the application:
 - a. A description of available services;
 - b. The individual's rights and responsibilities;
 - c. Application fees; and
 - d. The Department's cost recovery and distribution policies; and
4. Provide ADC, Medicaid and Title IV-E foster care applicants or recipients the information as specified in 466 NAC 4-001.01, items 3a-d, within five working days from the receipt of a referral to the IV-D agency.

4-001.02 Establishment of Cases: In establishing cases, the Department or County/Authorized Attorney must:

1. Accept an application as filed the day the application and fee are received;
2. Within no more than 20 calendar days of accepting an application for services or receipt of the referral of a case, open a IV-D case by establishing a case record; and
3. After case assessment, determine which of the following actions must be taken:
 - a. Solicit necessary and relevant information from the custodial party and other relevant sources and if appropriate, initiate verification of information; and
 - b. If location information is inadequate to proceed with the case, request additional information or refer the case for further location attempts as specified in 466 NAC 5-000.

4-001.03 Case Record: The case record must contain all information and documents belonging to the case, and all relevant facts, dates, action taken, contacts made and results. For the purpose of this section, a case record must include both paper and automated files.

4-002 CASE CLOSURE

4-002.01 Case Closure Criteria: In order to close a child support case, at least one of the following criteria must be met:

1. There is no longer a current support order in the case and arrearages are under \$500 or unenforceable under State law; or
2. The non-custodial party or alleged father is deceased and:
 - a. No arrears are owed; or
 - b. Arrears are owed, but the non-custodial party has been deceased for a minimum of two years, and no further action, including a levy against the estate, can be taken; or
3. Paternity cannot be established because:
 - a. The child(ren) is/are at least 18 years old and action to establish paternity is barred by state law;
 - b. Genetic testing, a court, or administrative process has excluded the alleged father and no other alleged father can be identified; or
 - c. The Department IV-D staff or designated IV-D contract staff has determined that it would not be in the best interest of the child(ren) to establish paternity in a case:
 - (1) Involving incest or forcible rape; or
 - (2) Where legal proceedings for adoption are pending; or
 - d. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by Department or County/Authorized Attorney staff with the recipient of services; or
4. The non-custodial party's location is unknown, and the Department or the County/Authorized Attorney has made regular attempts using multiple sources, all which have been unsuccessful, to locate the non-custodial party over a:
 - a. Three-year period when there was sufficient information to initiate automated locate efforts; or
 - b. One-year period when there was not sufficient information to initiate automated locate efforts; or
5. The non-custodial party cannot pay support for the duration of the child(ren)'s minority because the non-custodial party:
 - a. Has been institutionalized in a psychiatric facility;
 - b. Is incarcerated with no chance for parole; or
 - c. Has a medically verified total and permanent disability with no evidence of support potential. In addition, the Department or the County/Authorized Attorney has determined that no income or assets are available to the non-custodial party, which could be attached for support;
6. The non-custodial party is a citizen of, and lives in a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and reciprocity has not been established with the country;
7. The Department or County/Authorized Attorney has provided requested location-only services;

8. The Non-Public Assistance (NPA) recipient of services requests closure of a case and there is no assignment to the State of medical support and/or no state debt exists;
9. There has been a finding of good cause and the IV-D staff have determined that support enforcement may not proceed without risk of harm to the child(ren) or caretaker relative;
10. In a NPA or non-ADC case when cooperation with the IV-D agency is not required of the recipient of services, the Department or the County/Authorized Attorney has been unable to contact the recipient of services within a 60 calendar day period despite an attempt of at least one letter, sent by first class mail to the last known address;
11. In a NPA or non-ADC case when cooperation with the Department or the County/Authorized Attorney is not required of the recipient of services, the Department or County/Authorized Attorney documents the circumstances of the recipient of service's non-cooperation and the recipient of services has failed to cooperate and further action by the recipient of services is essential for the next step in providing services;
12. In an intergovernmental case, the Department or the County/Authorized Attorney documents that the initiating agency has failed to take an action, which is essential for the next step in providing services;
13. In an intergovernmental case, the Department or the County/Authorized Attorney documents that the initiating agency has notified Nebraska that they have closed their case; and
14. In an intergovernmental case the Department or the County/Authorized Attorney documents that the initiating agency has notified Nebraska that Nebraska's intergovernmental services are no longer needed.

~~If a case qualifies for closure using the criteria in 466 NAC 4-002.01, numbers 4, 5, or 6, the case must also meet the criteria in 466 NAC 4-002.01, number 1.~~

4-002.02 Notice of Closure: In cases meeting the criteria in 466 NAC 4-002.01, numbers 1 through 6 and 10 through 12, the Department or County/Authorized Attorney must notify the recipient of services, or in an intergovernmental case meeting the criteria for closure under 466 NAC 4-002.01, number 12, the initiating state, in writing 60 calendar days prior to closing the case of its intent to close the case. The intergovernmental case must be kept open if the initiating agency supplies useable information in response to the notice of the intent to close the case.

The initiating agency must also notify the responding agency within 10 working days of case closure that the initiating State IV-D agency has closed its case pursuant to 466 NAC 4-000 numbers 12 through 14 and the basis for the case closure.

If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances as specified in 466 NAC 8-002.01A that could lead to the establishment of paternity, establishment of a support order, or the enforcement of an order by completing a new application for IV-D services and paying any applicable application fee.

4-002.02A Requirements for Keeping a Case Open: The case must be kept open if:

1. The recipient of services supplies information in response to the notice, which could lead to the:
 - a. Establishment of paternity;
 - b. Establishment of a support order; or
 - c. Enforcement of an order; or
2. Contact is reestablished with the custodial party.

4-003 RETENTION OF CASE RECORDS: The Department or County/Authorized Attorney must retain all closed case records for a minimum of six years after a child support case has closed.

CHAPTER 5-000 LOCATION

This chapter outlines the role of the Department or County/Authorized Attorney in locating custodial and/or non-custodial parties and sources of income and/or assets.

5-001 APPROPRIATE LOCATE SOURCES: The Department or County/Authorized Attorney must utilize federal, state, local, and intergovernmental location networks, sources and authorized agencies.

5-002 LOCATION TIMEFRAMES: Available location sources, including any appropriate requests to the Federal Parent Locator Service (FPLS) of the U. S. Department of Health and Human Services must be accessed within 75 days of determining that location action is necessary. Location efforts must continue until the information obtained allows the Department or County/Authorized Attorney to take the next appropriate case action.

5-003 UNABLE TO LOCATE/REPEATED ATTEMPTS: The Department or County/Authorized Attorney must continue location attempts for cases in which previous attempts to locate the custodial/non-custodial party or sources of income/assets have failed, but adequate information exists to meet location submission requirements.

Attempts for such cases must be repeated at least quarterly, or upon receipt of new information, which may aid in location, whichever occurs sooner. Quarterly attempts may be limited to automated sources, but must include accessing the state employment security files.

5-004 STATE PARENT LOCATOR SERVICE (SPLS): The Department must maintain a State Parent Locator Service (SPLS). Requests for confidential information from the SPLS will be accepted from authorized persons for authorized purposes. Any information obtained through the SPLS must be treated as confidential and must be used solely for the purpose for which it was obtained and must be safeguarded.

5-004.01 Authorized Persons: The SPLS may not accept requests from any individual or entity not included in this section. The SPLS must accept requests for locate information from the following authorized persons, unless a lawful exception exists:

1. Any state or local governmental agency, or agent thereof, providing child, spousal, or medical support services under Title IV-D of the Social Security Act;
2. Any state or local governmental agency administering a IV-A, IV-B, IV-E, Supplemental Nutrition Assistance Program (SNAP) or Medicaid Program;
3. State governmental agencies involved with the investigation, prosecution, criminal or civil proceedings conducted with the administration of the programs in 466 NAC 5-004.01, numbers 1 and 2;
4. Any certified Tribal IV-D agency providing child and spousal support services, ~~provided the Department and the Tribe have in effect an intergovernmental agreement for the provision of SPLS and FPLS locate services;~~

5. A court or tribunal that has authority to issue an order against a non-custodial party for the support and maintenance of a child;
6. The resident parent, legal guardian, attorney or agent of a child who is not receiving IV-D services may request locate information via a court order only if the individual attests that:
 - a. The request is being made to obtain information on, or to facilitate the discovery of, any individual for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligation;
 - b. Any information obtained through the SPLS and FPLS shall be used solely for these purposes and shall be otherwise treated as confidential; and
 - c. The requestor is the resident parent, legal guardian, attorney, or agent of a child not receiving assistance under Title IV-A.
7. A court, an agent or attorney of the state or federal government in connection with parental kidnapping, child custody or visitation cases pursuant to 466 NAC 5-005.08.

5-004.02 Authorized Purpose: Requests may only be submitted to the SPLS for purposes directly connected with:

1. The administration of the Child Support Enforcement IV-D Program;
2. The administration of a IV-A, IV-B, IV-E, SNAP or Medicaid Program;
3. Any investigation, prosecution, criminal or civil proceeding conducted in connection with the administration of the programs in 466 NAC 5-004.02, numbers 1 and 2;
4. The location of an individual in connection with known or suspected mental or physical injury, sexual abuse, or exploitation, or negligent treatment or maltreatment of a child(ren) who is the subject of child support activity when circumstances indicate that the a child's(ren)'s health or welfare is threatened;
5. The location of an individual in connection with a parental kidnapping, child custody or visitation case pursuant to 466 NAC 5-005.05; or
6. State or federal law which allows or requires disclosure.

5-004.03 Authorized Information Returned: The following information may be provided subject to the exceptions in 5-004.04 through 5-004.06:

1. Person's name, Social Security Number (SSN), address;
2. Employer's name, address and Federal Employer Identification Number;
3. Wages, income, employment benefits including health care coverage; and
4. Type, status, location of assets or debts owed by or to the individual.

5-004.04 Exceptions to Authorized Information Returned: No authorized information shall be disclosed as set forth below: ~~The following are exceptions:~~

1. ~~No~~ National Directory of New Hire and Federal Case Registry information must not be provided to Title XIX and Title XXI programs unless independently verified;
2. For location of a non-parent relative involved in a IV-B or IV-E case only information returned will be person's name, SSN, address, employer's name, address and Federal Employer Identification Number;
3. ~~No~~ IRS information must not ~~will~~ be disclosed outside of the IV-D Program unless independently verified.;
4. ~~No~~ MSFIDM and FIDM information must not ~~will~~ be disclosed outside of the IV-D program.

5-004.05 Family Violence Indicator: No information shall be disclosed if the Department has reasonable evidence of domestic violence or child abuse against a party or a child and disclosure of SPLS information could be harmful to the party or a child. See 466 NAC 12-002.01. The information can be released to a court of competent jurisdiction upon receipt of an order from that court. It is the responsibility of the court to determine if releasing the information further will be harmful to the parent or child.

~~5-004.06 Family Violence Indicator Override: A court with authorization to enter an order for support may request that the family violence indicator be overridden. Upon receipt of the information, the court must determine whether disclosure of the information would be harmful to the parent or child. If the court finds that harm is possible to the parent or child, the release of the data must be denied.~~

5-005 FEDERAL PARENT LOCATOR SERVICE (FPLS) : Only the State Parent Locator Service (SPLS) may submit requests for information to the Federal Parent Locator Service (FPLS) when the request is received from an authorized person for an authorized purpose. Any information obtained through the FPLS must be treated as confidential and must be used solely for the purpose for which it was obtained and must be safeguarded.

5-005.01 Authorized Persons: The FPLS may not accept requests from any individual or entity not included in this section. Requests to the FPLS must be submitted only when the request comes from one of the following authorized persons, unless a lawful exception exists:

1. Any state or local governmental agency, or agent thereof, providing child, spousal, or medical support services under Title IV-D of the Social Security Act;
2. Any state or local governmental agency administering a IV-A, IV-B, IV-E Program, SNAP or Medicaid Program;
3. State governmental agencies involved with the investigation, prosecution, criminal or civil proceedings conducted with the administration of the programs in 466 NAC 5-005.01, numbers 1 and 2;
4. Any certified Tribal IV-D agency providing child and spousal support services, ~~provided the Department and the Tribe have in effect an intergovernmental agreement for the provision of SPLS and FPLS locate services;~~
5. A court or tribunal that has authority to issue an order against a non-custodial party

for the support and maintenance of a child;

6. The resident parent, legal guardian, attorney or agent of a child who is not receiving IV-D services may request locate information via a court order only if the individual attests that:

- a. The request is being made to obtain information on, or to facilitate the discovery of, any individual for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligation;
 - b. Any information obtained through the SPLS or FPLS shall be used solely for these purposes and shall be otherwise treated as confidential; and
 - c. The requestor is the resident parent, legal guardian, attorney, or agent of a child not receiving assistance under Title IV-A.
7. A court, agent or attorney of the state or federal government in connection with parental kidnapping, child custody or visitation cases pursuant to 466 NAC 5-005.05.

