

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



August 22, 2008

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

CSSIN LETTER 08-06

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

SUBJECT: DISMISSAL WITH PREJUDICE

The purpose of this letter is to provide recommended practice to Local Child Support Agencies (LCSAs) regarding situations when a Non-Custodial Parent (NCP) has been excluded by genetic tests.

The issue arose as the result of a question directed to Department of Child Support Services' (DCSS) Program Policy Branch about how LCSAs should handle situations when an NCP has been excluded as the father by genetic tests. In researching the issue, it was determined that practices among the LCSAs differ and that a need for a uniform practice existed. Program Policy Branch staff consulted with the Child Support Directors' Association Legal Practices Committee and Judicial Stakeholders to arrive at the following recommended practice:

LCSAs should obtain a dismissal with prejudice when an NCP has been excluded as the father by genetic testing. The reasons for taking this action include consistent treatment of NCPs in all LCSAs. Additionally, this action ensures an excluded NCP that the situation is resolved and he cannot be sued for paternity again for the same child named in this case.

Currently, LCSAs utilize a letter generated by the Child Support Enforcement system (form DCSS-0159) which advises the Custodial Parent (CP) and alleged NCP that the alleged father has been excluded by genetic testing. The letter also states that a Judgment of Non-Paternity will be issued. DCSS recommends the LCSAs generate DCSS-0196 Free Form Correspondence to advise the CP and NCP of the genetic test results.

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Page 2

A Business Process Guide (BPG), now available in SharePoint, provides direction on how to utilize form DCSS-0196 until DCSS-0159 is modified to remove the Judgment of Non-Paternity language. The BPG advises inserting text stating genetic testing has excluded the NCP as the father of the child and that the LCSA will seek and issue a Dismissal with Prejudice of the legal action that pled for the establishment of parentage against the NCP.

If you have any questions or concerns regarding this policy, please contact Cindi Pocaroba at (916) 464-5883.

Sincerely,

/os/

BILL OTTERBECK
Deputy Director

cc: