CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES
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Reason for this Transmittal

[ ] State Law or Regulation Change
[ ] Federal Law or Regulation Change
[ ] Court Order or Settlement Change
[X] Clarification requested by One or More Counties
[ ] Initiated by DCSS

September 17, 2003

CSS LETTER: 03-19

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

SUBJECT: QUESTIONS AND ANSWERS ON COMPROMISE OF ASSIGNED ARREARAGES – FAMILY REUNIFICATION

This letter is to forward a compilation of the most frequently asked questions and their answers (Q&A) related to the new regulations on Compromise of Assigned Arrearages for family reunification. The questions are presented as submitted by local child support agencies (LCSA).

If additional questions arise, please submit them through your LCSA's Policy or Financial Management Coordinator to the Policy Branch. We realize that answers to your questions are time critical and we will process answers to all questions as expeditiously as possible. For any questions or concern regarding this letter, please contact Tonya Crawford-Comage at (916) 464-5224.

Sincerely,

/s/Donna Hershkowitz

DONNA S. HERSHKOWITZ
Deputy Director
Child Support Services Division

Attachment

Questions and Answers on Compromise

A. APPLICATION/FORMS

Question 1: Can the Application For Compromise (CS 4477) be amended to include a box for the applicant to check to indicate that proof (i.e., reunification, custody of the child, etc.) is being submitted with the application? This would help to ensure that the applicant provides the information necessary for the Local Child Support Agency (LCSA) to complete its review.

Answer 1: The LCSA may not make any changes to the CS 4477 form. However, the Department of Child Support Services (DCSS) will take your suggestion into consideration along with others related to the CS 4477 during the next review for revision.

Question 2: Should the LCSA require a respondent to fill out the compromise application during the process of establishing an order for arrears?

Answer 2: No, since an order for welfare reimbursement has not been established the LCSA should not request that an application for a compromise be completed at that time.

Question 3: Is the "date of application" the date originally received or the date the missing information is received?

Answer 3: The "date of application" is the date the application for compromise was determined complete.

Question 4: What are "relevant court form(s) providing information on the applicant's income and expenses"? Are these blank forms that the noncustodial parent (NCP) will fill out and return? Or are these forms filled out using LCSA data? If the NCP is required to fill out these forms, what level of documentation is needed or required? Should tax returns, pay stubs, rent records, school records be required? Suggestion: change the text to read "…relevant court forms used for providing income and expense information by the applicant."

Answer 4: "Relevant court form(s)" are the forms used in the LCSA's business practices for obtaining income and expense information, such as, FL-155, formerly called the Judicial Council (JC) of California form 1285.52, Financial Statement (Simplified), or the FL-150, formerly called the JC 1285.50, Income and Expense Declaration. The obligor is required to complete these forms. The level of documentation required is the same as the LCSA otherwise requires to accompany these forms. DCSS will consider your suggested text revision as it reviews these emergency regulations in the coming months.

B. ELIGIBILITY

Questions 5: When does the following criteria have to be met, "provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with a guardian or relative caregiver."

I'm asking because California Code of Regulations (CCR), Title 22, Division 13, Subsection 119191 (d)(2)(A) does not address this but Subsection (d)(2)(B) does and only one of these criteria's have to be met. What I'm understanding is that the minor child only has to reside with the applicant prior to placement, when the child was not adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code (WIC) but rather just goes to live with a guardian or relative caregiver whom goes on aid with the minor child.

Answer 5: You are correct in your understanding of the requirements with respect to living arrangements of the parent and child as required in CCR, Section 119191 (d)(2)(A) and (B). The statute at Family Code (FC) Section 17550 and the corresponding CCR, Section 119191(d)(2)(A) would permit a LCSA to compromise assigned arrearages for a parent with whom the child was not living prior to the child's removal and placement in Foster Care, so long as the parent takes custody of the child, and the child was reunified with the parent pursuant to a court order. However, in accordance with CCR, Section 119191 (d)(2)(B), if the child was placed in out-of-home care with a relative or guardian, the child must have lived with the parent at some point prior to the application for compromise. The DCSS's legal counsel believes this interpretation is consistent with the intent of the statutes and regulations which is to minimize the financial burdens on a household to support a stable family environment.

We would also like to point out that the amount of the compromise would be limited to the amount that accrued while the child was in out-of-home placement. The NCP could have other arrears not subject to the compromise provisions.

