

**CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES**

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



October 12, 2005

CSS LETTER: 05-29

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

SUBJECT: NEW FEDERAL BANKRUPTCY LAW

The purpose of this letter is to provide local child support agencies (LCSAs) with updated information regarding recent revisions to the bankruptcy laws. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109-8) was signed into law on April 20, 2005 and becomes effective October 17, 2005. The new provisions in the law should be beneficial to both States and families seeking to establish and enforce support orders.

P.L. 109-8 defines domestic support obligations (which includes all child support obligations ) as a debt that accrues before, on, or after the date of the order for relief and is owed to, or recoverable by, a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, responsible relative or a governmental unit. This domestic support debt includes interest accrued pursuant to statute. All arrears, including assigned arrears, remain due and owing, despite the bankruptcy.

One of the most significant changes for the child support program, resulting from these revisions to the law, is the priority given to domestic support obligations. Domestic support obligations will now be given first priority in the distribution of available funds.

Priority in distribution in bankruptcy refers to the order in which unsecured claims are paid from the bankruptcy estate. Claims in a higher priority must be paid in full before claims in a lower priority receive any payment. Currently, child support claims are assigned a priority seven.

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 revisions to the law, allow for certain exceptions to the automatic stay during the bankruptcy proceedings. For bankruptcy petitions filed on and after October 17, 2005, the LCSAs may initiate enforcement actions to:

- issue, serve or leave in place, all wage withholding orders for domestic support obligations;
- suspend driver's or professional licenses;
- report overdue support owed to consumer credit reporting agencies;
- intercept tax refunds; and
- continue to enforce medical support obligations during bankruptcy.

Additionally, debt repayment plans under Chapters 11, 12 and 13, will now require that all **post-petition** domestic support obligations, be paid in full before bankruptcy can be discharged.

Finally, bankruptcy trustees are to provide written notice and certain information, which includes a notice to the obligee, of their right to use the services of the state child support agency where they reside. At the time the debtor is granted a discharge, the bankruptcy trustee will be required to notify the obligee and the appropriate child support agency, of the debtor's last known address and employer.

Please note that the changes outlined in this letter do not impact those cases in which bankruptcy petitions were filed prior to October 17, 2005.

The Department has recently made a Bankruptcy Resource Guide available, which can be accessed at:

<http://www.childsup.cahwnet.gov/program/training>

A complete copy of the Administration for Children and Families (ACF) Information Memorandum (IM 05-05), which contains more detail on the child support provisions, is available at:

<http://www.acf.hhs.gov/programs/cse/pol/IM/2005/im-05-05.htm>

If you have any questions or concerns regarding this matter, please contact Lindsay Farris, Manager of the Case Management Enforcement Unit, at (916) 464-5055.

Sincerely,

/s/SANDRA O. POOLE

SANDRA O. POOLE  
Deputy Director