5-005.02 Authorized Purpose: Requests to the FPLS must only be submitted for the purposes of:

1. Establishing paternity;
2. Establishing, modifying or enforcing support obligations;
3. Determining who has or may have parental rights to a child(ren);
4. Enforcing any state or federal law with respect to the unlawful taking or restraint of a child(ren);
5. Making or enforcing a determination of child custody or visitation;
6. Locating a child or a non-parent relative of a child in a IV-B or IV-E case; or
7. Assisting state governmental agencies to carry out their responsibilities under Title IV-D, IV-A, IV-B, and IV-E programs.

5-005.03 Required Information: Submittals to the FPLS must contain the following information:

1. The parent's, putative father's or non-parent relative's name;
2. The parent's or putative father's SSN. If the SSN is unknown, the Department or County/Authorized Attorney must make every reasonable effort to ascertain the individual's SSN before making a request;
3. The non-parent relative's SSN, if known; and
4. Any other information required by the Federal Office of Child Support Enforcement.

5-005.04 Authorized information returned for the authorized purposes identified in 466 NAC 5-005.02, items 1-3 and 6-7:

5-005.04A The following information may be provided subject to the exceptions in 5-005.04B through 5-005.04D:

1. Person's name, SSN, address;
2. Employer's name, address and Federal Employer Identification Number;
3. Wages, income, employment benefits including health care coverage; and
4. Type, status, location of assets or debts owed by or to the individual.

5-005.04B Exceptions to Authorized Information Returned: ~~No authorized information shall be disclosed as set forth below: The following are exceptions:~~

1. National Directory of New Hire and Federal Case Registry information ~~will~~ must not be provided to Title XIX and Title XXI programs unless independently verified;
2. For location of a non-parent relative involved in a IV-B or IV-E case, only information returned will be person's name, SSN, address, employer's name, address and Federal Employer Identification Number;
3. ~~No~~ IRS information ~~will~~ must not be disclosed outside of the IV-D Program unless independently verified. No MSFIDM and FIDM information will be disclosed outside of the IV-D program;
4. MSFIDM and FIDM information must not be disclosed outside of the IV-D program.

5-005.04C Family Violence Indicator: No information shall be disclosed if the Department has reasonable evidence of domestic violence or child abuse against a party or a child and disclosure of FPLS information could be harmful to the party or a child. The information can be released to a court of competent jurisdiction upon receipt of an order from that court. It is the responsibility of the court to determine if releasing the information further will be harmful to the parent or child.

~~5-005.04D Family Violence Indicator Override: A court with authorization to enter an order for support may request that the family violence indicator be overridden. Upon receipt of the information, the court must determine whether disclosure of the information would be harmful to the parent or child. If the court finds that harm is possible to the parent or child, the release of the data must be denied.~~

5-005.05 Child Custody or Visitation and Parental Kidnapping: Pursuant to 466 NAC 5-005.05A an authorized person may obtain information from the SPLS and FPLS to locate a parent or child(ren) for the purpose of making or enforcing a child custody or visitation determination, or in cases of parental kidnapping. Requests for location information by a court of appropriate jurisdiction (see 5-005.05A, item 1) must be submitted via a court order to the Department.

5-005.05A Authorized Person: An authorized person is:

1. Any court having jurisdiction to make or enforce a child custody or visitation determination; and
2. Any agent or attorney of the United States or of a state having an agreement under this section, who has the duty or authority to investigate, enforce or prosecute cases of parental kidnapping.

5-005.05B Authorized Purpose: Requests to the FPLS must only be submitted for the purposes of:

1. Enforcing any state or federal law with respect to the unlawful taking or restraint of a child; or
2. Making or enforcing a child custody or visitation determination.

5-005.05C Authorized Information Returned: For the authorized purposes identified in 466 NAC 5-005.02, items 4 and 5:

Only the following information may be provided subject to the exceptions in 5-005.05D through 5-005.05F:

1. Person's address;
2. Employer's name;
3. Employer's address.

5-005.05D Exceptions to Authorized Information Returned: No authorized information shall be disclosed as set forth below: ~~The following are exceptions:~~

1. ~~No~~ IRS information must not ~~will~~ be disclosed outside of the IV-D Program unless independently verified;
2. ~~No~~ MSFIDM and FIDM information must not ~~will~~ be disclosed outside of the IV-D program.

5-005.05E Family Violence Indicator: No information shall be disclosed if the Department has reasonable evidence of domestic violence or child abuse against a party or a child and disclosure of FPLS information could be harmful to the party or a child. The information can be released to a court of competent jurisdiction upon receipt of an order from that court. It is the responsibility of the court to determine if releasing the information further will be harmful to the parent or child.

~~5-005.05F Family Violence Indicator Override: A court with authorization to enter an order for support may request that the family violence indicator be overridden. Upon receipt of the information, the court must determine whether disclosure of the information would be harmful to the parent or child. If the court finds that harm is possible to the parent or child, the release of the data must be denied.~~

5-006 NEBRASKA STATE DIRECTORY OF NEW HIRES (SDNH): The Department has established and operates the Nebraska State Directory of New Hires.

Employers are required to report the hire or rehire of employees who are compensated by or receive income from an employer or other payor, regardless of how such income is denominated, to the Department within 20 days after the date of hire or rehire.

5-006.01 Criteria to Report Independent Contractors: Employers are required to report independent contractors to the State Directory of New Hires (SDNH) if the following criteria

are met.

1. The independent contractor is 18 years of age or older;
2. The independent contractor is an individual, sole shareholder of a corporation or sole member of a limited liability company; and

3. The employer paid or expects to pay \$600 or more during the year to the independent contractor or is required to report payments made to the independent contractor to the Internal Revenue Service.

5-006.02 Submission of New Hire Information: Reports may be submitted on a W-4 or equivalent document, which includes the following information:

1. Employee name, address and Social Security Number;
2. Date of hire or rehire; and
3. Employer name, address and Employer Identification Number.

Employers may elect to transmit the information magnetically or electronically, by two monthly transmissions, if necessary, which are not less than 12 days or more than 16 days apart.

Within five business days of receiving reports from employers, the data must be entered into the Nebraska State Directory of New Hires.

Within two business days after a new hire date is entered, the Department's child support computer system will conduct a match between the Social Security Numbers in new hire reports, and data in the SPLS. If a matched employee's income is subject to wage withholding, the Department's child support computer system will generate a notice of wage withholding to the employer.

Within three business days after new hire data is entered into the SDNH, new hire data must be submitted to the National Directory of New Hires.

5-006.03 Confidentiality:

1. Information derived from employer reports received and maintained by the Nebraska State Directory of New Hires is confidential, but may be made available for use by states agencies administering:
 - a. State plans under Title IV-D of the Social Security Act;
 - b. Programs specified in section 1137(b) of the Social Security Act;
 - c. Unemployment Compensation Programs; and
 - d. Workers' Compensation Programs.
2. Information released under subsection 1 remains confidential and may not be further released by the recipient unless specifically authorized by federal or state law or regulation.

5-007 FINANCIAL INSTITUTION DATA MATCH (FIDM): Financial institutions will receive a listing of obligors within 30 days after the end of each calendar quarter from the Department. The financial institution must match the listing to its current records of accounts held in one or more individuals' names and such accounts closed within the last quarter. The match must be conducted within 30

days after receiving the listing and a match listing of all matches made must be provided to the Department within five working days of the match. The Department may utilize data provided by the financial institutions to assist in the location of obligors and their assets for the establishment, modification, or enforcement of child support orders.

5-007.01 Information Included in the Listing of Obligor's: The Department must submit to the financial institution the obligor's:

1. Name; and
2. Social Security Number; or
3. Taxpayer Identification Number.

5-007.02 Information Included in the Match Listing from the Financial Institution: The match listing from the financial institution must include the following:

1. Name of each obligor matched;
2. Address on file of each obligor matched;
3. Social Security Number or Taxpayer Identification Number of each obligor matched;
4. Names and addresses of all other owners of accounts in the match listing as reflected on a signature card or other similar document on file with the financial institution; and
5. Balance of each account.

5-007.03 Confidentiality: Financial institutions are not required to disclose any account numbers to the Department. The financial institution must maintain the confidentiality of all child support information received and must use this information only for the purpose of financial institution data match. The Department must implement security provisions for the listing of obligors and the match listings which are as stringent as those established under the Federal Tax Information Security Guidelines for federal, state, and local agencies. See 466 NAC 12-000.

5-007.04 Non-liability to Financial Institutions: Financial institutions are not liable for the disclosure or release of information to the Department or for any other action taken in good faith to comply with the requirements of FIDM.

5-007.05 Fees: Subject to prior Department approval, the Department may pay reasonable fees charged by a financial institution for the necessary upgrades to an existing computer system that are directly related to compliance with FIDM requirements and for the service of reporting matches, if such charges do not exceed the actual costs.

CHAPTER 9-000 ENFORCEMENT OF SUPPORT ORDERS

This chapter contains information regarding the tools or methods or techniques available for the enforcement of support orders.

9-001 TIMEFRAMES FOR ENFORCEMENT: When a delinquency or other support-related noncompliance is identified or the non-custodial party is located, whichever is later, the Department or County/Authorized Attorney must initiate enforcement action within no more than:

1. 30 calendar days if service of process is not needed; or
2. 60 calendar days if service of process is needed.

9-002 ADMINISTRATIVE ATTACHMENT: Neb. Rev. Stat. §§ 43-3333 to 43-3339 allow for administrative attachment of personal assets of an obligor held by a payor or held by a financial institution for the collection of unpaid support from obligors who are not in compliance with support orders.

9-002.01 Criteria for Administrative Attachment: The property of an obligor with a IV-D support obligation may be subject to administrative attachment:

1. If the obligor is delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time; or
2. Upon request of the state agency of another state that administers Title IV-D of the Federal Social Security Act.

9-002.02 Verification of Applicability of Administrative Attachment: The Department or County/Authorized Attorney will make reasonable efforts to verify that an obligor in a case receiving IV-D services is subject to administrative attachment.

9-002.03 Notice of Arrearage: If the Department or County/Authorized Attorney determines to seize an obligor's property, the Department or County/Authorized Attorney will send a written notice of arrearage to the obligor by first-class mail.

9-002.03A Request for Administrative Hearing: An obligor receiving a notice of arrearage may send a written request for a hearing to the Department or County/Authorized Attorney. The request must be postmarked within 20 days after the date the notice of arrearage is mailed. The administrative hearing request must be based upon a mistake of fact. A mistake of fact is an error in the:

1. Amount of the arrearage; or
2. Identity of the obligor.

If the request is not postmarked within 20 days after the date the notice of arrearage is mailed, or the request is not based upon a mistake of fact, the Department will deny the administrative hearing request. If the obligor's request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.

9-002.03A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.03A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-002.03A3 Hearing Results: The Department will notify the obligor and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.03B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-002.04 Order to Withhold and Deliver: The Department or County/Authorized Attorney may send a payor an order to withhold and deliver specifically identified property of any kind due, owing, or belonging to an obligor if:

1. The Department has reason to and does believe that a payor has property in its possession which is due, owing, or belonging to an obligor;
2. Payment on a support order is in arrears an amount in excess of the support due for a three-month period of time;
3. The Department or County/Authorized Attorney sent a notice of arrearage to the obligor at least 30 days prior to sending the notice to withhold and deliver; and
4. The obligor did not request a hearing after receiving the notice of arrearage or if after a hearing the Department determined:
 - a. An arrearage did exist; or
 - b. There was no mistake of fact.

