

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



February 23, 2010

CSS LETTER: 10-02

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

SUBJECT: SPOUSAL SUPPORT

<u>Reason for this Transmittal</u>	
<input type="checkbox"/>	State Law or Regulation Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order or Settlement Change
<input type="checkbox"/>	Clarification requested by One or More Counties
<input checked="" type="checkbox"/>	Initiated by DCSS

The purpose of this letter is to advise local child support agencies (LCSAs) of a change in policy direction on the enforcement of spousal support orders. This letter supersedes and repeals CSS Letter 06-33. Effective immediately, the following spousal support policy is in effect.

Federal regulations require states to enforce spousal support for a spouse or former spouse who is living with the child(ren) for whom the support obligor also owes child support but only if a child support obligation has been established and is being enforced under the Title IV-D State Plan [45 Code of Federal Regulations 302.31(a)(2)].

Previous Policy Direction

Upon issuance of CSS Letter 06-33, the Department of Child Support Services (DCSS) directed that the enforcement of spousal support must continue so long as the child continued living with the parent who is owed spousal support and child support. As 45 CFR Section 302.31(a)(2) did not define the term "child", it was determined that spousal support must continue to be enforced regardless of the age of the child or whether current child support was being enforced.

New Policy Direction

After further review by the DCSS, a determination has been made to modify previous direction in regards to the enforcement of spousal support orders. Specifically, for purposes of 45 CFR section 302.31 (a) (2), the term "child" refers to "minor child." Pursuant to Family Code Section 3901 a "minor child" is an unmarried child under the age of 18 or a child that has not reached the age of 19, if enrolled as a full-time high school student.

Current spousal support orders must be enforced so long as the current child support obligation is being enforced and the child lives with the parent who is owed support. Spousal support arrears that accrue due to non-payment of support will continue to be enforced if child support arrears exist regardless of where the child lives. However, per

Welfare and Institutions Code section 11477(a) (2), assigned spousal support arrearages must be enforced until paid in full or the Unreimbursed Assistance Pool is satisfied, whichever occurs first.

Guidelines for Enforcing Spousal Support

The following guideline table supersedes and repeals the table in CSS letter 09-33. This table provides examples of scenarios to help in determining when spousal support shall/shall not be enforced consistent with the modified policy direction explained within this CSS letter. The following table is not intended to be inclusive of all scenarios.

Scenarios (The following scenarios may include currently open cases or new applications for services)	Enforce Spousal Support	Do Not Enforce Spousal Support	Close Case
Current child support and current spousal support. Obligee is living with the minor child.	✓		
Current child support and spousal support arrears (no current spousal support). Obligee is living with the minor child.	✓		
Child support arrears (no current child support) and current spousal support (no spousal support arrears).		✓	
Child support arrears (no current child support) and spousal support arrears (no current spousal support).	✓		
LCSA is enforcing order for both child and spousal support. Child support obligation becomes satisfied (no child support arrears), leaving unassigned spousal-only. (If spousal support arrears are assigned the case must remain open until paid in full or the UAP is satisfied, whichever occurs first.)		✓	✓
LCSA receives request from another state to enforce a spousal-only order.		✓	
LCSA receives request from a foreign reciprocating country to enforce a spousal-only order.		✓	

Managing Cases with Spousal Support Orders

Once the LCSA makes a determination that the enforcement of spousal support should not continue, based on new policy direction contained in this letter, the LCSA shall provide the custodial parent with a copy of this CSS Letter to advise them of the change in policy for enforcement of their spousal support case and case closure letter if appropriate.

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

Sincerely,

BILL OTTERBECK
Deputy Director

Superseded by CSS 13-06