

TITLE 466 - CHILD SUPPORT ENFORCEMENT PROGRAM

CHAPTER 9 - ENFORCEMENT OF SUPPORT ORDERS

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 pertains to the enforcement of support orders.

002. TIMEFRAMES FOR ENFORCEMENT. Support obligations will be enforced in accordance with, and under the timeframes established in, 45 CFR §303.6.

003. ADMINISTRATIVE ATTACHMENT. Neb. Rev. Stat. §§ 43-3333 to 43-3339 allow for administrative attachment of personal assets of an obligor held by a payor or held by a financial institution for the collection of unpaid support from obligors.

003.01 FEE FOR PROCESSING AN ORDER TO WITHHOLD AND DELIVER. Any processing fee allowed by statute and retained by a payor is not a support payment and does not reduce an obligor's arrearage.

004. ADMINISTRATIVE SUBPOENA. An administrative subpoena may be issued pursuant to applicable state statutes to compel the production of information relevant to establishing paternity or establishing, modifying, or enforcing a support order.

004.01 REQUEST FOR ADMINISTRATIVE HEARING. Any person wishing to challenge an administrative subpoena of this nature may request a hearing to contest the subpoena. The request must be in writing and either delivered to the Department or postmarked within 15 calendar days of the date the subpoena was issued. If a timely request for hearing is received, the administrative subpoena will not be enforced until the administrative appeal process is completed.

004.02 HEARING DATE. The Department will provide an opportunity for a hearing within 15 calendar days after receipt of a proper written request.

004.03 HEARING RESULTS. The appellant will be notified of the hearing results within 15 calendar days of the hearing.

005. CONSUMER CREDIT REPORTING. The Department may make available to consumer credit reporting agencies information regarding the amount of support owed in an IV-D case if the obligor is in arrears more than \$500.

005.01 ADVANCE NOTICE TO THE OBLIGOR. The Department will send a one-time advance notice to the obligor regarding the intent to submit information to consumer credit reporting agencies. The advance notice will include:

- (A) The county where the support order originated;
- (B) The support order number;

- (C) The date the amount was reported delinquent;
- (D) The total dollar amount to be submitted;
- (E) The delinquent amount by judgment type;
- (F) Notice that the obligor has 30 calendar days to reduce the arrears to below \$500 to avoid submittal to consumer credit reporting agencies;
- (G) Information regarding how to request an administrative review; and
- (H) The criteria a case must meet to be eligible for review.

005.02 REQUEST FOR REVIEW. A request for review must be in writing and either delivered to the Department or postmarked within 15 calendar days of the date of the advance notice. A request for review is limited to whether:

- (A) There is an error in the identity of the obligor; or
- (B) The arrearage amount is \$500 or less.

005.03 REVIEW FINDINGS. The Department will notify the obligor of its findings within 30 calendar days of the date the request for a review was received and will advise the obligor of the procedures to request an administrative hearing to appeal the review findings.

005.04 REQUEST FOR AN ADMINISTRATIVE HEARING. The obligor may request an administrative hearing to appeal the review findings. The request must be in writing and either delivered to the Department or postmarked within 15 calendar days of the date the review finding was issued. A hearing will be held within 30 calendar days of the receipt of the written request. The obligor will be notified of the hearing results within 15 calendar days of the hearing.

005.05 SUBMITTAL PROCESS STAYED. The Department will not submit a support order to consumer credit reporting agencies pending the outcome of the review and administrative hearing.

005.06 INFORMATION REPORTED TO CONSUMER CREDIT REPORTING AGENCIES. Obligor information is updated with consumer credit reporting agencies on a monthly basis. The Department will submit the following obligor information to consumer credit reporting agencies:

- (A) Name;
- (B) Address;
- (C) Social Security Number (SSN);
- (D) Support order number;

(E) Delinquent support amount; and

(F) Monthly support obligation.

005.07 DISPUTE TO CONSUMER CREDIT REPORTING AGENCIES. Upon notification from a consumer credit reporting agency that there is a dispute relating to information submitted regarding an obligor's debt, the Department will review the obligor's account. Upon completion of the review, the Department will notify the consumer credit reporting agencies to modify, delete, or block information that is inaccurate, incomplete, or cannot be verified.

006. INCOME WITHHOLDING. Notices to withhold income pursuant to the Nebraska Income Withholding for Child Support Act will be sent to the obligor and others, as required by the Act, within the timeframes required under 45 CFR 303.100.