Question 6: If a child was adjudged a dependent of the court and the court orders that the child be placed with the obligor, is the obligor eligible for a compromise if the child did not live with him/her prior to being named a dependent of the court? An example of when this might happen is, if the child lived with Mom, was placed in foster care because the mother had a drug problem, so the court won't return the child to live with the mother. They place the child with Dad, who meets the income requirements. Would she qualify for a compromise for the period the child was a dependent?

Answer 6: The statute at FC, Section 17550 and the corresponding CCR, Section 119191(d)(2)(A) would permit a LCSA to compromise assigned arrearages for a parent who was not living with the child prior to the child's removal and placement in Foster Care, so long as the parent takes custody of the child, and the child was reunified with the parent pursuant to a court order. The DCSS's legal counsel believes this interpretation is consistent with the intent of the statutes and regulations, which is to minimize the financial burdens on a household to support a stable family environment. In your example, the Dad would meet the requirement in CCR, Section 119191(d)(2)(A) and may qualify for a compromise, if he meets all the other requirements in the compromise regulations. However, the Mom would not be eligible for compromise of assigned arrearages because the child was not returned to her custody and reunified with her by court order.

We would like to bring to your attention that the requirement for a parent who had a child placed or voluntarily placed a child in out-of-home care that resulted in public assistance being paid through the CalWORKs or KinGap programs would be different. The child must have lived with the parent at some time prior to the application for compromise.

Question 7: In the situation where there is an order for arrears against each parent where two children were in out-of-home placement, and then one of the two children is returned to each parent, what is the amount which is compromised, the full amount, or only the amount which is outstanding for the child not returned to the parent with custody of the other child?

Answer 7: In cases where there is joint physical and legal custody of a child who is returned to the home of a parent after having been in out-of home placement, a compromise of assigned arrearages should only be approved for a parent who has 50% or greater joint physical custody and meets the other criteria in the regulations. Where the court has ordered joint physical custody the LCSAs should verify the order first and then verify the percentage of custody using the JC form FL-341 [Rev. January 1, 2003].

In the specific example you mention above, each parent would be eligible for a compromise of assigned arrears for the child that was returned to the parent's custody. If each parent has 50% physical custody of both children, each would be eligible for a compromise of assigned arrearages for both children.

Question 8: If the child received assistance while living with a relative and is then returned to the parent, but was not placed with the relative by Department of Social Services (DSS) does the parent qualify for the compromise? Example: Parent decides to send child to live with relative. Relative places child on aid. Child returns to parent. Parent is below poverty level requirements.

Answer 8: In the example you describe above the applicant may qualify for compromise, if all other requirements for compromise are met. This is considered a voluntary placement and would fall under CCR, Section 119191(d)(2)(B) and CCR, Section 119191(e)(1)(B).

Question 9: Another question that was raised in talking with a staff member from another county was whether an NCP could apply for the compromise if the child was emancipated, either prior to 11/16/02 or during the compromise review process.

Answer 9: The purpose of the compromise is to reduce the financial hardships on the obligor parent which is in the best interest of the child for whom the parent still has a responsibility to support. Consequently, once the child emancipates, the parent no longer has the responsibility to provide for the care and support of the child and would not qualify for a compromise. If the child was not emancipated on the date that the application for compromise was filed, but is emancipated during the period the LCSA is processing the application, the LCSA should process the application and deny the application for

compromise since the compromise would not be necessary to provide for the child's support.

Question 10: If the debt is several years old and the child is now emancipated but the child was returned to the parent prior to the 18th birthday does the parent qualify if the child is still living with the parent? The documentation that we have only states that the child must be currently living with them. The Department of Pubic Social Services is not agreeing with any compromise where the child is over 18.

Answer 10: The purpose of a compromise of assigned arrearages is to reduce the financial hardships on the obligor parent. This is in the best interest of the child for whom the parent still has a responsibility to support. FC, Section 7050 states in part "An emancipated minor shall be considered as being an adult for the following purposes: (a) The minor's right to support by the minor's parents…" Once the child emancipates, the parent no longer has the responsibility to provide for the care and support of the child and would not qualify for a compromise. If the child was not emancipated on the date that the application for compromise was filed, but is emancipated during the period the LCSA is processing the application, the LCSA should process the application and deny the application for compromise since the compromise would not be necessary to provide for the child's support.

