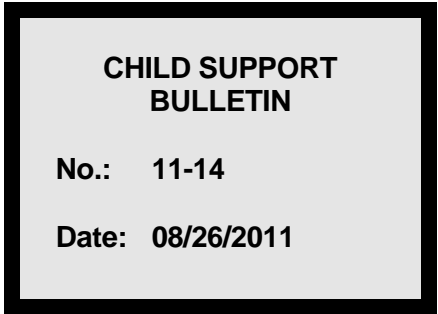


**WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES  
Division of Family and Economic Security  
Bureau of Child Support**

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

**From: Director  
Bureau of Child Support**



**Subject: Deceased Custodial Parents, and Undistributed Payment/Arrears**

**Background**

Local child support agencies have requested additional guidance on how to handle KIDS financial obligations for cases in which the CP or payee dies.

**Purpose**

The purpose of this Child Support Bulletin is to provide guidance and direction on:

- how to handle current support orders, arrears and
- how to process payments and undistributed collections when those collections are payable to a deceased individual's estate.

**Policy**

Upon notice that a CP is deceased, the CSA must take reasonable steps to verify the death and the date of death. The SSA Death index is one possible source of verification. The date of death should be entered in KIDS on screen *DOB, Update Demographic Information (Path 04, 06)*

If a divorce action is still pending, the action dies with the death of one of the parties. If a divorce or paternity judgment has been filed and the CP dies, the CSA must review the order to determine whether it can still be enforced. The CSA must take steps to end the current support order for payments to the CP. The CSA may continue to enforce any payment of current support in which the CP's rights to support are assigned (prior to death) to the state or to an alternate payee on behalf of the minor child or children.

The CSA must continue to collect AFDC arrears and cost debts. Under Wis. Stat. § 767.75 (1m) the income withholding order may remain in place to collect state/county owed debts. If the only debts remaining on the case are payable to the state account 41 debts (WWIQA, WWIQAI, WIUPA, WIPSA), the CSA may release the assignment and roll the balances to CP arrears. In the current distribution hierarchy, payments for account 41 debts are passed through to the CP. The case may then be closed for IV-D services. CSAs must use IV-D closure code, CNCS (there is no longer a current support order and arrearages are unenforceable). The CSA is not required to provide IV-D services to collect arrears owed to heirs or the estate, unless the heir has legal custody or guardianship of the minor child or children and applies for IV-D services.

***Processing Payments***

Upon confirmation of the CP's death, the CSA must place the CP's PIN on hold, change the mailing address to "old" and add check over-ride. The PIN hold will override a suspense hold and create a suspense reason of DA (Account hold) for each distribution. If the PIN is not placed on hold, or the hold expires, payments will be disbursed by paper check if there is a valid address.

When the DA hold release date is met, and there is no payment method, and no address, KIDS will attempt to disburse the collection (without success) and will subsequently suspend with "I" (invalid address) on the hold release date. Any future payment received will be held on suspense.

### ***Terminate Current Support, Interest and Payments to the CP***

The CSA must obtain an order to: (*Exhibit A*, Finding and Order, *Exhibit B*, Order Affecting Child Support and Income Assignment)

- End current support payable to the deceased CP effective on the date of death
- Collect state/county owed arrears
- Set CP owed debt balances to zero in KIDS subject to reinstatement upon appropriate claim of any heir or order from the probate court.

If there are no minor children, the adult surviving child or children of the deceased CP may be willing to sign an affidavit waiving their interest in CUSTA and interest balances. (*Exhibit C*, Affidavit of Adult Child)

If there are no known survivors, the CSA may ask the court to set debt balances owed the CP to zero in KIDS, subject to reinstatement by the probate court. The CSA must file an affidavit with the court that includes the amounts owed the CP. (*Exhibit D*, Affidavit Vacating Arrears)

When a court terminates a current support order and there are no arrearages owed to the state, the case may be put in pending closed and KIDS will reopen the case as NIVD. CSAs must use IV-D closure code, CNCS (there is no longer a current support order and arrearages are unenforceable).