007. OFFSET PROGRAMS. Nebraska participates in the Federal Tax and Administrative Offset programs under Title IV-D of the Social Security Act, 45 CFR 302.60, 45 CFR 303.72, 31 CFR Part 285, and other applicable federal law. Cases that meet the criteria set forth in applicable federal or state law will be submitted for collection under these programs even if the obligor has entered into a payment plan with the state.

007.01 NOTICE TO OFFSET. Written notice will be sent at least annually to all obligors identified for the Federal Tax Offset and Administrative Offset programs. The notice includes information regarding:

(A) The right to contest the state's determination that past-due support is owed or the amount of past-due support;

(B) The right to an administrative review by the Department or, at the obligor's request, the state with the order upon which the referral for offset is based;

(C) The procedures and timeframes to request an administrative review;

(D) In the case of a joint return, at the time of the offset, the Secretary of the U.S. Treasury will notify the non-obligated spouse of the obligor of the steps to take to protect the share of the refund which may be payable to that spouse; and

(E) Any further arrears accruing may be added to the obligor's debt and will be subject to collection by Federal Tax Offset and Administrative Offset without further notice.

007.02 CONTESTING FEDERAL TAX OFFSET OR ADMINISTRATIVE OFFSET. The obligor may contest Federal Tax Offset and Federal Administrative Offset in writing, postmarked or personally delivered to the Department within 45 calendar days of the date of the advance notice or the date of notice of an

offset of funds. A complaint or contest by an obligor is limited to:

- (A) An error in the identity of the noncustodial party;
- (B) An error in the amount of past-due support; or
- (C) The non-existence of an order for support.

007.03 CONDUCTING A REVIEW. Upon receipt of a contest or complaint relating to offset, the Department will review the pertinent facts of the case to determine the validity of the obligor's complaint. The obligor will be notified of the Department's findings within 60 calendar days of the date of the receipt of the complaint and the procedures for requesting an administrative hearing.

007.04 REQUEST FOR AN ADMINISTRATIVE HEARING. The obligor may request an administrative hearing by sending a written request to the Department within 30 calendar days of the date of the review finding. A hearing will be scheduled within 30 calendar days of receipt of the request. The obligor will be notified of the hearing results within 15 calendar days of the hearing.

007.05 REVIEW BY THE STATE WITH THE ORIGINAL ORDER. If the support order is from another state and the complaint cannot be resolved, the obligor may request an administrative review in the state with the original order. If a request is made for review by another state, the Department will notify that state within 10 calendar days of the date of the request. The Department will provide that state with the proper documentation such as a copy of the order and any modifications, a copy of the payment record or the payee's affidavit, and the payee's address for non-Aid to Dependent Children (ADC) and Medicaid-only cases. The other state receiving the request to conduct an administrative review is responsible for contacting the necessary parties to advise them of the date, time, and place of the review.

007.06 DISTRIBUTION OF COLLECTIONS. If the Department is notified by the appropriate federal authorities that an offset is being made from a refund based on a joint tax return, the state may delay disbursement until notification that the unobligated spouse's proper share of the refund has been paid or for a maximum of six months from the date the state was notified of the offset, whichever shall first occur.

008. REFERRAL TO THE NEBRASKA DEPARTMENT OF REVENUE FOR TAX REFUND OFFSET. The Department may submit a past-due support obligation to the Nebraska Department of Revenue for possible offset against state income tax refunds and state lottery prizes.

008.01 NOTICE TO THE OBLIGOR OF REFERRAL. The Department will send notice to the obligor by regular first-class mail, that the obligor's past-due support obligation will be submitted to the Department of Revenue for possible offset of a tax refund. The notice of intent to refer a past-due support obligation to the Department of Revenue will advise the obligor

that:

- (A) The obligor may contest the validity of the claim before the Department by giving written notice to the Department within 45 calendar days of the date the Department mailed the notice of intent to refer;
- (B) Only certain defenses can be raised; and
- (C) Any further arrears accruing may be added to the obligor's debt and will be subject to collection by offset.

008.02 CONTESTING STATE TAX OFFSET REFERRAL. The obligor may contest the referral to the Department of Revenue in writing postmarked within 45 calendar days of the date of the notice of referral. The only issues that the obligor may contest are:

- (A) An error in the identity of the obligor;
- (B) An error in the amount of past-due support; or
- (C) The non-existence of an order for support.