9-002.04A Payor Duties: When a payor receives an order to withhold and deliver the payor must:

1. Hold the property subject to the order to the extent of the amount of the arrearage stated in the order until the payor receives further notice from the Department or County/Authorized Attorney;
2. Within five business days of receiving the order:
 - a. Answer any questions posed to the payor in the order;
 - b. Supply the name and address of any person(s) that has an ownership interest in the property sought to be reached; and
 - c. Return such information to the Department or County/Authorized Attorney; and

3. Upon further notice from the Department or County/Authorized Attorney, deliver any property which may be subject to the order to the court or agency designated in the order, or release such property or portion thereof.

9-002.04B Fee for Processing an Order to Withhold and Deliver: A payor that is a financial institution may deduct and retain a processing fee, not to exceed ten dollars, from any amounts turned over to the Department. This processing fee must not be credited to the obligor's arrearage total.

9-002.04C Failure or Refusal of the Payor to Withhold and Deliver: If a payor fails or refuses to withhold or deliver property subject to an order to withhold and deliver, unless the payor can show cause as to why the property was not withheld or delivered, the court which issued or registered the support order may enter a judgment for the lesser of the amount of the:

1. Arrearages stated in the order to withhold and deliver; or
2. Property or credits of the obligor in the possession or under the control of the payor at the time the order to withhold and deliver was received.

9-002.04D Discharge of the Payor: If a payor complies with an order to withhold and deliver the payor is discharged of its liability to an obligor or beneficiary with regard to the portion of the obligor's property withheld or delivered. In addition, the payor is discharged as to any property in its possession or under its control that is not the property of the obligor.

9-002.04E Payor's Release from Liability: A payor is not liable to the Department or County/Authorized Attorney or any individual for:

1. Responding to an order to withhold and deliver;
2. Holding, refusing to release to the obligor, or delivering any property of an obligor in compliance with an order to withhold and deliver; or
3. Any other action taken in good faith to comply with the requirements of Neb. Rev. Stat. §§ 43-3328 to 43-3339, regardless of whether such action was specifically authorized or described by such sections.

9-002.04F Priority of an Order to Withhold and Deliver: An order to withhold and deliver has the same priority as a garnishment for the support of a person pursuant to Neb. Rev. Stat. § 25-1056(4).

9-002.05 Notice of Order to Withhold and Deliver: Within five days after the issuance of an order to withhold and deliver, the Department or County/Authorized Attorney will send written notice to the obligor by first-class mail.

9-002.05A Request for Administrative Hearing: An obligor may request a hearing to contest a mistake of fact by sending a written request to the Department or County/Authorized Attorney within seven days after the date of the notice of order to withhold and deliver. If the request is not postmarked within seven days of the date the notice of order to withhold and deliver, or the request is not based upon a mistake of fact, the Department will deny the administrative hearing request. If the obligor's request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.

9-002.05A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.05A2 Hearing Date: The Department will provide an opportunity for a hearing within 10 days after receipt of a proper written request.

9-002.05A3 Hearing Results: The Department will notify the obligor and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.05B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-002.06 Notice to Other Persons with an Ownership Interest: Upon receiving information from a payor that any other person(s) has or may claim an ownership interest in any property sought to be reached, the Department or County/Authorized Attorney will send written notice to such person(s) by certified mail, return receipt requested.

9-002.06A Request for Administrative Hearing: Any person claiming an ownership interest in any property sought to be reached may request a hearing to establish that the property or any portion of the property is not the obligor's by sending a written request to the Department or County/Authorized Attorney within 15 days after the date of the notice to other persons with an ownership interest. If the request is not postmarked within 15 days after the date of the notice to other persons with an ownership interest, the Department will deny the administrative hearing request. If the request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative attachment process must be stayed until the administrative appeal process is completed.

9-002.06A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-002.06A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-002.06A3 Hearing Results: The Department will notify any person claiming an ownership interest in any property sought to be reached and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-002.06B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-003 ADMINISTRATIVE ENFORCEMENT IN INTERGOVERNMENTAL CASES: See 466 NAC 10-000.

9-004 ADMINISTRATIVE OFFSET: See 466 NAC 9-014.

9-005 ADMINISTRATIVE SUBPOENA: State and Federal laws allow for an administrative subpoena to compel the production of certain information relevant to establishing paternity or establishing, modifying, or enforcing a support order, without the necessity of obtaining an order from any other judicial or administrative tribunal.

9-005.01 Criteria for Administrative Subpoena: The Department or County/Authorized Attorney may issue an administrative subpoena to compel the following:

1. Genetic testing of an individual relevant to establishing paternity;
2. Production of information including, but not limited to, the name and address of the individual, a listing of financial assets and liabilities from public or private entities, and other relevant financial records; and
3. Access to information in records of state or local agencies, including state and local tax and revenue records, titles to real and personal property, employment records, and records concerning the ownership and control of business entities.

9-005.02 Failure or Refusal to Comply: If a person named in an administrative subpoena fails or refuses to obey the subpoena, the Department or County/Authorized Attorney may apply to a court of competent jurisdiction for an order directing such person to comply with the subpoena. Failure to obey this order may be punished as contempt of court, which may result in imprisonment.

9-005.02A Request for Administrative Hearing: Any person refusing to comply with the subpoena may request a hearing to establish that the subpoena should not be complied with by sending a written request to the Department or County/Authorized Attorney within 15 days after the date the subpoena was issued. If the request is not postmarked within 15 days after the date the subpoena was issued, the Department will deny the administrative hearing request. If the request for administrative hearing is proper, the Department will provide an opportunity for a hearing and the administrative subpoena process must be stayed until the administrative appeal process is completed.

9-005.02A1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-005.02A2 Hearing Date: The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

9-005.02A3 Hearing Results: The Department will notify any person refusing to comply with an administrative subpoena and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-005.02B Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-005.03 Confidentiality: All information acquired pursuant to an administrative subpoena is confidential and must not be disclosed or released except to other agencies that have a legitimate official interest in the information for carrying out the purposes of this section.

9-005.04 Intergovernmental Subpoena: See 466 NAC 10-000.

9-006 BANKRUPTCY: If a non-custodial party files for protection under the Bankruptcy Code, the Department or County/Authorized Attorney may be notified as a 'creditor', especially if there has been an assignment to the state. Normally, child support obligations and arrears are not dischargeable in bankruptcy. However, the use and timing of enforcement methods will be affected, depending on the type of bankruptcy filing involved.

9-006.01 Types of Bankruptcy Filings: The different types of bankruptcies are named for the chapters of the Bankruptcy Code that govern the specific types. The four main categories are:

1. Chapter 7 involves a liquidation of the debtor's non-exempt assets where creditors are then paid from the proceeds on a pro rata basis;
2. Chapter 11 applies to business reorganizations;
3. Chapter 12 is similar to Chapter 11 for unincorporated farms and ranches; and
4. Chapter 13 involves a wage-earner plan, whereby the debtor's disposable income after expenses is collected by the bankruptcy trustee and distributed to creditors on a pro rata basis over a period of time, usually five years.

9-006.02 Notice of Bankruptcy Proceedings: The Department or County/Authorized Attorney may receive notice of bankruptcy proceedings filed by a non-custodial party. A written notice may be sent to the Department or County/Authorized Attorney by the bankruptcy court or by the trustee. Other methods of notification include:

1. The bankruptcy notice is sent to the County/Authorized Attorney;
2. The bankruptcy notice is sent to the Nebraska Attorney General's office;
3. The bankruptcy notice is sent to the Department by the attorney of record for either party;
or
4. Either party informs the Department or the County/Authorized Attorney.

Regardless of the initial point of contact, the Department and the County/Authorized Attorney must be provided copies of any written bankruptcy notice.

9-006.03 Effect of Bankruptcy Filing on Enforcement Actions

9-006.03A Automatic Stay: When a bankruptcy petition is filed, most creditor activities directed at the debtor and/or the debtor's assets is automatically stayed. Actions taken in violation of the automatic stay are void or voidable, and may be punished by fine or by contempt action. There are two exceptions to the automatic stay that relate to support obligations:

1. Commencement or continuation of an action to establish paternity or to establish or modify an order for support; and
2. Collection of support from property which is not property of the bankruptcy estate.

In Chapter 7 cases, assets and income acquired after the bankruptcy filing date are not protected by the automatic stay. In Chapter 13 cases, post-filing earnings are covered by the automatic stay.

Once the automatic stay goes into effect, enforcement actions must be reviewed. The Bankruptcy Code permits income withholding, license suspension, consumer credit reporting, and the interception of tax refund without first obtaining relief from the automatic stay. In order to undertake any other enforcement actions, the County/Authorized Attorney must file a motion for relief from the automatic stay with the Bankruptcy Court. The filing fee for bankruptcy motions may be waived for "child support creditors and their representatives."

9-006.03B Filing Proof of Claim: A proof of claim may be filed with the Bankruptcy Court for arrearages and interest. Child support arrears are not dischargeable. However, claims for support obligations are entitled to priority status, if there are assets available to satisfy claims.

9-006.03C Objection to Chapter 13 Plan: A County/Authorized Attorney may object to a payment plan proposed in a Chapter 13 bankruptcy case. A Chapter 13 plan must be "proposed in good faith". Factors included in a determination of good faith include, but are not limited to, the following:

1. A plan proposing to pay less than 100% of support arrears or a current support amount that is not in accord with the amount specified in the support order is not made in good faith;
2. A plan which is proposed solely to delay the collection of support constitutes bad faith;
3. A plan that attempts to circumvent or relitigate domestic relations issues that have been previously decided by a state court is not made in good faith; and
4. A plan that proposes to distribute under the plan an amount that is less than a support creditor would receive under Chapter 7 liquidation.

9-007 CONSUMER CREDIT REPORTING: The Department may submit to consumer credit reporting agencies IV-D support orders with a total delinquency of more than \$500.

9-007.01 Advance Notice to the Non-custodial Party: The Department will send a one-time advance notice to the non-custodial party regarding its intent to submit his/her support order to consumer credit reporting agencies. The advance notice must include the:

1. County where the support order originated;
2. Support order number;
3. Date the amount was reported delinquent;
4. Total dollar amount to be submitted;
5. Delinquent amount by judgment type;
6. Notice that the non-custodial party has 30 days to reduce the arrears to below \$500 to avoid submittal to consumer credit reporting agencies;
7. Non-custodial party's right to request an administrative review; and
8. Criteria a case must meet to be eligible for review.

9-007.02 Request for Administrative Review: If the non-custodial party believes there has been a mistake of fact that would preclude submittal to the consumer credit reporting agencies, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 15 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party; or
2. The arrearage amount is \$500 or less.

9-007.03 Conducting the Administrative Review: The Department must review the pertinent facts of the case to determine if the non-custodial party will be submitted to consumer credit reporting agencies. The Department will notify the non-custodial party of its findings within 30 calendar days of the date of the request for an administrative review.

9-007.03A Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-007.03B Request for an Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department or County/Authorized Attorney within 15 calendar days of the date of the administrative review finding.

If the request is not postmarked within 15 calendar days of the date of the administrative review finding, the Department will deny the request for an administrative hearing.

9-007.04 Submittal Process Stayed: The Department will not submit a support order to consumer credit reporting agencies pending the outcome of the administrative review and administrative hearing.

9-007.05 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-007.06 Hearing Date: The hearing must take place within 30 calendar days of the date of the receipt of the hearing request.

9-007.07 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-007.08 Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-007.09 Information Reported to Consumer Credit Reporting Agencies: The Department will submit the following non-custodial party's information to consumer credit reporting agencies:

1. Name;
2. Address;
3. Social Security Number;
4. Support order number;
5. Delinquent support amount; and
6. Monthly support obligation.

~~7.~~
This information is updated on a monthly basis. An entry on a credit report remains for seven years following the last transaction.

9-007.10 Dispute to Consumer Credit Reporting Agencies: The non-custodial party may file a dispute with a consumer credit reporting agency if s/he does not agree with the submittal of his/her account to consumer credit reporting agencies. Upon notification from a consumer credit reporting agency that the non-custodial party disputes the submittal, the Department will review the non-custodial party's account to ensure it meets submittal criteria. Upon completion of the review, the Department will notify the consumer credit reporting agencies to correct or delete a support order submitted in error.

9-008 INCOME WITHHOLDING: Income withholding is the primary tool for enforcing support obligations. Federal regulations require the Department or County/Authorized Attorney to use income withholding. The amount withheld may not exceed the maximum amount permitted by the Consumer Credit Protection Act.

