

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



December 20, 2007

CSS LETTER: 07-18

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: ENFORCEMENT ACTION GUIDELINES FOR BANKRUPTCY

The purpose of this letter is to provide local child support agencies (LCSAs) with general policy guidelines for handling the enforcement of Title IV-D cases when the obligor has filed for bankruptcy protection. The LCSAs should consult with the LCSA attorney when an obligor files a bankruptcy petition. The decision to proceed with a particular enforcement action may differ from the guideline based on the individual case.

The date the bankruptcy petition is filed will determine the appropriateness of taking enforcement actions against the obligor. The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8) made changes to Title 11 of the United States Code which became effective on October 17, 2005. As provided in the CSS Letter 05-29, the BAPCPA applies to all bankruptcy petitions filed on or after October 17, 2005. Bankruptcy petitions filed before October 17, 2005 follow the laws and procedures which existed before the amendment and LCSAs should refer to the policies and procedures that are accepted by the local bankruptcy courts and by the bankruptcy trustees.

The filing of a bankruptcy petition by a support obligor establishes an automatic stay and LCSAs are prohibited from taking certain enforcement actions against the support obligor and property of the bankruptcy estate while the obligor's bankruptcy proceeding is pending. Title 11 defines "property of the estate" as all legal or equitable interests of the obligor in property at the beginning of a case. However, actions to establish paternity or child support are not subject to the automatic stay and, therefore, LCSAs are not required to move for relief from the automatic stay before filing an action for paternity or support.

The BAPCPA states that property that is not in the bankruptcy estate is exempt from the automatic stay. In addition, certain enforcement actions are exempt from the automatic stay, even against property of the bankruptcy estate.

Reason for this Transmittal

- State Law or Regulation Change
 Federal Law or Regulation Change
 Court Order or Settlement Change
 Clarification requested by One or More Counties
 Initiated by DCSS

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Procedures regarding removal of automated suppressions on the California Child Support Automation System (CCSAS) have been published in the Bankruptcy Quick Reference Guide (QRG) and will be provided to the LCSAs prior to transition to CCSAS.

Attached is the Enforcement Action Guidelines for Bankruptcy table that provides general guidelines regarding enforcement of support obligations for bankruptcy petitions filed on or after October 17, 2005. The Enforcement Action Guidelines for Bankruptcy may not be applicable given the facts of a particular case and should be reviewed in consultation with an LCSA attorney.

If you have any questions or concerns regarding this matter, please contact Michelle Tedrow at (916) 464-5883.

Sincerely,

/s/ by Debra Sanchez for Wilfrid Otterbeck

WILFRID OTTERBECK
Acting Deputy Director

Attachment

Superseded by CSSM 202

ENFORCEMENT ACTION GUIDELINES FOR BANKRUPTCIES FILED ON OR AFTER OCTOBER 17, 2005

NOTE: LCSAs should always consult with their local attorney prior to processing a bankruptcy case.

GUIDELINES ONLY – Is the enforcement action permissible? Yes/No

Enforcement Activity	Chapter 7	Chapters 9, 11, 12, & 13
Alaska Permanent Fund Dividend Data Match	No	No
Billing Statements	No	No
California Insurance Intercept Program (CIIP) Data Match <i>(May issue ONTW but do not issue Demand to Insurance Company)</i>	Yes	Yes
Child Support Warning Notice	No	No
Civil Contempt <i>(Consult with an attorney)</i>	No	No
Civil Suit Notice of Lien <i>(Consult with an attorney)</i>	No	No
Credit Reporting	Yes	Yes
Criminal Contempt	Yes	Yes
DCSS Full Collection	No	No
Earnings Withholding Order (EWO)	Yes	Yes
IRS Tax Intercept/Administrative Offset	Yes	Yes
Job Seek Order	No	No
License Suspension/Revocation	Yes	Yes
National Medical Support Notice	Yes	Yes
Notice of Motion to Add/Increase Arrears Liquidation	Yes	No
Order of Examination	No	No
Passport Denial	Yes	Yes
Qualified Domestic Relations Order <i>(Retirement Plans that are not estate property)</i>	Yes	Yes
Recording of Real Property Liens <i>(Consult with other states legal requirements regarding interstate liens)</i>	Yes	Yes
Security Deposit of Money/Assets	Yes	No
State Tax and Lottery Intercept	Yes	Yes
Unemployment and Disability Insurance Benefit Intercept	Yes	Yes
Wage Assignment (IWO)	Yes	Yes
Workers Compensation Lien <i>(Claim benefits that are not estate property)</i>	Yes	Yes
Writ of Execution <i>(Consult with an attorney)</i>	No	No

Note: For transitioned counties refer to the Bankruptcy Quick Reference Guide for procedures on suppressions.