008.03 ADMINISTRATIVE REVIEW. If a timely written contest is received, the Department will review the pertinent facts of the case to determine if the obligor's contest is valid. The Department will notify the obligor of its findings within 60 calendar days of the date the contest is received by the Department.

008.04 REQUEST FOR AN ADMINISTRATIVE HEARING. The obligor may request an administrative hearing to appeal the Department's findings by sending a written request to the Department within 30 calendar days of the date of the administrative review finding. A hearing will be scheduled within 30 calendar days of the date a timely written request is received. The obligor will be notified of the hearing results within 15 calendar days of the hearing.

009. NOTICE OF CLAIM TO REFUND OR LOTTERY PRIZE. Within 20 calendar days of receiving notice from the Department of Revenue that an obligor is entitled to a state tax refund or state lottery prize, the Department will send the obligor written notification of an assertion of its rights, or of the rights of an individual not eligible as a public assistance recipient, to all or a portion of the debtor's refund or state lottery prize.

009.01 WRITTEN NOTIFICATION. The written notification shall clearly set forth:

- (A) The basis for the claim to the refund or state lottery prize;
- (B) The intention to apply the refund or state lottery prize against the debt;

(C) The obligor's opportunity to give written notice of intent to contest the validity of the claim before the Department within 30 calendar days of the date of the mailing of the notice;

(D) The mailing address to which the application for a hearing must be sent; and

(E) Notice that failure to apply for a hearing in writing within the 30 day period will be deemed a waiver of the opportunity to contest the claim.

009.02 JOINT TAX RETURN NOTIFICATION. In the case of a joint tax return, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed.

009.03 JOINT TAX RETURN PRESUMPTION. In the case of a joint income tax return, it is presumed that each partner to the marriage submitting such return contributed one-half of the earnings upon which the refund is based. The presumption may be contested by the state, the delinquent taxpayer, or the innocent spouse at the administrative hearing.

009.04 HEARING ISSUES. No issues shall be reconsidered at the hearing which have been previously litigated except if the amount asserted as due and owing is not correct, an adjustment to the claimed amount shall be made.

010. CERTIFICATION TO THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES FOR PASSPORT DENIAL OR REVOCATION. All IV-D child support cases that meet the established criteria will be certified by the Department to the U.S. Secretary of Health and Human Services for possible denial or revocation of a passport under federal law. Cases meeting the criteria will be certified even if the obligor has entered into a payment plan with the state. Submittal to the passport denial or revocation program continues after the child reaches the age of majority.

010.01 CRITERIA FOR CERTIFICATION. The following criteria apply to certification to the U.S. Secretary of Health and Human Services:

(A) The support obligation was established under a court order or an order of an administrative process established under state law;

(B) The total amount of combined arrearages for all Nebraska IV-D cases for the obligor is in excess of \$2,500;

(C) The delinquency is for support and maintenance of a child or of a child and the parent with whom the child is living (spousal support). Delinquent support may include medical support, but only if a specific dollar amount is included in the order and the obligor is not making payments as ordered;

(D) The state IV-D agency has verified the accuracy of the delinquent support and has a copy of the order, any modifications, the pay record

or an affidavit signed by the court-ordered payee attesting to the accuracy and amount of delinquency;

(E) The state has verified the obligor's name and Social Security Number (SSN);

(F) The state IV-D agency has the payee's current address; and

(G) In non-Aid to Dependent Children (ADC) or Medicaid only cases, the state IV-D agency has checked its records to determine if there are delinquent Aid to Dependent Children (ADC) or foster care support state debt amounts.

The delinquent support will remain subject to certification until the arrears are paid in full.

011. NOTIFICATION TO THE OBLIGOR OF CERTIFICATION TO THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES. Written notice is sent at least annually to the obligor identified for certification to the U.S. Secretary of Health and Human Services. The notice will include information regarding:

(A) The right to contest the certification by requesting an administrative review in either the submitting state or the state with the order for support;

(B) The procedures and timeframes to request an administrative review; and

(C) Any further arrears accruing may be added to the obligor's debt and will be subject to the passport denial or revocation program.

012. CONTESTING CERTIFICATION. The obligor may request an administrative review to contest the certification to the U.S. Secretary of Health and Human Services. The request must be made in writing postmarked within 45 calendar days of the date of the notice of intent to certify. The contest and administrative review are limited to:

(A) An error in the identity of the obligor;

(B) An error in the amount of past-due support;

(C) The non-existence of an order for support; or

(D) The non-existence of a support obligation.