9-008.01 Criteria for Income Withholding: The income of an individual with a support obligation arising from a support order that has been issued or modified on or after September 6, 1991 must be subject to immediate income withholding, and the court must require income withholding in the support order, unless:

1. One party demonstrates to the court that there is good cause not to require income withholding; or

2. A written agreement between the parties providing a suitable alternative arrangement is incorporated into the order. If there is an assignment of support to the state, the state must be a party to the written agreement.
3. A written, notarized agreement developed by the Department of Health and Human Services, between the custodial parent, non-custodial parent and the Department providing that the non-custodial parent pay support via automatic auto-withdrawal through the State Disbursement Unit may be established if the following conditions are met:
 - a) The non-custodial parent is current and not in arrears at the time of the agreement and has been current in his/her support for a period of three months.
 - b) The amount automatically withdrawn from the non-custodial parent's financial institution is at least the amount of the court ordered support obligation; and
 - c) The automatic auto-withdrawal occurs on a regular, consistent basis each month.

Any partial payment or missed payment shall subject the non-custodial parent to mandatory income withholding.

The income of anyone with a support obligation that does not contain provisions for immediate income withholding will be subject to initiated income withholding under the following conditions:

1. If there is an arrearage of at least one month's support amount; or
2. Regardless of whether payments are delinquent, on the earliest of the date:
 - a. The non-custodial party requests income withholding;
 - b. The custodial party requests income withholding in writing; or
 - c. The Department of Health and Human Services or another State IV-D agency requests income withholding.

9-008.02 Notice of Intent to Withhold Income: Upon receiving certification or notice of a delinquency in support payments for a support order that does not contain provisions for immediate income withholding, the Department or County/Authorized Attorney must send the non-custodial party a notice of its intent to withhold income. The notice is not required if:

1. The non-custodial party previously received a notice of intent to withhold income;
2. The non-custodial party requests income withholding; or
3. Immediate income withholding is included in the order.

9-008.02A Content of the Notice of Intent: The notice of intent must inform the non-custodial party of the following:

1. Income withholding will become effective within 15 calendar days of the date of the notice;
2. Income withholding will continue with any subsequent employer or payor of income;
3. The amount of support owed;
4. The amount of income to be withheld; and
5. The right to appeal and the appealable issues.

9-008.02B Mailing the Notice of Intent: The notice of intent must be mailed by certified mail to the last known address of the non-custodial party.

9-008.03 Administrative Hearing: A non-custodial party receiving a notice of intent to withhold income may request an administrative hearing, pursuant to the Administrative Procedure Act, to appeal income withholding based on specific language in the court order that exempts the non-custodial party from income withholding, or on a mistake of fact. A mistake of fact is:

1. An error in the amount of current or overdue support;
2. An error in the identity of the non-custodial party; or
3. The amount to be withheld is incorrect, for example exceeds the maximum amount permitted under the Consumer Credit Protection Act.

The non-custodial party may send a written request for a hearing to the Department or County/Authorized Attorney. The request must be postmarked within 15 calendar days of the date of the notice of intent. If the request is not postmarked within 15 calendar days of the date of the notice, or the appeal request is not based on a mistake of fact, the Department will deny the appeal request.

9-008.03A Income Withholding Suspended: The Department or County/Authorized Attorney must not implement income withholding pending the outcome of the hearing.

9-008.03B Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-008.03C Hearing Date: The hearing must take place within 15 calendar days of the date of the receipt of the hearing request.

9-008.03D Hearing Results: The Department will notify the non-custodial party and the County/Authorized Attorney of the hearing results within 15 calendar days of the hearing.

9-008.03E Request for Hearing on a Foreign Support Order: If the order is a foreign support order entered under the Income Withholding for Child Support Act, the non-custodial party may send a written request for a hearing to the Department or County/Authorized Attorney postmarked within 15 calendar days of the date of the notice. The County/Authorized Attorney must schedule a hearing with the District Court and notify the Department.

9-008.04 Notice to Withhold Income: The Department or County/Authorized Attorney must notify the employer of the amount of income to withhold based on the identified arrearage and/or child support amount. The amount to be withheld must not exceed the maximum amount permitted under the Consumer Credit Protection Act.

The notice must inform the employer that failure to withhold income as directed will result in the employer becoming liable to pay the certified amount specified in the notice. The notice must also inform the employer that any discrimination, termination, or other disciplinary action taken against the employee as a result of receiving the notice to withhold income will subject the employer to penalties prescribed by law.

9-008.04A Timeframes: In cases that are subject to immediate income withholding, a notice to withhold income must be sent to the non-custodial party's employer within 15 calendar days of the date the support order is received, provided that the employer's address is known at that time. If the employer's address is not known at the time the support order is received, the notice to withhold income must be sent within 15 calendar days of locating the employer. If information regarding new employment for any non-custodial party who is subject to income withholding is reported to the State Directory of New Hires, the Department or County/Authorized Attorney must send a notice to withhold income to the non-custodial party's employer within two business days.

9-008.04B Employer Compliance: An employer must comply with the terms of the income withholding notice including, but not limited to:

1. The amount and the duration of the withholding; and
2. Maximum amounts to be withheld.

An employer must initiate the income withholding beginning with the next pay period following the date on the withholding notice. An employer must send all amounts withheld for payment of a support obligation to the Nebraska Child Support Payment Center within seven business days of the date the amount is withheld. The employer must indicate the following for each amount withheld:

1. The name of the non-custodial party;
2. The SSN of the non-custodial party;
3. The court order number; and
4. The date on which the amount was withheld.

9-008.04C Administrative Fee: Assessment of an additional administrative fee from the obligor's net income may not exceed two dollars and fifty cents in any calendar month.

9-008.04D Effective Date: When support is withheld by an employer in the month when due, and received by the Nebraska Child Support Payment Center in a month other than the month due, the date the payment is taken out of the obligor's wages is determined to be the date of the collection.

9-008.04E Amount of Income to be Withheld: The total amount to be withheld from the non-custodial party's net income is the lesser of either the dollar amount specified in the notice or:

1. 50 percent of the non-custodial party's net income if the non-custodial party has a second family;
2. 55 percent of the non-custodial party's net income if the non-custodial party has a second family and is more than 12 weeks in arrears;
3. 60 percent of the non-custodial party's net income if the non-custodial party does not have a second family;
4. 65 percent of the non-custodial party's net income if the non-custodial party does not have a second family and is more than 12 weeks in arrears; or
5. 90 percent of the non-custodial party's net income if the non-custodial party is incarcerated for criminal nonsupport and is earning income while on work release.

9-008.04F Multiple Support Orders: If the non-custodial party is eligible for income withholding on more than one order and the available income cannot satisfy all orders, the distribution of support must be as follows:

1. Withhold an amount to satisfy the current monthly support obligations:
 - a. If there is not sufficient income available within the limits set by the federal Consumer Credit Protection Act to satisfy all current support obligations, then the amount that is available to be withheld must be distributed across all orders on a pro rata basis; or
 - b. When the income available to be withheld is enough to cover all current support obligations, apply any remaining amount to arrearages. If there is not sufficient income available within the limits set by the federal Consumer Credit Protection Act to satisfy all arrearages, the amount that is available to be withheld must be distributed across all orders on a pro rata basis.

9-008.04G Penalties: An employer who complies with an income withholding order is immune from civil liability with regard to the withholding. An employer who fails to comply with an income withholding order issued is subject to the penalties that may be imposed under Nebraska law, including contempt proceedings and liability for the full certified amount owed.

9-008.05 Termination of Income Withholding: When a support obligation is paid in full, the Department or County/Authorized Attorney must send a notice to the employer instructing the employer to terminate the wage withholding.

9-008.06 Withholding of Unemployment Insurance Benefits: A cooperative agreement exists between the Department and the Department of Labor for the withholding of unemployment insurance benefits (UIB) in support cases with an income withholding order. The amount withheld may not exceed the maximum amount permitted by the Consumer Credit Protection Act.

9-008.06A Notice of Intent to Withhold Income: After receiving notice of an arrearage in support payments, and a report from Department of Labor that the non-custodial party receives UIB, the Department will send the non-custodial party a notice of its intent to withhold income from UIB. The notice is not required if:

1. The non-custodial party previously received a notice of intent to withhold income;
2. The non-custodial party requests income withholding; or
3. Immediate income withholding is included in the support order.

9-008.06B Request for Administrative Hearing: As is the case with an income withholding directed at the obligor's wages, the obligor has the right to appeal the notice to withhold from UIB, pursuant to the Administrative Procedure Act. See 466 NAC 9-008.03.

9-008.06C Receipt of Intercepted Support Payments: The Department will send an annual receipt of support amounts collected from UIB to the non-custodial party if requested.

9-008.06D Collected Support Payments: The Department of Labor must send all amounts withheld for payment of a support obligation to the Department within ten calendar days of the date the amount is withheld. The Department of Labor must indicate the following for each amount withheld:

1. The name of the non-custodial party;
2. The SSN of the non-custodial party;
3. The court order number; and
4. The date on which the amount was withheld.

9-008.06E Terminating Income Withholding: The Department will notify the Department of Labor when the support obligation is paid in full. Upon notice, the Department of Labor must terminate income withholding of UIB for that order.

9-008.07 Direct Income Withholding: Under UIFSA, an income withholding order issued in one state may be sent directly to the non-custodial party's employer in another state. There is no requirement that a petition be filed or the order be registered in the receiving state. The initiating state may send a request for registration of the order. However, the receiving state may seek to enforce the order through income withholding or other administrative procedures without first registering the order.

9-008.07A Employer Compliance: A Nebraska employer must treat a direct income withholding request received directly from another state in the same manner as if a Nebraska tribunal had issued it. The employer must comply with the terms of the order with regard to:

1. The amount and the duration of the order;
2. Any fees and costs charged by the support enforcement agency; and
3. The address to which the payments must be sent; and

The employer must follow the law of the non-custodial party's principal place of employment regarding:

1. Timeframes for implementation;
2. Fees charged by the employer;
3. Maximum amounts to be withheld;
4. Processing of multiple income withholding orders; and
5. Any contest of the order by the non-custodial party.

9-008.07B Penalties: An employer who complies with a direct income withholding order is immune from civil liability with regard to the withholding. An employer who fails to comply with an income withholding order issued in another state is subject to the penalties that may be imposed under Nebraska law, including contempt proceedings and liability for the full certified amount owed.

9-009 (RESERVED)

9-010 LICENSE SUSPENSION: Nebraska state law provides for the suspension of a professional, occupational, or recreational license or a motor vehicle operator's license in cases where the non-custodial party fails to pay child, spousal, or medical support.

9-010.01 Criteria for License Suspension: A license holder with a IV-D support obligation may be subject to license suspension if the license holder:

1. Is delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time;
2. Is not in compliance with a payment plan established by the Department or County/Authorized Attorney, for payment of past-due support; or
3. Is not in compliance with a payment plan established by a court order for payment of past-due support.

9-010.02 Verification of Applicability of License Suspension: The Department or County/Authorized Attorney must make reasonable efforts to verify that a license holder in a case receiving IV-D services is subject to license suspension.

9-010.03 Notice to Suspend: If the Department or County/Authorized Attorney determines to certify a license holder to the appropriate licensing authority, the Department or County/Authorized Attorney must send a written notice to suspend to the license holder by certified mail to the last-known address of the license holder or to the last-known address of the license holder available to the court.

9-010.04 Contesting License Suspension: Within 30 calendar days after the issuance of the notice to suspend, a license holder receiving such notice may seek either judicial or administrative review.

9-010.04A Direct Judicial Review: The license holder may seek judicial review by filing a petition in the court of competent jurisdiction. It is the responsibility of the license holder to notify the Department that s/he is seeking judicial review. Upon timely receipt of such notice, the Department will stay the license suspension process pending the outcome of the judicial review.

9-010.04B Administrative Review: The license holder receiving a notice to suspend may request an administrative review to contest license suspension by sending a written request to the Department or County/Authorized Attorney. The Department will stay the action to certify for license suspension pending the outcome of the administrative review.

The administrative review request must be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the license holder; or
2. An error in the determination that the license holder is:
 - a. Delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time;
 - b. Not in compliance with a payment plan established by the Department or County/Authorized Attorney for payment of past-due support; or
 - c. Not in compliance with a payment plan established by a court order for payment of past-due support.

9-010.04B1 Conducting the Administrative Review: The Department must review the pertinent facts of the case to determine if the license holder's referral for license suspension is warranted. If the request for administrative review is not postmarked within 30 calendar days of the date of the notice to suspend, or the request is not based on a mistake of fact, the Department will deny the request.