With regard to the 18-year-old cut off age for compromise, there are some exceptions which would require parents to be responsible for the support past the age of 18. The first exception is when an unmarried child turns 18 and is still attending high school full-time or other equivalent continuing education program and who is not self-supporting. Under FC, Section 3901, the duty of support continues for the child, until the child completes the 12th grade or attains the age of 19 whichever occurs first. The second exception under FC, Section 3910 is when a child of whatever age is incapacitated from earning a living. When either of these exceptions occurs, the parent may apply for a compromise.

Question 11: Case has been filed and served, NCP files an answer, no stipulation has been entered, and in court on a hearing for the Noticed Motion for Judgment the issue of a compromise of arrears comes up, either from the Court, or the party. How do we proceed? Do we allow the court under the FC to make a determination independent of the Compromise of Arrears process and to enter a "0" reimbursement order? Do we -- the local agency - have a responsibility to raise the issue to the court where we are aware that the circumstances fall within the legislative intention for compromising the arrears?

Answer 11: The court does not have jurisdiction to determine whether a compromise is appropriate. If the issue of compromise were brought up in court, as you mention in this scenario, the LCSA should wait for the court to issue an order and then proceed to address the issue of compromise. Without an order of assigned arrears, there can be no compromise. If the court looks at the facts of the case and issues a zero order for arrears, there would be no arrears to compromise.

The LCSA has no responsibility to raise the issue in court of eligibility for compromise when a case seems to fall within the regulatory provisions, although it is not prohibited from doing so.

Question 12: Case is referred by DSS and opened by DCSS, but no Summons & Complaint (S & C) is yet filed. The child is now back with the former custodial parent. Do we make an assessment under the same parameters as set forth in CSS Letter 02-24 and if the person qualifies for a compromise, do we close the case? And if so, under what Closure Code?

Answer 12: The new regulations provide policies and procedures for compromising assigned arrearages. In order to compromise assigned arrears, an assigned arrearage account needs to be established. The LCSA should request that the court establish an arrears order by filing the S & C with the proposed judgment based on the parent's income. Once the order is established, the LCSA should provide an application packet to the parent. When the completed application is returned, the LCSA should process it. If the applicant qualifies, the LCSA should file the stipulation.

With respect to your question on case closure, once the compromise is completed and the assigned arrearage account is zeroed out, the LCSA would close the case, if the case met one of the closure criteria in CCR, Section 118203.

Question 13: Case has been referred by DSS and we have filed an S & C. We are ready to negotiate a settlement or proceed to court. Do we proceed with establishing an order for arrears and then compromise it? Or do we instead notify the Respondent of his/her rights of compromise, and make the assessment as if an arrearage had been determined, and then dismiss the S & C and close the case in the event the Respondent qualifies as if an arrearage had been determined? Again, if the answer is DISMISS AND CLOSE, what is the Closure Code?

Answer 13: As in the situation in Answer 12 above, you would proceed with establishing the arrears order and then take an application for compromise. The LCSA would close the case if the case met one of the closure criteria in CCR, Section 118203.

Question 14: What about the scenario where a child is taken into custody on a Juvenile Delinquency action and placed in Juvenile Hall? When the child is returned, it is not technically a reunification, but the child goes from one parent to Juvenile Hall and then either back to the same parent or to the other parent. Would the FC, Section 17550 compromise apply in the situation? This wasn't directly addressed in the legislation of the regulations.

Answer 14: No, the statutes at FC, Section 17550(a)(1) restricts the allowance of this provision to those situations where the child was adjudged either a dependent of the court under Welfare and Institutions Code Section 300 or living with a guardian or relative caretaker. It appears the intent of the Legislature in drafting this piece of legislation was to restrict compromise of arrearages to these limited situations.

Questions and Answers on Compromise

Question 15: In review of the regulations, I don't see that we are prohibited from reviewing the case for the compromise if a customer requests a compromise for a time period prior to 11/16/02. I suppose there might be a problem if we are unable to verify the NCPs claim based on the fact that the information has been destroyed per the federal regulation regarding destruction of cases, but we would have to deal with that if it occurred.

Answer 15: First, as a point of clarification, the new compromise regulations were effective November 25, 2002. Yes, the assigned arrearages may have accumulated prior to the effective date of the regulations. However, for practical purposes, the time period for eligibility for compromise of assigned arrearages is limited in that the child for whom the request is being made must still be a child, as discussed in Response #10, and living with the applicant/parent.

Question 16: Should the LCSA set the welfare reimbursement pursuant to California guidelines and then compromise this amount or should the LCSA set the welfare reimbursement at $0 or other appropriate amount after the compromise criteria has been taken into consideration?

