

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



December 20, 2007

CSS LETTER: 07-18

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

| <u>Reason for this Transmittal</u> |
|--|
| <input type="checkbox"/> State Law or Regulation Change |
| <input type="checkbox"/> Federal Law or Regulation Change |
| <input type="checkbox"/> Court Order or Settlement Change |
| <input type="checkbox"/> Clarification requested by One or More Counties |
| <input checked="" type="checkbox"/> Initiated by DCSS |

SUBJECT: ENFORCEMENT ACTION GUIDELINES FOR BANKRUPTCY

The purpose of this letter is to provide local child support agencies (LCSAs) with general policy guidelines for handling the enforcement of Title IV-D cases when the obligor has filed for bankruptcy protection. The LCSAs should consult with the LCSA attorney when an obligor files a bankruptcy petition. The decision to proceed with a particular enforcement action may differ from the guideline based on the individual case.

The date the bankruptcy petition is filed will determine the appropriateness of taking enforcement actions against the obligor. The Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8) made changes to Title 11 of the United States Code, which became effective on October 17, 2005. As provided in the CSS Letter 05-29, the BAPCPA applies to all bankruptcy petitions filed on or after October 17, 2005. Bankruptcy petitions filed before October 17, 2005 follow the laws and procedures which existed before the amendment and LCSAs should refer to the policies and procedures that are accepted by the local bankruptcy courts and by the bankruptcy trustees.

The filing of a bankruptcy petition by a support obligor establishes an automatic stay and LCSAs are prohibited from taking certain enforcement actions against the support obligor and property of the bankruptcy estate while the obligor's bankruptcy proceeding is pending. Title 11 defines "property of the estate" as all legal or equitable interests of the obligor in property at the beginning of a case. However, actions to establish paternity or child support are not subject to the automatic stay and, therefore, LCSAs are not required to move for relief from the automatic stay before filing an action for paternity or support.

The BAPCPA states that property that is not in the bankruptcy estate is exempt from the automatic stay. In addition, certain enforcement actions are exempt from the automatic stay, even against property of the bankruptcy estate.

CSS Letter: 07-18
December 20, 2007
Page 2

Procedures regarding removal of automated suppressions on the California Child Support Automation System (CCSAS) have been published in the Bankruptcy Quick Reference Guide (QRG) and will be provided to the LCSAs prior to transition to CCSAS.

Attached is the Enforcement Action Guidelines for Bankruptcy table that provides general guidelines regarding enforcement of support obligations for bankruptcy petitions filed on or after October 17, 2005. The Enforcement Action Guidelines for Bankruptcy may not be applicable given the facts of a particular case and should be reviewed in consultation with an LCSA attorney.

If you have any questions or concerns regarding this matter, please contact Michelle Tedrow at (916) 464-5883.

Sincerely,

/os/ by Debra Sanchez for Wilfrid Otterbeck

WILFRID OTTERBECK
Acting Deputy Director

Attachment

ENFORCEMENT ACTION GUIDELINES FOR BANKRUPTCIES FILED ON OR AFTER OCTOBER 17, 2005

NOTE: LCSAs should always consult with their local attorney prior to processing a bankruptcy case.

GUIDELINES ONLY – Is the enforcement action permissible? Yes/No

| Enforcement Activity | Chapter 7 | Chapters 9, 11, 12, & 13 |
|---|------------------|-------------------------------------|
| Alaska Permanent Fund Dividend Data Match | No | No |
| Billing Statements | No | No |
| California Insurance Intercept Program (CIIP) Data Match <i>(May issue ONTW but do not issue Demand to Insurance Company)</i> | Yes | Yes |
| Child Support Warning Notice | No | No |
| Civil Contempt <i>(Consult with an attorney)</i> | No | No |
| Civil Suit Notice of Lien <i>(Consult with an attorney)</i> | No | No |
| Credit Reporting | Yes | Yes |
| Criminal Contempt | Yes | Yes |
| DCSS Full Collection | No | No |
| Earnings Withholding Order (EWO) | Yes | Yes |
| IRS Tax Intercept/Administrative Offset | Yes | Yes |
| Job Seek Order | No | No |
| License Suspension/Revocation | Yes | Yes |
| National Medical Support Notice | Yes | Yes |
| Notice of Motion to Add/Increase Arrears Liquidation | Yes | No |
| Order of Examination | No | No |
| Passport Denial | Yes | Yes |
| Qualified Domestic Relations Order <i>(Retirement Plans that are not estate property)</i> | Yes | Yes |
| Recording of Real Property Liens <i>(Consult with other states legal requirements regarding interstate liens)</i> | Yes | Yes |
| Security Deposit of Money/Assets | Yes | No |
| State Tax and Lottery Intercept | Yes | Yes |
| Unemployment and Disability Insurance Benefit Intercept | Yes | Yes |
| Wage Assignment (IWO) | Yes | Yes |
| Workers Compensation Lien <i>(Claim benefits that are not estate property)</i> | Yes | Yes |
| Writ of Execution <i>(Consult with an attorney)</i> | No | No |

Note: For transitioned counties refer to the Bankruptcy Quick Reference Guide for procedures on suppressions.