9-010.04B2 Finding of the Administrative Review: The Department must notify the license holder of its findings within seven calendar days of the date of the request for an administrative review. The administrative review finding must include the procedures for the license holder to appeal the finding through an administrative hearing.

9-010.04C Request for an Administrative Hearing: To request an administrative hearing, the license holder must send a written request to the Department or County/Authorized Attorney within 15 calendar days of the date of the administrative review finding. The issues to be determined at the hearing are limited to a mistake of fact as outlined in 466 NAC 9-010.04B. However, the license holder may raise additional issues, including the reasonableness of a payment plan for a support order, to be preserved for appeal to the district court as provided under the Administrative Appeals Act.

The action to certify for license suspension must continue to be stayed until the administrative appeal process is completed.

9-010.04C1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat § 84-901, et seq.

9-010.04C2 Hearing Date: The administrative hearing must be held within 15 days of receiving a proper written request, and must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat § 84-901, et seq.

9-010.04C3 Hearing Results: The Department will notify the license holder of the hearing results within 30 calendar days.

9-010.04D Judicial Review: Within ten days after issuance of the administrative hearing decision by the Department, the license holder may seek judicial review of the decision by filing a petition in the court in which the support order was issued or registered. The action to certify for license suspension must continue to be stayed until the judicial review process is completed.

9-010.05 Request for Review and Modification: Upon notification by the license holder that a motion or application to modify the order has been made or the license holder requests a review by the Department after receipt of the notice to suspend, the action to certify for license suspension will be stayed until disposition of the review and modification process. See 466 NAC 8-002 for criteria for a review by the Department.

9-010.06 Certification to Suspend License: The Department, County/Authorized Attorney or court of competent jurisdiction may certify in writing to the relevant licensing authority that a license holder meets the criteria for license suspension listed in 466 NAC 9-010.01 if the license holder did not request an administrative or judicial review, or if the findings of the administrative and/or judicial reviews determine that the license holder meets the criteria for license suspension. A copy of any certification to suspend a license will be sent to the license holder. Certification to the relevant licensing authorities must occur as follows.

9-010.06A Motor Vehicle Operator's License: Certification must be made to the Department of Motor Vehicles for the suspension of the license holder's license to operate a motor vehicle. The Department of Motor Vehicles must not suspend a license holder's commercial driver's license or restricted commercial driver's license. A commercial driver's license or restricted driver's license must be certified pursuant to 466 NAC 9-010.06C.

9-010.06B Recreational License: Ten working days after the date on which the operator's license suspension becomes effective and upon failure of the license holder to come into compliance with his/her support order, certification must be made to the Games and Parks Commission for suspension of a license holder's recreational license(s).

9-010.06C Professional and Occupational Licenses: Ten working days after the date on which the recreational license suspension becomes effective, or if the Games and Parks Commission is not automated, in ten working days after the date on which the motor vehicle operator's license suspension becomes effective and upon failure of the license holder to meet his/her legal obligations to provide support, certification must be made to any relevant licensing authority for suspension of a license holder's professional and occupational licenses.

9-010.07 Suspension of License: Within ten days of certification, the relevant licensing authority must suspend the license holder's operators, professional, occupational, or recreational license, and the license holder's right to renew the suspended license. In the case of a member of the Nebraska State Bar Association whose license has been certified to the Counsel for Discipline of the Nebraska State Bar Association, the Nebraska Supreme Court may suspend the license holder's license to practice law, and may further discipline the license holder pursuant to the Nebraska Supreme Court rules regulating the Nebraska State Bar Association.

9-010.08 Reinstatement of License: When a license holder comes into compliance with his/her support order, the Department or county or authorized attorney must provide the license holder with written confirmation of compliance. It is the license holder's responsibility to present the written confirmation of compliance and any required reinstatement fee to the licensing authority. The license holder must follow the procedures established by the relevant licensing authority for reinstatement of any license that has been suspended pursuant to the Nebraska License Suspension Act.

A license holder who is in violation of a support order may come into compliance by paying all current and past due support, or by paying all current support and making payments in accordance with a payment plan for past due support.

9-010.08A Confirmation to Licensing Authority: If requested by a licensing authority, the Department or County/Authorized Attorney may also provide confirmation directly to the relevant licensing authority that the license holder is in compliance with the support order.

9-011 LIENS: A child support judgment in Nebraska automatically creates a lien that may be filed against real property, or any personal property that is registered with a county office.

9-011.01 Enforcement: Liens arising under this section may be enforced by having the sheriff execute on the property.

9-011.02 Release and Subordination: The custodial party may only release or subordinate the lien as it relates to support owed to the custodial party. In cases where support has been assigned to the state or a state debt exists, a release or subordination of that portion of the lien must be signed by the Department.

9-011.02A Release or Subordination when Current: If support order payments are current, a partial or total release or subordination may be accomplished by filing: The person desiring the release or subordination must execute a notarized statement from the judgment creditor stating that payments are current, and then the child support lien can be released or subordinated without court approval. A properly executed notarized release or subordination document reciting that all support payments are current is sufficient evidence that the payments are in fact current.

9-011.02B Judgment Creditor Refuses to Execute a Release or Subordination: If the judgment creditor refuses to execute a release or subordination the judgment debtor may file an application or motion with the Court for the relief desired. The Court may order the relief sought if the Court finds the release or subordination is not requested for the purpose of avoiding payment and the release or subordination will not unduly reduce the security of the judgment creditor.

As a condition, the Court may require posting of a bond with the Clerk of the Court in an amount fixed by the Court, guaranteeing payment of the judgment. For purposes of this section, a current certified copy of support order payment history from the IV-D Unit setting forth that all support payments are current is sufficient evidence that the payments are in fact current and is valid for thirty (30) days after the date of certification.

9-011.02C Priority of Real Property Mortgages: A mortgage or deed of trust, or any refinancing, renewal, or extension thereof, used to purchase real estate, has priority over a lien for child support.

9-011.03 Duration of Lien: Child support liens are effective until ten years after the latest of the following dates:

1. The date the youngest child becomes of age;
2. The date the youngest child dies; or
3. The date of the most recent execution to enforce the lien.

A child support judgment that ceases to be a lien for any of these reasons cannot be reinstated.

9-011.03A Execution on a Child Support Lien: An execution on a child support lien means an action taken to enforce the underlying judgment. These actions include but are not limited to:

1. Issuance of Income Withholding Forms;
2. License Suspension Actions;
3. Reporting Arrearage Amount to Consumer Credit Reporting Agencies;
4. Issuance of Billing Statements; or
5. Federal or State Tax Offset Actions.

9-011.04 Attachment of Liens on Motor Vehicles: A child support lien against an automobile or mobile home attaches when the lien is noted on the title certificate.

9-012 INTERGOVERNMENTAL LIENS: See 466 NAC 10-005.

9-012.01 Full Faith and Credit: Nebraska courts must give full faith and credit to child support liens being enforced from other states when the party seeking enforcement complies with procedures for filing the lien. Liens arising in other states are entitled to the same priority as liens arising in the State of Nebraska.

9-012.02 Filing Requirements: To file an intergovernmental lien in Nebraska, the state agency or party seeking enforcement must send the following items to the clerk of the district court:

1. A certified copy of the support order and all modifications;
2. A notice of lien that complies with 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E); and
3. The appropriate filing fee.

Acceptance of these items by the clerk of the district court constitutes entry of the foreign support order, for purposes of enforcing the lien only. Additional filings that would be required to register a foreign judgment under UIFSA are not required for filing an intergovernmental lien.

To file an outgoing intergovernmental lien, the filing requirements of the receiving state must be complied with.

9-013 MILITARY ALLOTMENT: A military allotment is a mechanism for withholding support obligations from military wages, similar to income withholding. There are two types of allotments available for the payment of support:

1. Involuntary; and
2. Voluntary allotments.

9-013.01 Involuntary Allotments: An involuntary allotment may be executed against a military person's pay for support if there is an existing order for support and the service member has failed to make payments as directed in the order. An involuntary allotment may only be executed for the amount of the monthly support obligation. If payments toward any arrearage are sought, there must be an order that specifically requires payment of arrearages.

9-013.02 Voluntary Allotment: A voluntary allotment is strictly a voluntary procedure between the service member and the service itself. The service member instructs the disbursing officer to send a specific sum of money to care for the dependent. It may be revoked, reduced, or otherwise altered only at the discretion of the service member.

9-014 OFFSET PROGRAMS

9-014.01 Federal Tax Offset and Administrative Offset: The Federal Tax and Administrative Offset programs authorize the intercept of federal tax refunds and certain federal payments for the purpose of collecting past-due support.

The federal payments eligible for administrative offset include but are not limited to:

1. Federal retirement payments;
2. Vendor and miscellaneous payments for example expense reimbursement and travel payments).

It includes both recurring and non-recurring payments.

Payments that are excluded from the Administrative Offset Program include:

1. Benefit payments from the Department of Veteran Affairs;
2. Payments made by the Department of Education under Title IV of the Higher Education
3. Social Security payments;
4. Railroad retirement payments;

5. Payments made under Part B of the Black Lung Benefits Act;
6. Payments under means-tested programs that, upon request, are exempted by the head of the Federal Agency which administers the program;
7. Any type of payment, upon the written request of the head of the agency which authorizes the payments, if the offset would tend to interfere substantially with, or defeat the purposes of, the payment agency's program;
8. Payments made under the Internal Revenue Code of 1986 (except tax refund payments that are subject to administrative offset under separate authority); and
9. Payments made under the tariff laws of the United States.

9-014.02 Eligibility for Federal Tax Offset and Administrative Offset

9-014.02A Public Assistance Cases: To be eligible for Federal Tax Offset and Administrative Offset, support must have been assigned to the State, and must meet the following requirements:

1. The support obligation(s) has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$150;
- ~~3. The arrearage on one or more of these cases is at least three months old;~~
3. Submittal to the Federal Tax Offset program continues after the child(ren) reaches the age of majority;
4. The delinquency is for support and maintenance of a child(ren);
5. The Department has verified the accuracy of the delinquent support, and has a copy of the order(s) and any modifications; and
6. The Department has verified the non-custodial party's name and Social Security Number.

When a case(s) meets the above criteria, it will be submitted for intercept. This includes cases in which the obligor has entered into a payment plan.

9-014.02B Non-Public Assistance and Medicaid-Only Cases: To be eligible for Federal Tax Offset and Administrative Offset, non-public assistance and Medicaid-Only IV-D cases must meet the following requirements:

1. The support obligation(s) has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$500;
- ~~3. The arrearage on one or more of these cases is at least three months old;~~
3. Submittal to the Federal Tax Offset program continues after the child(ren) reaches the age of majority;

4. The Department has verified the accuracy of the delinquent support and has a copy of the order(s) and any modifications;
5. The Department has checked its records to determine if there are delinquent ADC or foster care support (state debt) amounts;
6. The Department has verified the non-custodial party's name and Social Security Number; and
7. The Department has the custodial party's current address.

When a case(s) meets the above criteria, it will be submitted for intercept. This includes cases in which the obligor has entered into a payment plan.

9-014.03 Notice of Offset: The Department must send a written notice at least annually to all non-custodial parties identified for the Federal Tax Offset and Administrative Offset programs. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by the Department;
3. The procedures and timeframes to request an administrative review;
4. In the case of a joint return, at the time of the offset, the Secretary of the U.S. Treasury will notify the non-obligated spouse of the non-custodial party of the steps to take to protect the share of the refund which may be payable to that spouse; and
5. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to collection by Federal Tax Offset and/or Administrative Offset now or in the future without notice.

9-014.04 Contesting Federal Tax Offset or Administrative Offset: The non-custodial party may request an administrative review to contest the submittal of his/her name for offset of tax refunds and/or federal payments in either the submitting state or the state with the order for support. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

If an amount that has already been offset through the federal tax offset program is found to have exceeded the amount of past-due support owed, the Department must refund the excess amount to the non-custodial party. The Department must provide the non-custodial party with an advance refund if the collection has been offset but has not yet been received from the Department of the Treasury. The non-custodial party must furnish a copy of the notice of offset from the Department of the Treasury to verify the amount of the offset to be eligible for an advance refund.

9-014.04A Conducting the Administrative Review: The Department must review the pertinent facts of the case to determine if the non-custodial party's referral for offset is warranted. The Department must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-014.04A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-014.04B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-014.04B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, t seq.