Answer 16: The LCSA should request that the arrears order be set using the California guideline and then compromise the eligible assigned arrears.

Question 17: If arrearages from the past are eligible for compromise, what do we do if the parent has paid part or all of what was accrued during the period the child was in placement?

Answer 17: The statute does not authorize refunds for assigned arrearages paid. An assigned arrearage must exist and the applicant must meet the requirements in the regulations for it to be compromised.

Question 18: On the CS 4477, Application for Compromise, line 11 asks “is the child currently living with you on a full time basis?” What is the level of proof needed?

Answer 18: The DCSS is not defining the level of proof required for verifying the information provided on the CS 4477 form, Application for Compromise, pursuant to CCR, Section 119191 (e)(2). The LCSA may utilize its current business practices for verifying information and should ensure that the information is supportable if challenged. This is essentially no different than when the LCSA establishes a support order based on a parent’s assertion that two children of the marriage reside with the parent and the parent is supporting an additional child from another relationship.

C. FEDERAL POVERTY LEVELS GUIDELINES

Question 19: CCR, Section 191119 (d)(3) states that: "The applicant shall qualify for a temporary suspension of enforcement…if…the applicant…has a gross income less than 300 percent of the federal poverty levels guidelines (FPLG)." Page 10, Section (e) (3)(A) & (B): "Determine if the applicant has a net disposable income of less than 250 percent of the current federal poverty guidelines." Is there any reason why we are using 2 thresholds for the applicant's income to qualify? This will cause undue confusion to the applicant, and will present a training and procedure challenge for the LCSA personnel. It would be more straightforward to use the net income and 250% threshold.

Answer 19: The 300% is the threshold for the preliminary findings and is used to determine whether the applicant qualifies for a temporary suspension of enforcement action pending a final determination. If the applicant has a gross income of 300% or more of the FPLG, it is presumed that the applicant would not meet the financial test required for the compromise. If the applicant has a gross income less than 300% of the FPLG, the LCSA is required to suspend collection and enforcement during the remainder of the application verification process because the presumption is that these individuals are likely to qualify for the compromise. The 250% FPLG is used to determine final eligibility and is based upon net income.

Question 20: The 250% and 300% FPLG are "applied to the family group, which includes the applicant and any other child(ren) the applicant is legally obligated to support and who resides with the applicant." How are these "other child(ren)" to be verified?

Answer 20: The DCSS is not defining the level of proof required for verifying the information provided on the CS 4477 form, Application for Compromise, pursuant to CCR, Section 119191(e)(2). The LCSA may utilize its current business practices for verifying information and should ensure that the information is supportable if challenged. This is the same standard the LCSA is currently required to use to determine the necessity for a hardship deduction pursuant to FC, Section 4071(a)(2).

Question 21: There are statements about 250% and 300% of the current FPLG. How often are these amounts determined? Are they specific to various regions within the State, can they be different within California? Will the LCSA/Consortium systems have to add processing to display the Federal poverty level data for these determination processes?

Answer 21: The FPLG is issued each year in the Federal Register by the U.S. Department of Health and Human Services. The FPLG is the same throughout California. The DCSS provided a table reflecting 250% and 300% of the FPLG as attachment A to CSS Letters 02-24 and 03-13. The DCSS is not requiring the consortia systems to make any system changes to accommodate the Compromise of Assigned Arrearages Emergency Regulations.

Questions and Answers on Compromise

Question 22: Regarding either of the FPLG income thresholds, how are the income and the family size to be determined? Do we count the income of the applicant's spouse/partner? How are children in the household counted? Do we only count the natural or adopted children of the applicant? Do we count the stepchildren of the applicant children of the applicant's spouse from before the applicant was married? Do we count the children of the applicant's unmarried domestic partner? If either the applicant, or his/her spouse/domestic partner receives child support from another parent for the child/ren in the household, do we count the child support they receive as income to count against the FPLG? The purposes of determining the income level against FPLG are different from those used to determine child support obligations. Again, this presents a training and procedure challenge for the LCSA.

Answer 22: We agree that the purpose of determining income levels is different in establishing support obligation than it is for determining whether the household is below the poverty threshold. However, in keeping with the language of FC, Section 17550 (the obligor parent's income is below 250 percent of the poverty level), the regulations indicate that the relevant income is the applicant's income, and the family group includes the applicant plus any children he or she is legally obligated to support. In other words, do not count the income of the applicant's spouse or partner. Only count the natural or adopted children of the applicant, not stepchildren. Additionally, since the regulations define income pursuant to FC, Sections 4058 and 4059, child support received by the applicant must not be counted as income available to the family group. If you would like us to consider this a formal comment to the emergency regulations, we could examine the policy again during the regulation process, and determine whether the statutory language and intent would support an alternative interpretation.

