

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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

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

October 22, 2001

CSS LETTER: 01-28

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

SUBJECT: REVISION TO POLICY CONCERNING ONE YEAR LIMITATION ON
 RETROACTIVE SUPPORT

REFERENCE: CHILD SUPPORT SERVICES (CSS) LETTER NO. 01-09

This letter amends CSS Letter No. 01-09, dated March 28, 2001. CSS Letter No. 01-09 provided policy guidance concerning implementation of the one year limitation on retroactive support in welfare cases based upon amendments to Family Code Section 17402(a)(2) in Assembly Bill (AB) 1358 (Chapter 808, Statutes of 2000). AB 1358 amended Family Code Section 17402(a)(2) to clarify that the one year retroactive support provision in welfare cases applies to "all cases filed on or after January 1, 2000."

The second to the last paragraph of CSS Letter No. 01-09 noted the provisions of Family Code Section 4009. Family Code Section 4009 states: "Except as provided in Section 17402 an original order for support may be made retroactive to the date of filing the petition, complaint or other initial pleading. If the parent ordered to pay support was not served with the petition, complaint or other initial pleading within 90 days after filing and the court finds that the other parent was not evading service, the child support order shall be effective no earlier than the date of service."

The implication of the second to the last paragraph of CSS Letter No. 01-09 is that the second sentence of Family Code Section 4009 applies to welfare cases. However, an analysis of the legislative intent of AB 380 (Chapter 653, Statutes of 1999) indicates that the Legislature intended for Family Code Section 4009 to apply only to non welfare cases.



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Therefore, the second to the last paragraph of CSS Letter No. 01-09 is incorrect to the extent that it indicates that Family Code Section 4009 applies to welfare cases and it should be disregarded. Family Code Section 4009 only applies to non-welfare cases.

Should you have any questions or concerns regarding this matter, please contact your Local Child Support Agency Policy Coordinator (See LCSEA Letter No. 01-22) who will forward your question to the Department of Child Support Services.

Sincerely,

SANDRA POOLE, Chief
Policy Branch