

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



January 27, 2010

CSSIN LETTER: 10-01

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

<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

SUBJECT: PRIVATE CHILD SUPPORT COLLECTION AGENCIES – UPDATED INFORMATION

REFERENCES: CHILD SUPPORT SERVICES LETTER 04-12; DEAR COLLEAGUE LETTER 02-35; DEAR COLLEAGUE LETTER 09-22; POLICY INTERPRETATION QUESTION 02-02

The purpose of this letter is to advise you that the federal Office of Child Support Enforcement (OCSE) recently released Dear Colleague Letter (DCL) 09-22 with updated information regarding private child support collection agencies. The instructions issued with DCL 09-22 clarify information previously provided under DCL 02-35 regarding redirection of child support payments to private child support collectors.

Per DCL 09-22, “[c]urrent Federal law and policy does not preclude States from limiting or disallowing redirection of custodial parent payments. Such practices are governed by State law.” Previous OCSE communications also state that federal law does not prohibit States from sending child support payments to any entity authorized by the custodial parent to receive the payment (see Policy Interpretation Question (PIQ) 02-02).

California law governing private child support collectors is found under Family Code sections 5610 – 5616. These sections regulate the conduct of private child support collectors, including but not limited to, the following:

Requires:

- specific provisions and disclosures in any contract for private child support collection services; such as information that the private child support collector is not a governmental agency;
- the private child support collector to notify the local child support agency (LCSA) prior to initiating collection activities;

- the private child support collector to establish a direct deposit account with the California State Disbursement Unit (SDU) and to disburse payments within 2 days of receipt;
- that the private child support collector notify the Department of Child Support Services (DCSS) as to the portion of each collection retained as its fee;
- the private child support collector to maintain records of all child support collections for the duration of the contract plus four years and four months from the date of the last child support collection; and
- that every court order for child support issued on or after January 01, 2010 contain a separate money judgment against the support obligor to pay a fee that is not more than 33 1/3 percent of the total amount in arrears and is not more than 50 percent of the fee charged by the private child support collector.

Prohibits...

- the private child support collector from charging fees on the collection of current support if the custodial parent received current support payments during the six months prior to execution of the contract for services;
- the private child support collector from retaining fees from collections that are primarily due to the actions of a governmental entity;
- the private child support collector from collecting or attempting to collect support in violation of consumer debt collection provisions under the Rosenthal Fair Debt Collection Practices Act (California Civil Code sections 1788.10 – 1788.16); and
- the private child support collector from making false representations as to the amount of support owed.

Consistent with the above, DCSS policy direction is reiterated as follows: “[W]hen a written request for a change of address is received from the [custodial party], the request must be honored” (Child Support Services Letter 04-12). Note that the address change request must be received directly from the custodial party. The LCSA **cannot** honor an address change request from a private child support collector as they are not a party to the child support action under Family Code section 17404.

An informational flyer regarding private child support collectors is attached and may be provided to custodial parents. In addition, this flyer will be posted to the DCSS public web-site at <http://www.childsup.ca.gov/>.

Private Child Support Collector Misrepresentations

DCL 09-22 also advises that some private child support collectors have issued income withholding forms to employers which appear to be on behalf of a governmental agency instructing that support payments be sent to the private child support collector instead of the State Disbursement Unit. Any collection action by a private child support collector that gives the appearance of being issued by a governmental agency is unlawful under Civil Code section 1788.16, punishable as a misdemeanor with up to six months incarceration in county jail and/or a fine of up to \$2500.00.

January 01, 2010 Support Order Changes

Per Family Code section 5616, every order for child support issued on or after January 01, 2010 must contain a separate money judgment owed by the support obligor which is payable to the private child support collector and the party receiving support jointly. The money judgment shall require the support obligor to pay a fee that is not more than 33 1/3 percent of the total amount in arrears and is not more than 50 percent of the fee charged by the private child support collector.

The Judicial Council has revised and published order forms to include this new provision. The forms listed below are impacted:

- FL-342 Child Support Information and Order Attachment
- FL-530 Judgment Regarding Parental Obligations (UIFSA)
- FL-615 Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental)
- FL-625 Stipulation and Order (Governmental)
- FL-630 Judgment Regarding Parental Obligations (Governmental)
- FL-665 Findings and Recommendation of Commissioner (Governmental)
- FL-687 Order After Hearing (Governmental)
- FL-688 Short Form Order After Hearing (Governmental)
- FL-692 Minutes and Order or Judgment

However, due to the Child Support Enforcement (CSE) system form update cycle, the revised forms will not be available in CSE until the implementation of CR-5-01654 in the v3.5.0 release currently scheduled for May 9, 2010. During this interim period, LCSA staff can access the revised text approved by the Judicial Council on the Child Support Central website at <https://central.dcss.ca.gov/CCSASHelp>. The form is located under "Common Services" header, Document Forms Management tab, and PDF Fillable Forms type. The text language has been inserted on the MC-20- Additional Page form and should be printed and attached to the appropriate order form until the revised forms

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are available in CSE. However, this alternative process is not feasible for those LCSAs that electronically file the FL-630 with their courts or may not be practical with offices that generate the FL-630 in high volume. CSE will continue to populate the previous version of the FL-630 and electronically file with the court until CR-5-01654 is implemented.

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

Sincerely,

/os/

BILL OTTERBECK
Deputy Director

Attachment

Superseded by CSSIN 14-09