Question 23: For the 250% and 300% of the federal poverty level: Do we use NCP's net or gross income for both charts?

Answer 23: Per CCR, Section 119191 (d)(3), the applicant's gross income shall be less than 300% of the FPLGs to be determined eligible for temporary suspension of enforcement and collection actions. Per CCR, Section 119191 (e)(3) the applicant's net disposable income shall be less than 250% of the FPLGs to be determined eligible for a compromise of assigned arrearages.

Question 24: Should a spouse's income also be considered in determining whether the applicant's income is less than 250% of the Federal Poverty Level for the particular family unit? If the spouse is included in the Family Unit, it seems to logically follow that his/her income should be included for comparison with the Federal Poverty Level

Answer 24: No, we are using the standard child support guidelines in establishing the net disposable income.

Question 25: If NCP meets the federal poverty level test per the chart, are the arrears compromised to zero or does a support calculation have to be done? I am hoping it will reduce arrears to zero (for the period NCP qualifies for compromise).

Answer 25: If an order exists, the arrears are compromised to zero if the applicant meets all the requirements in the regulations and is determined to be eligible for compromise. If an order does not exist, a support calculation must be performed, so as to obtain an order.

D. TEMPORARY SUSPENSION/APPROVAL DETERMINATION PROCESS

Question 26: The DCSS regulations state that there is a two-business day requirement if the NCP meets the requirements for a temporary suspension for the LCSA to take administrative actions to suspend enforcement, accrual of interest, and collection activity. This would be a change to existing LCSA processing. Enforcement through notice to withhold, Integrated Database, Franchise Tax Board (FTB) full collection or other existing methods does not have a suspend status. The requests from the LCSA are either active or withdrawn. Does suspend mean withdraw or terminate? Does this suspension also apply to Credit Reporting/State Licensing Matching Systems (SLMS)? Does State Department of Social Services & DCSS need to deal with FTB – Office of Child Support Enforcement (OCSE) – Employment Development Department (EDD) to establish a "suspend status"?

Answer 26: The temporary suspension applies to the assigned arrearages eligible for compromise. Therefore, the LCSA should "withdraw or terminate" enforcement action on those arrearages eligible for compromise if they meet the requirements for a temporary suspension. This should be treated no differently than cases in which the LCSA suspends enforcement activity upon court order, pending further hearing, or where the LCSA suspends enforcement activity pursuant to FC, Section 17526(b). No additional "suspend" status is being contemplated with regard to FTB, EDD, or any other agency. However, if there are other arrearages associated with the case, enforcement action should continue on those arrearages not eligible for compromise.

Question 27: Does the date of temporary suspension of enforcement play any role in determining if the intercept should be refunded or applied?

Response 27: The date of temporary suspension of enforcement does play a role in determining if the intercept should be refunded or applied. The LCSA has 20 business days from the date of temporary suspension of enforcement and collection actions to determine if the applicant is eligible for a compromise. Pursuant to Manual of Policies and Procedures (MPP), Section 12-108, the LCSA has to process an IRS intercept payment within 30 calendar days from the date of collection. For further information on this issue, see the response to question 34.

Question 28: FC, Section 17550 [sic] (b): This Section states, before the debt has been compromised "…the local child support agency shall consult with the county welfare department." This provision does not appear to give final determination regarding Compromise of Arrearages to the Welfare department. However, CCR, Section

119191(e)(5), of the emergency regulations package R-18-02-E, gives final determination regarding the Compromise of Arrearages to the welfare department.

Answer 28: FC, Section 17550 (b) of the FC does not specify that the welfare department should have final determination for the Compromise of Arrearages. CCR, Section 119191(e)(5) of the emergency regulations, does state that "…In the event that the county welfare worker provides written justification that supports a finding that a compromise is not in the best interest of the child, the LCSA shall deny the request for compromise", thereby, allowing the final determination to be with the welfare department when there is a county welfare worker assigned to develop and/or assess compliance with a reunification plan. A reunification plan results from a child being declared a dependent child of the court under W&IC, Section 300 and a court later determining the child should be reunited with a parent(s).