### ***Continue to Collect State-Owed Debts***

If there are arrearages owed to the state (other than account 41 debts), the CSA must continue to take steps to collect state arrearages. The CSA **must** obtain a court order to direct any collections to the state-owed obligations. Otherwise, the payments will flow to CP arrears.

If the children are now living with the former NCP, and the NCP's earning capacity or income is limited, a settlement of the state-owed arrears/interest might be appropriate. Please see CSB 11-09, Updated Policy and Procedure on Forgiving State-Assigned Arrears. The CSA may direct the NCP to file a petition for special administration with the probate court if there is money in suspense or unclaimed funds and the NCP has placement of the minor children.

### ***New Placement Disposition for Minor Children***

If a non-parent guardian or legal custodian of the minor children applies for child support services, the CSA must establish a new IV-D case and start a new court action to address current support.

### ***Arrears to the Heir or to the Estate***

With the death of the CP, payments made but not yet distributed become the property of the estate or the heir(s). If there is an estate, it is the responsibility of the personal representative to identify and gather the assets belonging to the deceased and make the appropriate legal distribution of the assets.

In general, probate takes 12-24 months before an estate is finally settled and the personal representative may notify the CSA of the disposition of the arrears. Upon notification of the disposition of the arrears, the financial worker must direct the collections as ordered by the probate court.

### ***Distribution of Suspended Payments***

CSAs may contact the probate court in the county in which the CP last resided to determine whether anyone has filed a petition for the administration of the decedent's estate or to determine if a will exists. If there is no will, and no disposition of the estate, the money should remain on suspense.

Each year on the 1st Tuesday of February (that is not the 1st day of the month), unclaimed-funds processing will pick up any "I" (invalid address) suspense reasons with a transaction date that is older than a year (for year 2011, the transaction date is 01/01/2010 or older). These suspended payments will no longer be in KIDS after the unclaimed funds process. If the suspense reason is not "I", the transaction will remain on suspense.

When the funds are forwarded to the State Treasurer as unclaimed funds, the estate or rightful heir(s) may complete the Request for Abandoned Funds (DCF-F-DWSC13124) and provide the appropriate documentation to claim the funds.

### ***Affidavit for Transfer of Property***

The heir or guardian of the deceased may use the summary process for settling a small estate with assets of \$50,000 or less. (See Wis. Stat. § 867.03) This process may also be used to claim child support payments held on suspense. See Resources and References for the Affidavit for Transfer of Property, PR-1831. For the purposes of completing the affidavit, the CSA may provide the guardian or heir with information regarding the amount of money held on suspense or the amount forwarded to the State Treasurer as unclaimed funds.

### ***Managing NonIV-D Cases***

CSAs may verify the date of death, enter the date in KIDS and notify the NCP of the CP's death. However, IV-D agencies are not required to provide enforcement services to collect CUSTA arrears for heirs. The CSA must terminate the income withholding if notified that the order for current support has been terminated.

***Resources and References:***

1. [Exhibit A](#): Findings and Order
2. [Exhibit B](#): Order Affecting Child Support and Income Assignment
3. [Exhibit C](#): Affidavit of Adult Child
4. [Exhibit D](#): Affidavit Vacating Arrears
5. Obligation Continuing [Wis. Stat. § 767.75 \(1m\)](#).
6. Rules for Intestate (person dies without a will) Succession are in [Wis. Stat. § 852](#).
7. Probate Claims against the estate [Wis. Stat. § 859](#).
8. Protection of payers and other third parties [Wis. Stat. § 854.23](#).
9. Grounds for appointment of Special Administrator [Wis. Stat. § 867.07](#).
10. Transfer by affidavit [Wis. Stat. § 867.03](#).
11. Powers and duties of guardian, personal representatives or special administrator can be found in [Wis. Stat. § 879.57](#).
12. [Affidavit for Transfer of Property](#) (PR-1831) is on the [Wisconsin Circuit Court website](#), available in English only, in [Word](#) and [PDF](#) formats.  
[Form Summary for completing the Affidavit for Transfer of Property](#)