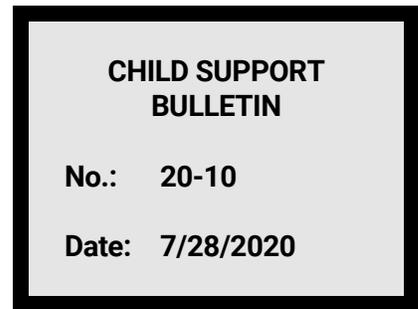


**WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES
Division of Family and Economic Security
Bureau of Child Support**

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

**From: Debra L. Barnes, Director
Bureau of Child Support**

**Subject: Flexibility, Efficiency, and Modernization in Child Support Enforcement Final Rule -
Technical Amendments**



Purpose

The purpose of this Child Support Bulletin (CSB) is to announce technical amendments to the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule.

Background

The Office of Child Support Enforcement (OCSE) released the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule on December 20, 2016. This rule revised and added several provisions under 45 CFR 301-309.

Final rule technical corrections were published in the Federal Register on June 9, 2020. The final rule provides technical amendments to the Flexibility, Efficiency, and Modernization in Child Support Enforcement Final Rule. This rule eliminates outdated or unnecessary regulatory requirements, it amends regulations for clarity, and revises regulations to provide more timely wage information used for locate and enforcement purposes. It has an effective date of July 9, 2020, and compliance dates that differ among the various sections of the Federal regulations.

Policy

45 CFR 303.11(b)(9) and 307.11(c)(3) were revised to include Social Security Retirement (SSR) benefits when referring to concurrent Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI). SSR benefits take the place of SSDI when an individual reaches retirement age.

Case Closure

Additionally, 45 CFR 303.11(b)(9)(ii) was revised to allow for an optional case closure when the noncustodial parent (NCP) is receiving concurrent Supplemental Security Income (SSI) and Social Security Retirement (SSR) benefits. The rationale for closing concurrent SSI/SSDI cases applies equally to concurrent SSI/SSR cases because the noncustodial parent meets the low-income means-tested criteria for the SSI program. Wisconsin has elected to adopt this closure reason for cases that meet the following criteria:

- The Child Support Agency (CSA) has determined that no income or assets are available to the NCP which could be levied or attached for support, and the NCP is receiving concurrent SSR and SSI benefits. WI Bureau of Child Support (BCS) recommends that the

CSAs work with the NCP to determine if the child(ren) are eligible to receive a derivative benefit based upon the payor being eligible for Social Security benefits. CSAs may encourage the custodial parent (CP) or NCP to apply for the derivative benefit prior to closing the case. The option for case closure should be adequate incentive for the NCP to apply for the child's benefit. The case closure code for cases meeting these criteria is CSSI. Please include case notes in the Kids Information Data System (KIDS) to document the circumstances of the closure.

Account Seizure

The current KIDS programming to prevent account seizure of an SSI recipient is based on adding the "SSI" unworkable/no action reason code. CSB 17-09R2 will be revised to add concurrent SSI/SSR benefits to the list of benefit types that are not subject to account seizure.

Income Withholding

The rule adds 45 CFR 307.11(c)(3)(iii), which gives each state the option to choose to:

[I] Identify cases involving a noncustodial parent who is a recipient of concurrent SSI payments and either SSDI or SSR benefits under title II of the Act and prevent garnishment of these funds from the noncustodial parent through an income withholding order; and return funds to a noncustodial parent in accordance with § 303.100(a)(8), after the agency determines that concurrent SSI payments and either SSDI or SSR benefits have been incorrectly garnished from the noncustodial parent through an income withholding order.

While Wisconsin did not elect this option, CSAs should use discretion when setting and issuing an income withholding order against concurrent recipients of SSI and SSDI or SSR. Concurrent recipients of SSI and SSDI or SSR have met low-income means-tested criteria and disability requirements. Recipients who receive SSI and SSR receive no more in payments than those who receive SSI and SSDI. Withholding from SSDI or SSR may further place the family at an economic disadvantage.

Although income withholding may be permissible as to the SSDI or SSR payments in general, on a case by case basis, be advised under Wis. Stat. § 767.75(1f):

The assignment...shall be for an amount sufficient to ensure payment under the order, obligation, or stipulation and to pay any arrearages due at a periodic rate not to exceed 50 percent of the amount of support due under the order, obligation, or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under 42 USC 9902(2).

Wis. Stat. § 767.511(1m) (bp) allows for a deviation from the percentage standard if application of the standard would leave the obligor below the poverty line.

The 2019 maximum SSI benefit for a Wisconsin resident is \$950.77, or \$771.00 (SSI), \$83.78 (Wisconsin supplemental payment) and \$95.99 (if qualified for Wisconsin Exceptional Expense Supplement). If the recipient is a concurrent recipient of SSDI or SSR, the maximum does not change. That person simply receives a portion of that total from SSDI or SSR. The maximum monthly income is below the federal poverty line for an individual.

Policy Change Not Required

45 CFR 303.8(b)(7)(ii), *Review and adjustment of child support orders* will delay the compliance date for sending notices for states that consider incarceration to be voluntary unemployment. Wisconsin is already in compliance with this provision; See CSB 17-14 for details.

Conforming regulation revisions to 45 CFR 302.33, 302.51, and 303.7, include increasing the annual collection fee from \$25 to \$35; and increasing the threshold when the fee must be imposed from \$500 to \$550 of collections received by the state and disbursed to the family. Wisconsin implemented the new CP fee October 1, 2019, via CSB 19-10.

45 CFR 303.108(c), *Reduce the Quarterly wage and unemployment compensation claims reporting timeframe to the National Directory of New Hires*, holds the Department of Workforce Development responsible for reporting this information, and they are aware of the change.

The following regulatory requirements, were outdated, unnecessary, or both, and were removed:

- 45 CFR 303.71, Requests for full collection services by the Secretary of the Treasury. States are no longer widely using this enforcement tool.
- 45 CFR 303.73, Applications to use the courts of the United States to enforce court orders. It is no longer needed since states have enacted the Uniform Interstate Family Support Act (2008) that establishes procedures for enforcing interstate orders.
- 45 CFR 307.30, Federal financial participation at the 90 percent rate for statewide computerized support enforcement systems and 45 CFR 307.31, Federal financial participation at the 80 percent rate for statewide computerized support enforcement systems. The enhanced funding provisions are outdated and have expired.

Resources

Questions regarding this bulletin can be directed to BCS via the KIDPOL Request Form using the Other – Policy Issues subject area.

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