The purpose of a regulation is to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. Through the rulemaking process the Department collaborated with various entities and concluded that this regulation, implemented the intent of the law.

Question 29: The regulations state that after the LCSA determines that the NCP has met various requirements the IV-A/IV-E welfare worker makes a determination on the ability of the applicant to support the child. The section also states the welfare worker can determine that the compromise is not in the best interest of the child(ren), the LCSA shall deny the compromise. Are there established guidelines for the welfare worker? Does the reunification stop? Is there a time frame for the welfare worker to respond? What happens if the reunification occurs outside of a welfare situation?

Answer 29: The Department of Social Services is responsible for developing regulations for the IV-A agencies, which will establish the guidelines for the county welfare workers. All the actions for determining eligibility, including the consultation with the welfare worker and receipt of the welfare worker's response, must be completed within 20 business days of determining eligibility for the temporary suspension. If the welfare worker does not respond by the conclusion of this time period, the applicant must be found to be eligible for the compromise. This Section applies to those cases in which the child was a dependent of the court and where a county welfare worker, i.e. social worker, is assigned to develop and/or assess compliance with a "reunification plan," such as, Foster Care. This Section does not apply to those welfare cases that do not have a county welfare worker overseeing a reunification plan.

Question 30: In the event the welfare worker provides a statement that a compromise is not in the best interest of the child, and the LCSA informs the applicant, and the applicant wishes to complain or request a State Hearing, does the LCSA handle the State Hearing, or does the welfare department?

Answer 30: The LCSA should process the complaint in accordance with the complaint resolution process, pursuant to Chapter 10, Division 13, Title 22, of the CCR.

Questions and Answers on Compromise

Question 31: If the welfare worker provides a written justification that the compromise is not in the best interest of the child, the LCSA has 10 days to send a Notice of Denial of Application for Compromise (CS 4479) to the applicant, recomputed arrears and interest, and initiate any enforcement actions. Does the applicant get to appeal the finding of no compromise to the welfare department? All of the CS forms have the complaint and state hearing process information included. But this one part of the process essentially rests with the welfare department, not with the LCSA. If the applicant wants to complain or file a state hearing based on the decision of the welfare worker, should the applicant be referred to the welfare department? If so, are there other time frames to allow this before the LCSA resumes enforcement or collection of the arrears?

Answer 31: Any appeal and/or complaint should be processed through the LCSA in accordance with the complaint resolution process, at which time the complaint resolution time frames would become effective.

Question 32: If the welfare case has been closed for a long period of time and there is no social worker assigned to create a reunification plan, do we still need to contact social services and receive its approval before compromising the arrears?

Answer 32: If the LCSA has contacted the local County Welfare Department, either verbally or in writing and verified that there is no open reunification plan, the LCSA may simply note that in its case file and the requirement to confer has been met.

Question 33: Do we have to track down the social worker responsible for the reunification plan and notify him/her of the proposed compromise even though the reunification was some time ago and in another county?

Answer 33: If the reunification plan is still open and being monitored, the LCSA must confer with the assigned social worker. If the reunification plan is closed, then the LCSA worker does not need to confer.

Question 34: We understand that at the time of application for compromise of arrearages there has to be arrearages. However, what if the application is received and then an intercept takes place? Are we to refund the money?

Scenario: NCP has 3 cases, applications generated 2/3/03, temporary suspensions of enforcement granted 2/7/03, authorization for compromise requests to Department of Health and Social Services (DOHSS) 2/19/03, taxes filed 2/27/03, and NCP contacts DOHSS 3/3/03 regarding joint return of $4,000+ being intercepted. The Child Support Officer documents telling the NCP about injured spouse relief.

Action being taken (has not actually happened as accounting needs intercept letter to proceed with instruction) is issuing a General Fund check as if the intercept took place in error. Realistically, if all suppressions were placed timely, the case was still submitted for intercept 1/31/03. If the compromise is not granted and the General Fund check was already issued, we are out the money. If the General Fund check is issued and the

compromise is granted, but NCP's spouse claims injured spouse we will be put in the position of trying to recoup the negative IRS adjustment.

In both cases we submitted them 1/31/03 for intercepts correctly. We will not receive the funds in this office until approximately 4/17/03 with a legal date of collection of 3/27/03. By that time both applications could be approved or denied.

Additionally, the NCP (mom) has three separate applications for three cases involving three children who were placed in foster care and are now being reunited with the NCP. The only arrears are the arrears eligible for the compromise. The intercept monies have not actually been received in the county, however, the IRS transfer report is dated March 21, 2003.

