

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



October 4, 2005

CSS LETTER: 05-27

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

SUBJECT: INTERSTATE CASES AND RETROACTIVE CHILD SUPPORT

This letter is written to provide clarification and direction to the local child support agencies (LCSAs) for processing interstate cases where the establishment or enforcement of retroactive child support for an emancipated child is requested and California is the responding state. The Department of Child Support Services (DCSS) is clarifying existing policy in response to questions raised by LCSAs about the application of Child Support Services Letter (CSS) 04-19, Workload Prioritization, to interstate cases. The section of the CSS Letter 04-19 that has raised questions states that "the local child support agency (LCSA) is not required to open those cases for which an applicant is requesting to establish or enforce an order for retroactive child support for emancipated children and Title IV-D services are not currently provided by an LCSA." This statement in CSS Letter 04-19 applies exclusively to intrastate cases and does not address the issue in the context of interstate cases. DCSS interstate case policy regarding retroactive child support is provided in this letter.

Title IV-D agencies are required to provide any necessary services for interstate cases as it would in intrastate cases pursuant to Title 45, Code of Federal Regulations § 303.7(c)(7). The LCSAs shall accept and process interstate case referrals, whether in response to the Uniform Interstate Family Support Act (UIFSA) or other legal processes from other states or countries that request the enforcement of an existing valid child support order, even when the child is emancipated. The responding LCSAs have the same authority to enforce the existing child support order to collect arrears in these interstate cases as they have to enforce an existing order for an open intrastate case under the same or similar circumstances. The initiating state is providing Title IV-D services for the applicant in that state, and the responding LCSA must recognize the case as an open Title IV-D case and provide the services requested in the UIFSA petition.

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

The LCSAs are not required to accept an interstate referral that requests the establishment of a retroactive order for support if the child is emancipated and an order for ongoing child support cannot be established. Federal statutes do not require states to provide Title IV-D services to establish an order for a prior period of time after the child is emancipated if it is not within the state's statutory authority to process these cases.

California does not have the statutory authority to establish retroactive support orders prior to the date of filing the petition, complaint, or other initial pleading for non-public assistance cases pursuant to Family Code (FC) § 4009. Effective January 1, 2005, FC § 17402 was amended to make it consistent with FC § 4009 by eliminating the authority to establish a retroactive child support order in public assistance cases. Prior to the January 1, 2005 amendment, support orders in public assistance cases could be established for periods not to exceed one year prior to the date of filing the petition, complaint, or other initial pleading. Without authority to establish a support obligation for a prior period of time in this State's intrastate caseload, the LCSAs are not required to accept interstate referrals from another state that request establishment of an order for a prior period of time for an emancipated child.

If you have any questions or concerns regarding this matter, please contact Jon Cordova, Case Initiation Policy Unit, at (916) 464-5055.

Sincerely,

o/s/SANDRA O. POOLE

SANDRA O. POOLE
Deputy Director
Child Support Services Division