

WISCONSIN DEPARTMENT OF CHILDREN & FAMILIES
Division of Family & Economic Security
Bureau of Child Support

**CHILD SUPPORT
BULLETIN**

No.: 09-22R

Date: 11/11/2009

To: Child Support Directors
Child Support Supervisors or Lead Workers
Child Support Attorneys

From: Director
Bureau of Child Support

Subject: \$25 Custodial Parent Fee

This child support bulletin is being revised to clarify that recipients of Caretaker of a Newborn (CMC) program **will be** charged the \$25 annual fee, unless they have received other cash assistance in the past. See the Note in **bold** (page 2).

Purpose

This bulletin informs child support agencies of a change in policy related to the mandatory \$25 annual CP fee. Cases excluded from being charged the fee have been expanded to include cases where the CP has been on cash assistance as an adult in the case or *any other case the CP was ever in*. Previously, other cases were not taken into consideration when evaluating the case for exclusion. In addition, cases in which a child *has ever been on* assistance are also being excluded from having a fee charged. Child assistance participation was previously not considered as a reason not to charge a fee. This change will be effective in KIDS August 5, 2009.

Background

The Deficit Reduction Act of 2005 (DRA) amended the Social Security Act at section 454(6) (B) (ii) and requires that states impose a \$25 annual fee in the case of an individual who has never received cash assistance under Temporary Assistance to Needy Families (TANF) or Aid to Families with Dependent Children (AFDC) and for whom the state has collected \$500 in current support and arrears.

BCS implemented the custodial parent fee (CP fee) on October 1, 2008, based on information transmitted in federal Office of Child Support Enforcement Action Transmittal 07-01 (OCSE AT07-01), Notice of Proposed Rulemaking. The regulatory language was not final at the time the CP fee was implemented but states were instructed by OCSE to implement the fee anyway with the understanding that changes may be required when the final regulations were published.

To effectuate the \$25 CP fee, Wisconsin Statute § 767.57(1e) (c) was amended in October, 2007 to include the following language:

(c) The department or its designee shall collect an annual fee of \$25 from every individual receiving child support or family support payments. In applicable cases, the fee shall comply with all requirements under 42 USC 654(6)(B). The department or its designee may deduct the fee from maintenance, child or family support, or arrearage payments. Fees collected under this paragraph shall be deposited in the appropriation account under s. 20.437(2)(ia).

Under this statute, the fee will be charged in both IV-D and non-IV-D cases where child support or family support payments exceed \$500 in the federal fiscal year.

Final federal regulations related to the annual \$25 fee were published on December 9, 2008, in OCSE AT08-13 which broadened the interpretation of when the fee should **not** be charged. Based on the final regulations, KIDS will not charge the annual CP fee if the CP has received AFDC or TANF (W-2 or CTS) cash benefits as an adult in any case (regardless of the federal case). In addition, if any child on the federal case has ever received AFDC or TANF (W-2, CTS or Kinship Care) cash benefits (regardless of the federal case), then KIDS will not charge the annual CP Fee.

Note: If a CP receives assistance under the Caretaker of Newborn (CMC) program and has never received W-2 or AFDC cash assistance in the past, the CP will be charged the fee. CMC benefits are not classified as TANF cash assistance. CMC cases are referred to child support as WW (TANF case- management). CMC recipients are usually also eligible for BadgerCare.

Date of Implementation

The proposed federal regulations require that the fee be charged and collected each federal fiscal year:

45 CFR 302.33 (e)(3) states, "For each Federal fiscal year, after the first \$500 of support is disbursed to the family, the fee must be collected . . ."

The requirement to charge the annual \$25 mandatory fee first became effective on October 1, 2008, the first day of the federal fiscal year following passage of Wisconsin's statute. Changes to who must pay the fee, based on the final regulations, are effective August 5, 2009.

Each year, starting on October 1, after \$500 in child and family support is distributed to the CP; the \$25 fee will be automatically deducted from the CP's support payment. This fee will be deducted from current support, maintenance, past support, arrears and/or interest payments. In some cases, a partial fee may be deducted from more than one support payment until the full \$25 has been withheld.

Excluded Cases

The following federal cases are **excluded** from the CP fee:

- Cases in which the CP has **ever** received TANF cash assistance, or has ever received AFDC. These cases have an Assistance Benefit Indicator of "A".
- Cases in which any child in the case has **ever** received TANF cash assistance (W-2, Kinship Care). If a child in a case has been in kinship care and is now back home with the parent, the case in which the parent receives support is exempt from the fee.
- Interstate responding cases: It is the initiating state's responsibility to charge the fee. All cases with an interstate indicator of responding (R) will not be charged the fee.
- Foster Care Cases: Under federal law, the fee applies to individuals who receive at least \$500 in support during the year. The fee will not be charged to foster care agencies as they are not considered individuals (KIDS case types NFSC, FPSC, UFSC, NFAR and FPAR).
- Kinship Care: Current TANF Kinship Care and former Kinship Care case types will not be charged a fee. KCAR and ARRK cases are TANF cash assistance cases and are excluded from the fee. These cases have an Assistance Benefit Indicator of "A".
- Tribal Cases: Cases with tribal FIPS codes will not be charged a fee.
- Cases that have not received \$500 in qualifying support payments during the federal fiscal year.
- Cases that do not include a child support or family support obligation. Spousal-support-only cases will not be charged the fee.

Cases with an international FIPS code will be charged the fee, but the fee will not be collected from payments received on these cases. The state is responsible to pay the fee on international cases.

Calculating the \$500

The annual \$25 fee will be charged for each qualifying federal case after the first \$500 is disbursed to the CP. A \$500 “ticker” has been created in KIDS to keep track of disbursements on each federal case. If a payment for a CP is currently in suspense because of a hold, (for example, a six month federal tax hold) the payment will not be counted by the ticker until it is disbursed to the CP via debit card, direct deposit, or check. If a CP has multiple cases, \$25 will be charged for each qualifying case.

Collection of Unpaid CP Fees

The proposed federal rule at 45 CFR 302.33 provides that the fee may be collected by one or more methods. The fee may be collected from the CP, recovered from the NCP, or paid by the state. The state must pay the fee to the federal government whether or not the fee is collected from the CP or the NCP.

If we are not successful in collecting the full \$25 fee from the CP, we will automatically review the case to determine whether the NCP associated with the federal case has paid the fee by paying at least \$25 in a receipt and disbursing (R&D) fee payments.

The NCP will receive full credit for the R&D amount paid, but up to \$25 of the R&D fee will be used to pay the annual CP fee. If neither the CP nor the NCP has paid the fee, the state will pay the fee to the federal government at the end of each federal fiscal year.

At the beginning of the next federal fiscal year, October 1, 2009, and every subsequent federal fiscal year, the CP fee “ticker” will be reset to \$0 whether or not the fee has been withheld from the CP collections, and calculation of the CP fee will begin for the new fiscal year.

Resources:

[OCSE AT07-01](#) Notice of Proposed Rulemaking

[OCSE AT08-13](#) Final Rule on the Child Support Provisions in the DRA of 2005