9-014.04B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-014.04B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-014.04C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-014.05 Submitting Intergovernmental Cases for Federal Offset: The state submitting a certification of past-due support for enforcement must inform any other state involved in enforcing the support order when it submits an intergovernmental case and when it receives a federal offset amount. If the debt submitted is based upon another state's support order, the submitting state must communicate with the other state for purposes of verification of arrears or, when necessary, to obtain a copy of the order or the payment record prior to submitting the certification.

In intergovernmental cases, (the state in which the public assistance assignment or non-assistance application for IV-D services has been filed for example, the initiating state), must submit the past-due support for federal tax refund and/or administrative offset. It is necessary to specify which state must submit the past-due support debt for offset to avoid multiple states submitting the same arrearage.

If a state submits a case for federal income tax refund or administrative offset on the basis of another state's child support order, the submitting state must comply with the other state's laws regarding offsets. The taxpayer may request an administrative review in either the submitting state or the state which issued the order. States conducting administrative reviews must not delete cases submitted by another state simply because they would not have been submitted, for policy reasons, by the state with the order.

9-014.05A Joint Returns/Non-Obligated Spouse Claim: To claim his/her portion of a withheld joint federal income tax refund, a non-obligated spouse must file an Injured Spouse Claim and Allocation form with the IRS within six years following the end of the tax year. IRS will calculate the portion of the joint tax refund attributable to the non-obligated spouse's earnings and return that portion to the non-obligated spouse. If the IRS makes an adjustment, and payment has been made to a custodial party, the Department will recover the adjusted amount from the custodial party. One recovery option available includes retaining future offset collections to which the custodial party would otherwise be entitled. See 466 NAC 11-006.

9-014.06 Distribution of Collections: Collections received by the Department as a result of federal tax refund offset must be distributed as past-due support in accordance with 466 NAC 11-002.04 Federal Income Tax Offset Distribution. If the collection is based on a joint tax return, the state may delay disbursement until notification that the unobligated spouse's proper share of the refund has been paid or for a maximum of six months.

Collections received as a result of administrative offset must be distributed in accordance with 466 NAC 11-000.

This program authorizes the intercept of Nebraska tax refunds for the purpose of collecting child support. State tax refunds may also be intercepted to satisfy spousal support when the obligor owes for the support of a spouse who is living with the child(ren) for whom the obligor also owes child support.

9-014.07 Referral to the Department of Revenue for Tax Refund Offset: The Department may submit any past-due support obligation of at least \$25 to the Department of Revenue for possible offset of a tax refund.

9-014.07A Notice to the Non-custodial Party of Referral: The Department must notify the non-custodial party of its intent to refer to the Department of Revenue his/her past-due support obligation for possible offset of a tax refund. The notice of intent to refer a past-due support obligation to the Department of Revenue for possible offset must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by the Department;
3. The procedures and timeframes to request an administrative review; and
4. The procedures implemented by the Department of Revenue in the case of a joint return;
5. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to collection by State Revenue Tax Offset now or in the future without notice.

9-014.08 Contesting State Tax Offset: The non-custodial party may request an administrative review to contest the referral to the Department of Revenue or to contest the intercept of the tax refund. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral or intercept. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

9-014.08A Conducting The Administrative Review: The Department must review the pertinent facts of the case to determine if the non-custodial party's referral to the Department of Revenue is warranted. The Department must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-014.08A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-014.08B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-014.08B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-014.08B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-014.08B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement, of the hearing results within 15 calendar days of the hearing.

9-014.08C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-014.09 Receipt to Non-custodial Party of Offset Support: Upon completion of the offset, the Department must send the non-custodial party a receipt of support offset by a tax refund. The receipt must include:

1. The final amount of refund the non-custodial party was entitled to before offset;
2. The past-due support obligation; and
3. The amount remaining after offset to be reimbursed to the non-custodial party, if any.

9-014.10 Joint Returns/Non-Obligated Spouse Claim: The non-obligated spouse of the non-custodial party who signed a joint tax return is entitled to receive 50% of the state income tax refund. However, if it can be proven by the non-obligated spouse that s/he paid more than 50% of the couples' tax, a request can be made to the Department for the allotted portion of the refund.

9-014.11 Distribution of Collections: Collections received by the Department as a result of state tax refund offset must be distributed in accordance with 466 NAC 11-000.

9-015 STATE LOTTERY PRIZE OFFSET: Nebraska State lottery prizes in excess of \$500 are subject to an offset to satisfy a delinquency of \$25 or more pursuant to a support order. Lottery prizes may also be offset to satisfy spousal support that have accrued pursuant to an obligation assessed against a non-custodial party for the support of a spouse who is living with the child(ren) for whom the non-custodial party also owes support. The Department may pursue the collection of a past-due support obligation after the child has reached the age of majority.

9-015.01 Referral to the Department of Revenue for a Lottery Prize Offset: The Department of Revenue must access the Department's child support records when redeeming a lottery ticket for a prize in excess of \$500 to determine if the winner has a past-due support obligation.

9-015.01A Notification from Department of Revenue: When a non-custodial party with a past-due support obligation has presented a winning lottery ticket for redemption, the Department of Revenue must give the non-custodial party a written notice informing the non-custodial party that their lottery prize is being withheld due to past-due support being owed.

The Department of Revenue must notify the Department when written notification has been given to a non-custodial party with a past-due support obligation of \$25 or more, wins a State lottery prize in excess of \$500.

9-015.02 Notification to Non-custodial Party of Offset: Within 20 calendar days of receiving notification from the Department of Revenue that a non-custodial party with a past-due support obligation has presented a winning lottery ticket for redemption, the Department will send a notice to the non-custodial party that the lottery prize will be offset to satisfy a past-due support obligation.

9-015.02A Content of Notice of Offset: The notice must include:

1. The basis for the claim to the lottery prize;
2. The intention to apply the lottery prize to offset a past-due support obligation(s);
3. The right to request an administrative review;
4. The mailing address of where to send the request for an administrative review; and
5. That the failure to request an administrative review in the allotted timeframe results in a denial to have an administrative review.

9-015.02B Request for Administrative Review: If the non-custodial party believes that the lottery prize winnings were intercepted in error, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 45 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. No order for support; or
3. The non-custodial party disagrees with the arrearage amount.

9-015.02C Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the lottery prize winnings will be intercepted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-015.02C1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-015.02D Request for an Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department within 30 calendar days of the date of the administrative review finding. If the request is not postmarked within 30 calendar days of the date of the administrative review finding, the Department will deny the administrative hearing request.

9-015.02D1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff, and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-015.02D2 Hearing Date: The Department will provide an opportunity for a hearing within 30 days after receipt of a proper written request.

9-015.02D3 Hearing Results: The Department will notify any person refusing to comply with an administrative subpoena and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-015.02E Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-016 PASSPORT DENIAL/REVOCAION: All child support cases that meet the established criteria are subject to passport denial/revocation, pursuant to certification by the Department to the Federal Secretary of Health and Human Services.

Submittal to the passport denial/revocation program continues after the child reaches the age of majority.

9-016.01 Eligibility for Passport Denial/Revocation

9-016.01A Public Assistance Cases: To be eligible for the passport denial/revocation program, support must have been assigned to the State, and must meet the following criteria:

1. The support obligation was established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is in excess of \$2,500;
3. The delinquency must be for support and maintenance of a child or of a child and the parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
4. The state IV-D agency must have verified the accuracy of the delinquent support and have a copy of the order, any modifications, the pay record or an affidavit signed by the court-ordered payee (custodial party) attesting to the accuracy and amount of delinquency;
5. The state must have verified the non-custodial party's name and Social Security Number;
6. The state IV-D agency must have the custodial party's current address; and
7. The delinquent support will remain subject to the passport denial/revocation program until the arrears are paid in full.

When a case(s) meets the above criteria, it will be submitted for passport denial/revocation. This includes cases in which the obligor has entered into a payment plan.

The state may not submit a case in which the non-custodial party or his/her spouse has filed bankruptcy under Title 11 of the United States Code, "unless the automatic stay of enforcement under section 362 of the Bankruptcy Codes has been lifted or is no longer in effect with respect to the individual owing the obligation and the obligation was not discharged by the bankruptcy proceeding". See 466 NAC 9-006.

9-016.01B Non-Public Assistance Cases: To be eligible for the passport denial/revocation program, non-public assistance and Medicaid-Only IV-D cases must meet the following criteria:

1. The support obligation was established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is in excess of \$2,500;
3. The delinquency must be for support and maintenance of a child or of a child and the parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
4. The state IV-D agency must have verified the accuracy of the delinquent support and have a copy of the order, any modifications, the pay record or an affidavit signed by the court-ordered payee (custodial party) attesting to the accuracy and amount of delinquency;
5. The state must have verified the non-custodial party's name and Social Security Number;
6. The state IV-D agency must have the custodial party's current address;
7. In non-ADC or Medicaid only cases, the state IV-D agency has checked its records to determine if there are delinquent ADC or foster care support (state debt) amounts; and
8. The delinquent support will remain subject to the passport denial/revocation program until the arrears are paid in full.

When a case(s) meets the above criteria, it will be submitted for passport denial/revocation. This includes cases in which the obligor has entered into a payment plan.

The state may not submit a case in which the non-custodial party or his/her spouse has filed bankruptcy under Title 11 of the United States Code, "unless the automatic stay of enforcement under section 362 of the Bankruptcy Codes has been lifted or is no longer in effect with respect to the individual owing the obligation and the obligation was not discharged by the bankruptcy proceeding". See 466 NAC 9-006.

9-016.02 Notification to Non-custodial Party of Passport Denial/Revocation: Written notice is sent at least annually to the non-custodial party identified for the passport denial/revocation program. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to contest the referral by requesting an administrative review in either the submitting state or the state with the order for support;
3. The procedures and timeframes to request an administrative review; and
4. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to submittal to the passport denial/revocation program now or in the future without notice.

9-016.02A Contesting Passport Denial/Revocation: The non-custodial party may request an administrative review to contest the referral to the Federal Secretary of Health and Human Services for passport denial/revocation. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral for passport denial/revocation. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support;
3. The non-existence of an order for support; or
4. The non-existence of a support obligation for the non-custodial party.

9-016.03 Notification to State with the Original Order: If the support order is from another state, the complaint cannot be resolved, and the non-custodial party requests an administrative review in the state with the original order, the Department notifies that state within ten days of the date of the request by the non-custodial party. The Department will provide that state with the proper documentation (including a copy of the order and any modifications, a copy of the payment record or the custodial party's affidavit, and the custodial party's address for non-ADC/Medicaid only cases).

The state receiving the intergovernmental request to conduct an administrative review must then contact the non-custodial party (and custodial party in non-ADC cases) and advise them of the date, time, and place of the review. The state must conduct the review and make a decision within 45 days of the receipt of the information and request from the submitting state. OCSE must also be notified if the administrative decision results in a deletion or modification of the delinquent support amounts.

9-016.03A Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the non-custodial party's referral for passport denial/revocation is warranted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-016.03A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-016.03B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-016.03B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-016.03B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-016.03B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-016.03C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-016.03D Notification to OCSE: If the decision resulting from the administrative review or appeal hearing lowers the delinquent support amount or zeroes the debt entirely, the Department will notify OCSE of the deletion or modification within ten days.

9-017 U.S. ATTORNEY REFERRAL: On October 25, 1992, the Child Support Recovery Act of 1992 was enacted. On June 24, 1998 Congress modified provision of the Child Support Recovery Act adding a felony provision for willful failure to pay court ordered support for a child residing in another state.

9-017.01 Offense: Failure to pay legal child support obligation by any person who:

1. Willfully fails to pay a support obligation with respect to a child who resides in another state, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5,000;
2. Travels in intergovernmental or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year, or is greater than \$5,000; or
3. Willfully fails to pay a support obligation with respect to a child who resides in another state, if such obligation has remained unpaid for a period longer than two years, or is greater than \$10,000 may be punished as a felony.

9-017.02 Presumption: The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the non-custodial party has the ability to pay the support obligation for that time period.