012.01 CONDUCTING THE ADMINISTRATIVE REVIEW. Upon receipt of a contest or complaint relating to certification to the U.S. Secretary of Health and Human Services, the Department will review the pertinent facts of the case to determine the validity of the obligor's complaint. The obligor will be notified of the Department's findings within 60 calendar days of the date of the receipt of the complaint. The notice of findings will include the procedures for requesting an administrative hearing.

012.02 REQUEST FOR AN ADMINISTRATIVE HEARING. The obligor may request an administrative hearing to appeal the review findings. The request must be in writing and either delivered to the Department or postmarked within 30 calendar days of the date the review finding was issued. A hearing will be held within 30 calendar days of the receipt of the written request. The obligor will be notified of the hearing results within 15 calendar days of the hearing.

012.03 NOTIFICATION TO THE U.S. OFFICE OF CHILD SUPPORT ENFORCEMENT. If the administrative review or appeal hearing results in a finding that the delinquent support amount should be reduced or deleted, the Department will notify the U.S. Office of Child Support Enforcement of the deletion or modification within 10 calendar days.

012.04 REVIEW BY THE STATE WITH THE ORIGINAL ORDER. If the support order is from another state and the complaint cannot be resolved, the obligor may request an administrative review in the state with the original order.

012.04(A) REQUEST MADE BY ANOTHER STATE. If a request is made for review by another state, the Department will notify that state within 10 calendar days of the date of the request. The Department will provide that state with the proper documentation such as a copy of the order and any modifications, a copy of the payment record or the payee's affidavit, and the payee's address for non-Aid to Dependent Children (ADC) and Medicaid-only cases.

012.04(B) HEARING NOTIFICATION TO PARTIES. The other state receiving the request to conduct an administrative review is responsible for contacting the necessary parties to advise them of the date, time, and place of the review.

013. FEDERAL FINANCIAL ASSISTANCE. Individuals who have delinquent child support obligations may be denied federal financial assistance such as a federal loan, loan guarantee, or loan insurance. If the Department elects to submit an obligor for denial of federal financial assistance, notice will be sent to the obligor in the same manner as notice for referral for Federal Tax Offset and Administrative Offset. Obligors wishing to contest this must follow the procedures for contesting Federal Tax Offset and Administrative Offset set forth in this chapter. The arrearage threshold elected by the state for referral for denial of federal financial assistance is \$150 dollars for a public assistance case and \$500 for a non-public assistance or Medicaid-only case.

014. UNCLAIMED PROPERTY OFFSET. The Uniform Disposition of Unclaimed Property Act, Neb. Rev. Stat. §69-1301 et seq., authorizes the Department to file a claim against property of an obligor for the purpose of applying it towards the obligor's arrearage under a support order.

014.01 NOTIFICATION FROM DEPARTMENT. If the Department intends to file a claim against property of an obligor under the Uniform Disposition of Unclaimed Property Act, it will send written notice by regular first-class mail

to the obligor's last known address informing the obligor of:

- (A) The basis for the claim to the unclaimed property;
- (B) The intention to apply the unclaimed property towards the obligor's arrearage;
- (C) The right to request an administrative review;
- (D) The mailing address to send the request for an administrative review; and
- (E) The timeframe within which to request an administrative review.

014.02 REQUEST FOR ADMINISTRATIVE REVIEW. The obligor may contest the action against the unclaimed property, by submitting a written request to the Department. The request must be postmarked or personally delivered to the Department within 45 calendar days of the date of the advance notice. A complaint or contest by an obligor is limited to:

- (A) An error in the identity of the obligor;
- (B) An error in the amount of past due support; or
- (C) The non-existence of an order for support.

014.03 CONDUCTING A REVIEW. Upon receipt of a contest or complaint relating to an action against unclaimed property, the Department will review the pertinent facts of the case to determine the validity of the obligor's complaint. The obligor will be notified of the Department's findings within 60 calendar days of the date of the receipt of the complaint. The notice of findings will include the procedures for requesting an administrative hearing.

014.04 REQUEST FOR AN ADMINISTRATIVE HEARING. To request an administrative hearing relating to an action against unclaimed property, the obligor must send a written request to the Department within 30 calendar days of the date of the review finding. A hearing will be scheduled within 30 calendar days of receipt of the request. The obligor will be notified of the hearing results within 15 calendar days of the hearing.