Answer 34: The date of the application in and of itself does not determine whether the applicant would receive a refund of an IRS intercept when a compromise has been requested. The LCSA must determine within 10 business days from the receipt of the completed application packet whether the applicant qualifies for a "temporary suspension of enforcement and collection" action. If a temporary suspension is granted, the LCSA should refrain from processing an IRS intercept if there are no other arrears besides those eligible for a compromise owed by the applicant.

During the short time period of the suspension of collection and enforcement activities any intercept monies should be put in suspense, until the final determination of eligibility for compromise is determined.

Pursuant to the MPP, Section 12-101(d)(1), the date of collection for an IRS intercept payment source is the date the payment is identified in the title of the transfer report. In this scenario, the transfer report is dated March 21, 2003, which is after the date the LCSA determined that the applicant was eligible for a compromise. In accordance with MPP, Section 12-713, if it has been determined that there are no additional arrearages owed to any other case, including a case in another county, all monies should be returned to the taxpayer.

Question 35: Does the transfer of funds date or legal date of collection play any role in whether the application came before the intercept?

Answer 35: As stated in Answer 34, it is not the date of application but rather the date of temporary suspension of enforcement and collection that plays a role in the intercept timing.

Question 36: Scenario: NCP has 1 case, application received 2/24/03 (incomplete and returned to NCP 2/27/03, taxes filed 2/28/03, complete application received 3/3/03, and temporary suspension of enforcement granted 3/7/03.

In this case, is the "date of intercept" the date of the offset notice, date funds are transmitted or the legal date of collection?

Answer 36: As stated in Answer 34, pursuant to MPP, Section 12-101(d)(1), date of collection for an IRS intercept payment source is the date the payment is identified in the title of the transfer report.

Question 37: CCR, Section 119191(a) states in part that, "The LCSA shall provide a Compromise Application Packet to a person on the day it is requested in person, or mail the Compromise Application Packet within 5 business days of receipt of a telephone or written request, or whenever the LCSA becomes aware that an obligor has been reunited with his/her child(ren)…." Is there any automated processing thru the IVA/IVD interfaces existing or planned that will give this information to the LCSA?

Answer 37: There is no additional automated interface planned that will provide the LCSA with information it does not already get. These regulations did not intend to place any additional burden on the LCSA to uncover if a parent has been reunified with his or her child. Rather, this language in the regulation was intended to require the LCSA to supply the application form even if the parent does not expressly request it (because, for example, he or she is not aware that a compromise may be applied for) but where during the course of the communication, it is apparent that the parent has been reunified with the child.

Question 38: CCR, Section 19191(g)(2) states that, "The notice of eligibility for compromise shall advise the applicant that without a signed stipulation the application for compromise shall be denied." The CS 4478 states "We are enclosing a Stipulation that you must sign and return before your compromise is final." Is there a proposed JC form for the Stipulation or can the counties create one of their own? Who signs the Stipulation along with the NCP – the LCSA or the local welfare agency representative?

Answer 38: The regulations envision the LCSA utilizing the same mandatory JC form otherwise used to memorialize stipulations between the LCSA and the parties regarding, for example, the amount of arrearages owing. The LCSA and obligor are the appropriate signatories on the form, as it is the LCSA, not the welfare agency, that is enforcing the support obligation that is the subject of the compromise.

E. REPORTING

The questions contained in this section pertain to the CS 4482 (Rev. 9/02) form which has been revised (see attachment). The instruction on the original form that the data field "Application Received" should equal the total of fields "Applications Pending", "Applications Denied", and "Applications Approved" has been removed. The following responses are based on the revised form.

Question 39: If CalWorks, foster care and KinGap aid types were all expended during the time the arrears accrued in one case, do we count that one case in each column? For example, I have one case in which the child was in both foster care and CalWorks during the period of time the arrears accrued. The non-custodial parent submitted an application

to us so I need to count this case on the first line of the report for "total applications this report period". Do I count it in both the foster care and CalWorks columns?

Answer 39: We realize that asking for a break-out by Foster Care, KinGap, and CalWorks on applications received, incomplete, etc. complicates the reporting process. Therefore, we have revised the report form so that only the last two items (Total Cases Approved and Total Amount of Arrears Compromised) need to be broken out by these categories.

Questions 40: How should non-welfare only cases be counted? The applications will be denied because the child did not receive aid, but how should it be counted in "Total Applications Received this report period"?