9-017.03 Referral Criteria: The County/Authorized Attorney will review potential cases for referral to the U.S. Attorney to ensure that they meet the referral criteria. After review of the potential cases, the County/Authorized Attorney must send the cases to the Department after determination has been made that the cases meet the following criteria:

1. The non-custodial party must have the ability to pay. The ability to pay does not require an ability to pay either total current or total arrearages;
2. The non-custodial party has willfully failed to pay his/her administrative or court ordered support obligation;

3. The non-custodial party must know of his/her past-due support obligation. The non-custodial party must have been properly served the order for support;
4. The past due support obligation must be greater than \$5,000 or must have remained unpaid for a period longer than one year;
5. The past due support obligation must be greater than \$10,000 or must have remained unpaid for a period longer than two years; may be punished as a felony; and
6. The child must live in Nebraska, and the non-custodial party must live in a state other than the State of Nebraska.

9-017.04 Penalties: The Guideline penalties for a misdemeanor under the statute are:

1. For the first offense, not more than six months imprisonment and/or a fine of \$5,000; and
2. For the second and subsequent offense, not more than two years imprisonment and/or a fine of \$250,000.

The Guideline penalty for a felony under the statute is not more than two years imprisonment and/or a fine of \$250,000.

9-017.05 Mandatory Restitution: Upon a conviction under this section, the court must order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

9-018 DEBT CHECK: Debt Check is an amendment to the Federal Debt Collection Improvement Act of 1996. Debt Check is used by authorized Federal agencies and lending institutions as part of the loan application review process for Federal loans (other than a disaster loan), loan guarantees and loan insurance.

Federal agencies are required to deny loans or loan guarantees to individuals or businesses who owe delinquent non-tax debt to the Federal government (number USC § 3720B and 31 CFR § 285.13). Executive Order 13019 of 1996 extends this denial to delinquent child support debtors whose debts have been referred to Federal Tax and Administrative Offset Programs.

Submittal to the Debt Check Program continues after the child reaches the age of majority.

9-018.01 Eligibility for Debt Check

9-018.01A Public Assistance Cases: To be eligible for Debt Check, support must have been assigned to the State, and must meet the following requirements:

1. The support obligation has been established under a court order or an order of an administrative process established under state law;
2. The delinquent amount of support is at least \$150;
3. The arrearage is at least three months old;

4. The delinquency is for support and maintenance of a child or of a child and parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
5. The delinquency is for support and maintenance of a child;
6. The Department has verified the accuracy of the delinquent support, and has a copy of the order and any modifications; and
7. The Department has verified the non-custodial party's name and Social Security Number.

When a case meets the above criteria, it will be submitted for Debt Check. This includes cases in which the obligor has entered into a payment plan.

9-018.01B Non-Public Assistance and Medicaid-Only Cases: To be eligible for Debt Check, non-public assistance and Medicaid-only IV-D cases must meet the following requirements:

1. The support obligation has been established under a court order or an order of an administrative process established under state law;
2. The delinquent amount of support is at least \$500;
3. The arrearage is at least three months old;
4. The delinquency is for support and maintenance of a child or of a child and parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the non-custodial party is not making payments as ordered;
5. The Department has verified the accuracy of the delinquent support and has a copy of the order and any modifications;
6. The Department has checked its records to determine if there are delinquent ADC or Foster Care support, (state debt) amounts;
7. The Department has verified the non-custodial party's name and Social Security Number; and
8. The Department has the custodial party's current address.

When a case meets the above criteria, it will be submitted for Debt Check. This includes cases in which the obligor has entered into a payment plan.

9-018.02 Notice: The Department must send written notice at least annually to all non-custodial parties identified for the Debt Check Program. The notice must include information regarding:

1. The right to contest the State's determination that past-due support is owed or the amount of past-due support;
2. The right to an administrative review by the Department;
3. The procedures and timeframes to request an administrative review;
4. Any further arrears accruing due to payments missed may be added to the non-custodial party's debt and will be subject to collection now or in the future without further notice.

9-018.03 Contesting Debt Check: The non-custodial party may request an administrative review to contest the submittal of his/her name for Debt Check. The request must be made in writing postmarked within 45 calendar days of the date of the notice of referral. The request must be made based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. An error in the amount of past-due support; or
3. The non-existence of an order for support.

9-018.03A Conducting the Administrative Review: The Department must review the pertinent facts of the case to determine if the non-custodial party's referral for Debt Check is warranted. The Department must notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-018.03A1 Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-018.03B Request for an Administrative Hearing: To request an administrative hearing, the non-custodial party must send a written request to the Department within 30 calendar days of the date of the administrative review finding.

9-018.03B1 Administrative Hearing: The administrative hearing must be conducted in accordance with 465 NAC 6-000 ff. and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

9-018.03B2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-018.03B3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-018.03C Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

9-019 Unclaimed Property Offset: The Uniform Disposition of Unclaimed Property Act Neb. Rev. Stat. §69-1301 et seq. provides the State Treasurer with the authority to make payments toward child support obligations when the obligor under a support order is the owner of unclaimed property and the obligor has past-due child support.

The Treasurer may file a claim under the Uniform Disposition of Unclaimed Property Act when the owner of the property has a case(s) that meets the following requirements:

1. The owner has a child support obligation(s) that has been established under a court order or an order of an administrative process established under state law;
2. The total amount of combined arrearages for all Nebraska IV-D cases is at least \$25;

3. The arrearage on one or more of the cases is at least 30 days old; or
4. The delinquency is for support and maintenance of a child: Delinquent support may only include child support.

9-019.01 Notification from Department: When a non-custodial party with a past-due support obligation of greater than 30 days is found to be the owner of unclaimed property, the Department will give the non-custodial party written notice informing the non-custodial party that their unclaimed property will be offset to satisfy a support obligation.

9-019.01A Content of Notice of Offset: The notice must include:

1. The basis for the claim to the unclaimed property;
2. The intention to apply the unclaimed property to offset a support obligation(s);
3. The right to request an administrative review;
4. The mailing address of where to send the request for an administrative review; and
5. That the failure to request an administrative review in the allotted timeframe results in a denial to have an administrative review.

9-019.01B Request for Administrative Review: If the non-custodial party believes that the unclaimed property was intercepted in error, the non-custodial party must request an administrative review. The request must be in writing and postmarked within 45 calendar days of the date of the advance notice, and be based on a mistake of fact. A mistake of fact is:

1. An error in the identity of the non-custodial party;
2. No order for support; or
3. The non-custodial party disagrees with the arrearage amount.

9-019.01B1 Conducting the Administrative Review: The Department will review the pertinent facts of the case to determine if the unclaimed property will be intercepted. The Department will notify the non-custodial party of its findings within 60 calendar days of the date of the request for an administrative review.

9-019.01B1a Finding of the Administrative Review: The administrative review finding must include the procedures for the non-custodial party to appeal the finding through an administrative hearing.

9-019.01C Request for Administrative Hearing: The non-custodial party may request an administrative hearing to appeal the administrative review finding. The non-custodial party must send a written request for an administrative hearing to the Department within 30 calendar days of the date of the administrative review finding. If the request is not postmarked within 30 calendar days of the date of the administrative review finding, the Department will deny the administrative hearing request.

9-019.01C1 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff., and the Administrative Procedure Act, Neb. Rev. Stat. §84-901, et seq.

9-019.01C2 Hearing Date: The administrative hearing must be held within 30 days of receiving a proper written request.

9-019.01C3 Hearing Results: The Department will notify the non-custodial party and Child Support Enforcement of the hearing results within 15 calendar days of the hearing.

9-019.01D Judicial Review: Any person aggrieved by a determination of the Department, upon exhaustion of all administrative remedies, may seek judicial review of a hearing finding in the court in which the support order was issued or registered.

CHAPTER 12-000 CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

This chapter outlines the role and responsibility of the Department and the County/Authorized Attorney as it pertains to confidentiality and safeguarding of information.

12-001 MAINTAINING CONFIDENTIALITY: Confidential information in a child support case must be used only for the administration of the IV-D program or for specific purposes as provided by state or federal law. All support records are confidential and care must be taken to ensure that information contained in the support file is safeguarded to protect the privacy rights of the parties. For the purposes of this section, a support record must include both paper and automated files.

12-001.01 Authorized Disclosure of Confidential Information: Use or disclosure of information concerning custodial parties, non-custodial parties, non-parental relatives, or children associated with Child Support Enforcement is limited to programs and purposes directly connected with:

1. The administration of the Child Support Enforcement IV-D Program;
2. The administration of IV-A, IV-B, IV-E, SNAP and Medicaid Programs including Tribal programs under IV-A, IV-B, IV-E, SNAP and Medicaid ;
3. Any investigation, prosecution, criminal or civil proceeding conducted in connection with the administration of the programs in 466 NAC 12-001.01, numbers 1 and 2;
4. The location of an individual in connection with known or suspected mental or physical injury, sexual abuse, or exploitation, or negligent treatment or maltreatment of a child(ren) who is the subject of child support activity when circumstances indicate that the child(ren)'s health or welfare is threatened;
5. The location of an individual in connection with a parental kidnapping, child custody or visitation case as specified in 466 NAC 5-005.08; or
6. State or federal law which allows or requires disclosure.

Disclosure to any committee or legislative body (federal, state, or local) of any confidential information ~~that identifies any party to the action by name or address~~ is prohibited unless an individual in a IV-D case authorizes disclosure concerning his or her IV-D case.

Only authorized persons or entities are permitted to request data from the State Parent Locator Service (SPLS) or Federal Parent Locator Service (FPLS) for specific authorized purposes. See 466 NAC 5-004 and 5-005.

12-001.02 Penalties for Unauthorized Disclosure and/or Viewing: Any disclosure or use of confidential information in violation of the Social Security Act and implementing regulations shall be subject to any State and Federal statutes that impose legal sanctions for such disclosure.

12-002 FAMILY VIOLENCE INDICATOR: The family violence indicator provides additional safeguards of information located in the State Case Registry and the Federal Case Registry for parties:

1. Who have a protective order, restraining order or standing criminal restraining order in effect; or
2. When the Department has reason to believe that the release of the information may result in physical or emotional harm to the party.

When a family violence indicator has been placed on a party in a case, no information may be released to an individual or entity concerning the whereabouts of that party.

12-002.01 Family Violence Indicator Override: A court with authorization to enter an order for support may request that the family violence indicator be overridden. Upon receipt of the information, the court must determine whether disclosure of the information would be harmful to the parent or child. If the court finds that harm is possible to the parent or child, the release of the data must be denied.

12-003 INTERNAL REVENUE SERVICE (IRS) INFORMATION: The Department or County/Authorized Attorney must only use tax return information disclosed by the IRS to the extent necessary to establish and/or collect a child support obligation. The provisions of this section must also apply to other information received in any manner from the IRS. IRS information must not be disclosed outside the IV-D program unless independently verified or otherwise authorized in federal statute.

12-003.01 Internal Revenue Service Safeguards: The Internal Revenue Service safeguards for protecting Federal tax returns and return information are set forth in the IRS Publication 1075 "Tax Information Security Guidelines for Federal, State and Local Agencies". A copy of this booklet is available for review at the Central Office of Child Support Enforcement or can be obtained from the IRS website at <http://www.irs.ustreas.gov>.

12-003.02 Penalties for Unauthorized Disclosure and/or Viewing: The criminal and civil penalties described below apply to both current and former Department and County/Authorized Attorney employees.

12-003.02A Criminal Penalties: Unauthorized disclosure of return information is a felony punishable upon conviction by a fine in an amount not exceeding \$5,000.00 or imprisonment for not more than five years, or both, together with the costs of prosecution.

Unauthorized viewing of return information is a felony punishable upon conviction by a fine in an amount not exceeding \$1,000.00 or imprisonment for not more than one year, or both, together with the costs of prosecution.

12-003.02B Civil Penalties: The Internal Revenue Code permits the taxpayer to bring suit for civil damages in a US District Court for unauthorized disclosure and/or viewing of federal tax return information. The Internal Revenue Code allows for punitive as well as actual damages. The defendant must be liable to the plaintiff for the cost of the action plus an amount equal to the greater of:

1. \$1,000.00 for each instance of unauthorized disclosure and/or viewing; or
2. The actual cost of the damages sustained by the plaintiff as a result of such unauthorized disclosure and/or viewing, plus punitive damages in the case of a willful disclosure and/or viewing which is the result of gross negligence.

12-004 DEPARTMENT OF REVENUE INFORMATION: The Department or County/Authorized Attorney must only use information disclosed by the Nebraska Department of Revenue to the extent necessary to establish and/or collect a child support obligation. The Department or County/Authorized Attorney must utilize the same safeguards for Department of Revenue information as is required for Internal Revenue Services information. See 466 NAC 12-003.01.

