

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



May 6, 2004

CSS LETTER: 04-09

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

SUBJECT: REVIEW AND ADJUSTMENT REQUIREMENTS

REFERENCE: FSD LETTER NOS. 94-02 AND 98-02

On May 4, 2004, the emergency regulations pertaining to review and adjustment expired. The permanent regulations are expected to be filed with the Office of Administrative Law by the end of July 2004. **However, local child support agencies (LCSAs) will not be required to comply with the regulations until the California Child Support Automation System (CCSAS) is implemented in their respective counties.**

In the interim, the LCSAs will be required to comply with federal and state requirements as set forth in this letter. The California Department of Child Support Services encourages the LCSAs to establish policies and procedures in accordance with the new regulations in an effort to establish standards that will be mandated upon the implementation of CCSAS. The distribution of this letter will render FSD letters numbers 94-02 and 98-02 obsolete.

If you have any questions or concerns regarding the review and adjustment requirements, please have the Policy Coordinator in your LCSA submit them to the Policy Branch at Policy.Branch@dcss.ca.gov.

Sincerely,

on behalf of

DONNA S. HERSHKOWITZ
 Deputy Director
 Child Support Services Division

Enclosure

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

REVIEW AND ADJUSTMENT REQUIREMENTS

NOTICE OF REVIEW

Each local child support agency (LCSA) shall mail a written notice, at least once every three years, to each party to a child support order with a current support obligation subject to enforcement by the LCSA. The notice shall inform the parties of their right to request, either written or orally, that the LCSA review, and, if appropriate, seek to adjust the court order. The notice must include the name, address, and telephone number of the LCSA. (Title 45 Code of Federal Regulations §303.8)

REVIEW

The LCSA shall review a child support order upon the request of a party to a child support order with a current support obligation subject to enforcement by the LCSA. Based upon a request, the LCSA must seek to adjust the child support order via a motion, order to show cause, or stipulation when either:

- 1) a change of circumstance is reasonably expected to last for more than three months, and will alter the amount of the support, upward or downward, by at least 20% or \$50, whichever is less; or
- 2) the parties stipulated to a child support order below the amount established by the statewide uniform guideline. No change of circumstances need be demonstrated to obtain a modification of the child support order to the applicable guideline level or above. (California Family Code §4065(d))

The LCSA shall proceed as set forth in Title 22 California Code of Regulations §116114, Medical Support Enforcement, when a request for an adjustment is based upon the need to include a provision for health care in the child support order.

SCREENING CRITERIA

LCSAs may, but are not required to, review any case for adjustment if the case has been reviewed for adjustment within the last six months. LCSAs must provide information to the parties about how to obtain the necessary forms for requesting a pro se modification pursuant to California Family Code section 3680.

REVIEW AND ADJUSTMENT TIME FRAMES

- California Cases

Within a maximum of 180 calendar days from the date of the request; or from the date the non-requesting party has been located, whichever is later, the LCSA shall conduct a review of the order and obtain an adjusted order, or determine that the order should not be adjusted. (Title 45 Code of Federal Regulations §303.8)

While the LCSA cannot literally adjust an order since only the court has the power to adjust an order, the LCSA should keep the court apprised of the impending 180th calendar day deadline. This requirement can be fulfilled by attorneys providing verbal notification to the court during a hearing.

The date of receipt of the request is the date the requesting party's current income and expense information has been provided to the LCSA.

- Interstate Cases

Within 20 days of receiving the information necessary to conduct a review, and determining that a request for a review and adjustment of a child support order should be sent to the State that has continuing, exclusive jurisdiction to modify the order, the LCSA shall request that the other State conduct a review and adjustment of a child support order.

If there is no State with continuing, exclusive jurisdiction to modify a child support order, the LCSA shall transmit a request for registration and modification by the obligee or obligor to the State where the non-requesting party resides.

The LCSA shall proceed with a modification of a child support order even if a party leaves the State while the proceedings are pending, if a motion to modify support has been filed and served, unless both parties agree to terminate the modification proceeding. (Title 22 California Code of Regulation §117403) If required by the court, the LCSA should memorialize the agreement to terminate the proceeding in writing and have the document signed by the parties.

NOTICE OF REVIEW RESULTS

Within 14 calendar days of the issuance of an adjusted order, the LCSA shall send a copy of the adjusted court order to the parties. (Title 42 United States Code §654(12)(B))

Within 14 calendar days of a determination that an adjustment will not be sought, the LCSA shall provide to the parties a notice of the determination not to seek an adjustment of the child support order. (Title 42 United States Code §654(12)(B))

In the notice of the determination, the LCSA shall include: (1) a statement that advises the parties of their right to file their own notice of motion or order to show cause to adjust the child support order; and (2) a statement that provides the reason for the denial.