Answer 40: We believe the revised report form will resolve this issue. However, to be clear, all applications received during the report period must be counted in "Total Applications Received this report period".

Question 41: In cases where at the time of application, we do not know the aid category (due to a delay receiving information from the foster care agency or the applicant changing aid categories), where do we report the application?

Answer 41: See response to #39.

Question 42: If the only information concerning the aid category comes from the applicant, should we use that as the source for the aid category?

Answer 42: Yes, however, this may no longer be an issue as noted in response #39 above.

Question 43: In some cases we will deny because of information received during the application process before we know the aid category. How should we report these applications? Do you still want the aid category?

Answer 43: See response to #39.

Question 44: What of applications received at the end of the last period and still pending? Exclude from report?

Answer: 44: No, don't exclude these applications from report, but they should only be reported once under "Applications Received". However, they could be reported more than once under "Applications Pending" if they are still pending from one reporting period to the next.

Question 45: Are incomplete applications from a prior reporting period in fact to be excluded from the count of received applications?

Answer 45: Applications should be counted as they come in the door regardless of status. If an application is returned to the submitter as incomplete then resubmitted, it would be counted again as an application received.

Question 46: What of applications pending in the last period, which are returned as incomplete in this period? Count or exclude?

Answer 46: An application is pending if it is being worked. An application that is incomplete should be returned to the submitter and should not be counted as pending.

Question 47: What of applications pending last period and approved this period? They seem to be excluded from State's definition of approved this period.

Answer 47: An application should be either pending or incomplete. An application should not be considered pending while it is in the process of being returned as incomplete. An application pending last reporting period should have been counted as pending. If it is then approved in the next reporting period, it would be counted as approved under "Total Applications Approved this report period," and the amount reflected in "Total Amount of Arrears Compromised" by aid category.

Question 48: Are LCSAs required to report Compromise activity via the CS 4482 after June 30, 2003.

Answer 48: LCSAs should continue to submit the CS 4482 quarterly through June 30, 2004.

Question 49: Total Amount of Arrears Compromised seems to include compromises begun in prior reporting period as well as received in this period. Is this in fact what the State wants us to count?

Answer 49: Yes, report the amounts compromised in the report period. The completion of the compromise should only occur during a single reporting period. The application may be reported as pending in a reporting period, with the amount compromised reported in the subsequent reporting period when the compromise is completed.

F. GENERAL

Question 50: On the CS 4479 denial notice, there are 4 reasons stated for possible grounds for denial. One reason that is not included is, "the welfare department has determined that a compromise is not in the best interest of the child." If that is the case for an applicant who would otherwise qualify, are we to type this under the "other" reason under Section A on the letter?

Answer 50: Yes, the LCSA should check the box that states "0and write the reason in the space available.

Questions and Answers on Compromise

Question 51: Should the LCSA use the CS 4482 to report the compromise of the welfare reimbursement amount?

Answer 51: Yes, in CSS Letter 02-24 LCSAs were directed to report all compromise amounts on the CS 4482. The first report was due on January 15, 2003, if you processed any cases in November or December, 2002.

Question 52: Does this new category of cases (suspended enforcement) have ramifications in reporting for the CS 1257 and 157?

Answer 52: No, the reporting requirements of the CS 1257 and 157 forms do not change as a result of these emergency regulations.

FAMILY REUNIFICATION
COMPROMISE OF ARREARAGES REPORT

COUNTY:	REPORT PERIOD:

	Total	Foster Care	Kinship	CalWORKs
Total Applications Received this report period:				
Total Applications Pending as of the end of this report period:				
Total Applications Incomplete				
Total Applications Denied this report period:				
Child Not in Home				
Due to Income				
Child Didn't Receive Aid				
Child Didn't Live with Parent				
Applicant Refused to Sign the Stipulation				
Other (*provide explanation below)				
Total Cases Approved this report period				
Total Amount of Arrears Compromised				

*Explanation:

Send this form by the 15th day of the month following the end of the quarter to:

Via email to: elizabeth.hepworth@dcss.ca.gov or via fax to: (916) 464-5064

or via mail to:
Data and Performance Analysis Branch
P.O. Box 419064, MS 30
Rancho Cordova, CA 95741-9064

I certify that the information reported is correct.

SIGNATURE OF REPORT PREPARER	**PRINT NAME**	**PHONE**

SIGNATURE OF LCSA ADMINISTRATOR	**PRINT NAME**	**DATE**