12-005 STATE FINANCIAL INSTITUTION DATA MATCH (FIDM) AND MULTI-STATE FINANCIAL INSTITUTION DATA MATCH (MSFIDM): The Department or County/Authorized Attorney must only use financial institution information disclosed through the FIDM and/or MSFIDM programs, to the extent necessary, to enforce a support obligation. Financial institution information must not be disclosed outside the IV-D program.

CHAPTER 13-000 MEDICAL SUPPORT

This chapter outlines the role and responsibility of the Department or County/Authorized Attorney as it pertains to medical support.

13-001 ASSIGNMENT OF MEDICAL SUPPORT RIGHTS: The application for and acceptance of Medicaid assistance by the custodial party transfers only medical support rights to the Department. The medical support assignment includes amounts paid by any third party for the cost of medical care of the dependent child(ren). If a family is receiving Medicaid and has assigned rights to cash medical support, but is no longer receiving TANF, current child support would be paid to the family and assigned cash medical support would be paid to the Medicaid agency.

When a family ceases receiving Medicaid assistance, the assignment of medical support rights terminates, except for the amount of any unpaid medical support obligation that has accrued under the assignment.

13-002 PROVISION OF MEDICAL SUPPORT SERVICES: The IV-D program must establish and enforce medical support as part of a child support order whenever health care coverage is available to the obligated party at reasonable cost. If health insurance is not available at the time the order is entered or modified, the County/Authorized Attorney must file a complaint to include cash medical support that is reasonable in cost until such time as private health insurance becomes available.

The County/Authorized Attorney is required to modify support orders to include private health insurance and/or cash medical support.

Medical support services include the securing of health insurance information and the establishment of health insurance and/or cash medical support and enforcement of the provisions of health care coverage and judgments for previously provided medical support services.

13-002.01 ADC Grant Payment Applicant/Recipients Eligibility: The provision of child support and medical support services is mandatory for recipients of Aid to Dependent Children (ADC) grant payments. Services include establishing paternity, establishing a child and/or medical support order, and enforcing child/spousal/medical support.

13-002.02 Medicaid-Only Applicant/Recipients Eligibility: The provision of medical support services, including establishing paternity and securing medical support, is mandatory for Medicaid only applicant/recipients. All appropriate support services are provided for Medicaid only applicant/recipients unless the applicant/recipient notifies the Department or the County/Authorized Attorney that only services related to establishing paternity and securing medical support are wanted.

13-002.02A Cooperation: Medicaid-only applicant/recipients are required to cooperate with the Department or the County/Authorized Attorney for the provisions of medical support services. See 466 NAC 3-000.

13-003 NON-PUBLIC ASSISTANCE APPLICANT/RECIPIENTS ELIGIBILITY: Medical support services are mandatory for non-public assistance applicant/recipients including former ADC, former foster care, and former Medicaid recipients. See 466 NAC 1-005.

All ADC, Medicaid, and Child Care Subsidy recipients are required to cooperate in good faith with the Department or the County/Authorized Attorney unless a good cause exemption has been allowed in accordance with 466 NAC 3-003.

13-004 ESTABLISHING MEDICAL SUPPORT: The County/Authorized Attorney must petition the court or administrative authority to include, in all IV-D cases, health care coverage that is available to either party at reasonable cost in a new or modified court or administrative orders for support. Medicaid is a means tested benefit and is not considered health care coverage.

In paternity establishment cases, the County/Authorized Attorney must file a complaint to include medical expenses, as outlined in the Nebraska Supreme Court Child Support Guidelines, in any action to establish an order for support.

13-004.01 Providing Health Care Coverage Information to the Third Party Liability Unit: For public assistance applicant/recipients where health insurance is carried by the non-custodial party for the child(ren) in the order, the Department or the County/Authorized Attorney must provide health insurance information to the Third Party Liability Unit, when specific health insurance policy information is available. The following information must be provided:

1. Public assistance case number or the custodial party's Social Security Number;
2. Name of non-custodial party;
3. Social Security Number of the non-custodial party;
4. Name, date of birth, and Social Security Number of child(ren);
5. Home address of non-custodial party;
6. Name and address of non-custodial party's place of employment; and
7. The insurance carrier's name(s), policy number(s), and name(s) of person(s) covered.

13-004.02 Notifying the Applicant/Recipient of Health Insurance Policy Information: When the County/Authorized Attorney establishes an order for medical support, s/he must notify the applicant/recipients of specific health insurance policy information that has been obtained for the child(ren) in the order. Information provided to the applicant/recipient pertaining to the health insurance policy secured for the child(ren) must include the insurance carrier's name and policy number.

13-005 INTERGOVERNMENTAL REFERRALS: For applicant/recipients determined to be eligible under 466 NAC 13-002, the County/Authorized Attorney must include a request for medical support when initiating an intergovernmental request for services.

For applicant/recipients determined to be eligible under 466 NAC 13-002, the County/Authorized Attorney must include a request for medical support when initiating an intergovernmental request for services.

13-006 ENFORCING MEDICAL SUPPORT: Within 30 calendar days of identifying non-compliance, the County/Authorized Attorney or Department must enforce the medical support provisions of an order for support. See 466 NAC 9-000.

13-006.01 Health Care Coverage Inquiry: The employer or insurer must, upon request of the Department or the County/Authorized Attorney, provide the following information regarding the obligor ordered to provide health care coverage for a child(ren):

1. The obligor's Social Security Number;
2. The obligor's address;
3. Whether the obligor has health care coverage available to him/herself and dependent child(ren);
4. Whether the obligor carries health care coverage for him/herself and dependent child(ren);
5. The policy name and number;
6. The names of the obligor's family members covered under the policy; and
7. The cost of the health care coverage to the obligor.

13-006.02 Enrollment in Health Insurance Coverage: In cases in which a party is receiving services under Title IV-D of the Federal Social Security Act, the Department or the County/Authorized Attorney must enroll a child(ren) in health insurance coverage if the obligated party is ordered to provide health care coverage and s/he:

1. Is covered under such health care coverage;
2. Fails to enroll the child(ren) included in the order; and
3. Is eligible for family health care coverage.

13-006.03 National Medical Support Notice (NMSN): The Department or the County/Authorized Attorney must use a NMSN to enforce the provision of health care coverage for child(ren) of parents who are required to provide health care coverage through an employment-related group health plan pursuant to a court order and for whom the employer is known to the Department or the County/Authorized Attorney unless a lawful exception exists.

13-006.03A National Medical Support Notice and Directory of New Hires: Within two business days after the receipt of information regarding employment of an obligor in a IV-D case from the Directory of New Hires, the Department or County/Authorized Attorney must send a NMSN to the obligor's employer. In a IV-D case, when employment information is obtained by the Department or the County/Authorized Attorney from sources other than the Directory of New Hires, a NMSN will be sent to the obligor's employer but the Notice does not need to be sent within two business days of receipt of the employment information.

13-006.03B Exceptions to the Use of the National Medical Support Notice: The Department or the County/Authorized Attorney is not required to send the NMSN when:

1. A court or administrative order stipulates alternative health care coverage to employer-based coverage;
2. Health care coverage is not available at reasonable cost;
3. Health care coverage is not accessible; or
4. Health care coverage is not available to the obligor at the time the employment information is received.

13-006.03C Employment-Related Health Care Coverage: The Department or the County/Authorized Attorney will send a NMSN if the Department or the County/Authorized Attorney receive information that employment-related health care coverage becomes available to an obligated party through an existing employer unless a lawful exemption exists.

13-006.03D Failure to Transmit: The failure to transmit a NMSN to an employer or organization within any prescribed period will not cause the NMSN to be invalid.

13-006.03E Request for Administrative Hearing: The obligor may request an administrative hearing to appeal the enrollment of the child(ren) in health insurance coverage. The appeal must be based on evidence that:

1. The obligor enrolled the child(ren) in an insurance plan providing coverage required by the order; or
2. The child(ren)'s portion of the premium amount plus any amounts withheld under the Income Withholding Act exceeds the amount allowed to be withheld under the Consumer Credit Protection Act or is otherwise unreasonable.
3. The obligor is not the person named in the court order.
4. The parties have stipulated to, and the court or administrative order specifically provides for an alternative to employer-based health care coverage.

In order to request a hearing, the obligor must send a request for a hearing to the Department. The request must be postmarked within 15 calendar days of the date of the notice of NMSN. If the request is not postmarked within 15 calendar days of the date of the notice, or the appeal request is not based on a reason previously listed, the Department will deny the appeal request.

13-006.03E1 Enrollment Not Suspended: Enrollment by the Department or the County/Authorized Attorney of the child(ren) in health care coverage must take place pending the outcome of the hearing process.

13-006.03E2 Administrative Hearing: Any administrative hearing must be conducted in accordance with 465 NAC 6-000 ff, and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901, et seq.

13-006.03E3 Hearing Date: The hearing must take place within 15 calendar days of the date of receipt of the hearing request.

13-006.03E4 Hearing Results: The Department must notify the obligor and County/Authorized Attorney of the hearing results within 15 calendar days of the hearing.

13-006.03E5 Judicial Review: Any person aggrieved by a decision of the Department, upon exhaustion of the procedures for administrative appeals may seek a judicial review of the hearing findings by filing a petition with the court in which the support order was issued or registered.

13-006.04 Enrollment: Within 20 business days of receipt of a NMSN, the employer must forward the NMSN to the plan administrator for the appropriate group health care plan for which the child(ren) is/are eligible. The plan administrator must enroll the child(ren) specified in the notice within 20 business days of receipt of the NMSN. If the plan administrator determines that additional information is required before enrollment can be completed, the plan administrator must contact the Department or the County/Authorized Attorney within 20 business days of receipt of the NMSN.

13-006.05 Withholding Health Insurance Premiums: Upon enrollment by an employer of a child(ren) in health insurance coverage, the employer must deduct the premium from the obligor's income and remit it directly to the insurer.

The total amount of support to be withheld from the obligor's net disposable income, including child support, medical support, spousal support, the administrative fee for withholding plus the child(ren)'s portion of the health insurance premium must not exceed the maximum amount permitted to be withheld under the Consumer Credit Protection Act.

13-006.05A Priority of Withheld Amounts: Any support ordered to be withheld through the Notice to Withhold Income must have priority over health insurance premiums ordered through the NMSN.

13-006.06 Enrollment of a Dependent Child(ren): The insurer must not deny enrollment of a child(ren) in health insurance coverage on the grounds that the child(ren):

1. Was born out of wedlock;
2. Is not claimed as a dependent on the obligor's federal income tax return;
3. Does not reside with the obligor or in the insurer's service area; or
4. Is eligible for medical assistance.

13-006.07 Enrollment Season Restriction: The employer or insurer must, in any case in which a obligor is required by an order to provide health care coverage for a child(ren), permit the obligor to enroll the child(ren) without regard to any enrollment season restriction.

13-006.08 Cancellation of Health Insurance Coverage: As long as the obligor is employed the employer or insurer may not cancel or eliminate health insurance coverage for any child(ren) unless the employer or insurer receives written evidence that the order is no longer in effect or the child(ren) is or will be enrolled in comparable health insurance coverage through another insurer. The employer may not eliminate health insurance coverage for a child(ren) unless the employer eliminates family health insurance coverage for all of its employees.

13-006.09 Lapses in Coverage: For recipients of medical assistance, benefits, the Third Party Liability Unit must notify the Department or County/Authorized Attorney when health insurance coverage is lapsed or terminated.

The Department or County/Authorized Attorney must request employers and insurers to notify them of lapses in ordered health insurance coverage.

13-006.10 Information Provided: When a child(ren) has health care coverage provided by an obligor, the insurer must provide information to utilize health insurance coverage and to submit claims for services covered under the policy to the obligee. The obligee may permit a service provider to file claims with the insurer.

The insurer must make payment on claims submitted by the obligee, provider or Department directly to the submitting person or agency.

13-007 CONFIDENTIALITY: The Department or County/Authorized Attorney may provide Social Security Numbers of child(ren) to insurance companies or the obligor for enrollment purposes if there is a court order requiring health care coverage. If there is no court order, but the non-custodial party is willing to provide health care coverage, the Department or County/Authorized Attorney may provide Social Security Numbers of child(ren) directly to insurance companies.