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07/04/2020

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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TITLE 466 CHILD SUPPORT ENFORCEMENT PROGRAM

CHAPTER 11 COLLECTION AND DISTRIBUTION

001. SCOPE AND AUTHORITY. Part D of Title IV of the Social Security Act and other federal laws and regulations set forth requirements for child support enforcement. This chapter relates to the collection and disbursement of support payments.

002. DISTRIBUTION. Distribution of support payments will be made according to applicable state law in a manner consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and Part D of Title IV of the Social Security Act. Support payments, except for amounts collected through Federal Income Tax Refund Offset, are distributed as follows:

- (A) First, the amount collected is distributed to satisfy the current monthly support obligations in the following order: Child support, spousal support, and lastly medical support;
- (B) Second, the amount collected is applied toward any arrearages owed, in the following order: Child support arrearage, spousal support arrearage, and lastly medical support payment arrearage; and
- (C) Third, the amount collected is applied toward the interest accrued on a child support arrearage, spousal support arrearage, or medical support arrearage in that order of priority.

002.01 ALLOCATION. If an obligor has more than one order, collections are allocated proportionately across all orders unless a lawful exception exists including, but not limited to: Administrative Attachment under state statute; federal and state tax refund intercept; the Passport Revocation Program; and U.S. Attorney enforcement.

003. ASSIGNMENT OF SUPPORT. Under current state statute, the right to support payments that become due while the person is receiving applicable public payments, aid, or assistance is assigned to the State of Nebraska. In certain circumstances, support payments that became due while a person was not receiving public assistance are also assigned. The State of Nebraska has elected not to waive its rights to such assigned arrears and accrued interest. The amount of arrears assigned to the State of Nebraska does not exceed the cumulative amount of unreimbursed assistance paid to the family.

003.01 PERMANENTLY ASSIGNED ARREARAGES. Support payments and interest accrued thereon are permanently assigned to the State of Nebraska when:

- (A) Such support payments are or were assigned under an assignment of support rights in effect on or before September 30, 1997; or

- (B) Such support payments accrued under an assignment entered into on or after October 1, 1997, while a family is or was receiving assistance.

003.02 TEMPORARILY AND CONDITIONALLY ASSIGNED ARREARAGES. Arrears which accrued prior to the family receiving assistance (pre-assistance) and which were assigned to the State of Nebraska after September 30, 1997 and before October 1, 2009 are temporarily assigned to the State of Nebraska. These arrears are not permanently assigned and the temporary assignment converts to a conditional assignment when the family leaves assistance. There is no temporary assignment of pre-assistance arrears for assignments that became effective on or after October 1, 2009. Conditionally assigned arrears which do not exceed the cumulative amount of unreimbursed assistance paid to the family as of the date the family leaves the assistance rolls are owed to the family unless they are collected through Federal Income Tax Refund Offset. 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 appropriate court-ordered payee.

003.03 DISTRIBUTION OF SUPPORT COLLECTED IN FOSTER CARE CASES. Nebraska law operates as an assignment of support for certain persons receiving aid from child welfare funds. Amounts collected as support of behalf of children for whom the state is making foster care maintenance payments will be distributed as follows:

- (A) Any amount that is collected in a month which represents payment on the required support obligation for that month shall be retained by the state to reimburse itself for foster care maintenance payments.
- (B) If the amount collected is in excess of the monthly amount of the foster care maintenance payment but not more than the monthly support obligation, the excess will be paid to the state agency responsible for supervising the child's placement and care. The state agency will use the money in the manner it determines will serve the best interests of the child including:
- (i) Setting aside amounts for the child's future needs; or
 - (ii) Making all or part of the amount available to the person responsible for meeting the child's daily needs to be used for the child's benefit.
- (C) If the amount collected exceeds the amount required to be distributed under paragraphs (B)(i) and (B)(ii) of this section, but not the total unreimbursed foster care maintenance payments provided under Title IV-E of the Social Security Act or unreimbursed assistance payments provided under Title IV-A of the Social Security Act, the state shall retain the excess to reimburse itself for these payments. If past assistance or foster care maintenance payments are greater than the total support obligation owed, the maximum amount retained as reimbursement for such payments is the amount of such obligation. If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the IV-A plan or foster care maintenance payments under the IV-E plan, such amounts may be retained to reimburse the difference between such support obligation and such payments.

- (D) Any balance shall be paid to the state agency responsible for supervising the child's placement and care and shall be used to serve the best interests of the child as specified in 003.0(B) of this section.

003.04 CURRENT SUPPORT. A support payment is considered current support only if the support was paid during the period it was due and only up to the amount specified in the order.

004. FEDERAL INCOME TAX OFFSET DISTRIBUTION. Any amounts collected through federal income tax offset represent an arrears collection and are applied to state debt first. Any amount above the state debt owed is distributed to the court-ordered payee for arrearages owed. Collections in excess of arrearages owed are returned to the obligor whose federal income tax refund was offset.

005. USE OF UNDISBURSED SUPPORT PAYMENTS CONSIDERED ABANDONED PROPERTY. Support payments received on or after December 23, 2001, that are unable to be disbursed or returned within three (3) years are considered abandoned property and are treated as program income for the Child Support Enforcement program.

006. CLAIMS AGAINST ABANDONED PAYMENTS. Abandoned support payments will be disbursed to a subsequently located payee or other designated recipient if the Department has verified the identity of the person and determined that the person has a legitimate claim to the payment.

007. INTERGOVERNMENTAL CASES. Nebraska processes both intergovernmental cases and in-state cases using the distribution formula specified by federal and state law. If Nebraska is the responding state, it collects and monitors support payments and forwards payments to the initiating state. If Nebraska is the initiating state, it distributes support payments within two (2) business days. If a responding state deducts any fees from a payment before forwarding the payment to Nebraska, the obligor will receive credit for the full payment amount.

008. STATE DISBURSEMENT UNIT AUTOMATED PROCEDURES AND ELECTRONIC PROCESSES. The State Disbursement Unit has automated procedures and electronic processes for the collection and disbursement of support payments. An individual may make a written request to the Department for an exception to the use of an automated procedure or electronic process. The request will be considered on an individual basis weighing factors such as disability, legal incapacity, and distance or other barrier to accessing a financial institution or automated teller. Exceptions are at the sole discretion of the Department and may be subject to periodic review. The decision of the Department is not appealable.

009. OBLIGEE ACCOUNT ACTIVITY SUMMARY. Obligees will receive a quarterly account activity summary statement from the Department. The statement will contain specific demographic, case, and payment information consistent with 45 CFR 302.54 and other applicable laws.

010. RECOVERY OF OVERPAYMENTS. The Department makes reasonable efforts to recoup support overpayments. Overpayments occur in a number of ways including, but are not limited to: a misdirected payment to the wrong payee; payment to a payee whose right to receive support

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or arrears has been assigned to the state; payments from intercepted tax refunds in error or owed back to the Internal Revenue Service (IRS) or the Nebraska Department of Revenue because of an amended tax return; or an erroneous payment based on an insufficient funds check; or a reversal of an electronic payment.

011. REQUEST FOR ADMINISTRATIVE REVIEW. A person who has received an overpayment may request an administrative hearing to appeal any administrative enforcement action taken to recover support overpayments. In order to suspend collection efforts, the overpaid party must send a written request for an administrative hearing to the Department within 10 calendar days of the date of notification of the overpayment. The overpaid party may request a hearing within 90 calendar days of the notification of overpayment, but collection efforts will continue. Hearings will be scheduled within 30 calendar days after receipt of a proper written request. Results of an administrative hearing will be sent within 15 calendar days of the hearing.