

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

March 23, 2005

CSS LETTER: 05-09

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

SUBJECT: POLICY CHANGES IN THE ADMINISTRATION OF THE PASSPORT
 DENIAL PROGRAM

This letter is to advise you of changes in the Passport Denial Program (PDP) and to set uniform policy for the local child support agency (LCSA) and State partnership in the administration of the PDP in California.

The PDP is an effective enforcement collection remedy for past-due child support obligations. LCSAs vary in the criteria they use for excluding passport denials. As the California child support program moves towards statewide standardization, the PDP requires a published statewide uniform policy.

Background Summary

An obligor is placed in the PDP when the obligor's total arrearage is more than \$5,000. This is implemented through the federal Department of State (DoS), via the Office of Child Support Enforcement (OCSE). The obligor will be denied a passport at application or renewal unless the State specifically requests that the obligor record be withdrawn from the PDP. Revocation of a passport is infrequently done, i.e., only when an obligor contacts the DoS for a lost passport, for a new photo picture, adding pages, changing a name, reissuing a damaged passport, or when applying for a child's passport. To request exclusion, the obligor's record is sent to OCSE and flagged with a passport 'PAS' code, indicating that the obligor is to be excluded from the PDP.

Based on 2004 data, California had 755,150 unique obligors on the Integrated Database (IDB), with 506,482 of these obligors having an arrearage balance greater than \$5,000 (i.e., subject to the PDP). Of these 506,482 obligors, 325,793 obligors had the 'PAS' exclusion code set by the LCSAs. Currently, the LCSAs have the discretion

to exclude from the PDP those obligors who have current wage assignments and weekly or monthly negotiated payment plans even though their arrearages total more than \$5,000. During the month of February 2005, the collections from negotiated passport denial releases totalled \$272,690.

Federal Regulations and Procedures

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) requires the DoS to refuse to issue a passport to any person who owes more than \$5,000 in back child support. Specifically, 22 CFR 51.70 (a) (8) states:

Sec. 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that:

(8) The applicant has been certified by the Secretary of Health and Human Services as notified by a State agency under 42 U.S.C. 652(k) to be in arrears of child support in an amount exceeding \$5,000.

OCSE does not automatically remove obligors from the PDP when the debt drops below \$5,000. The decision to remove an obligor is based on State policies and procedures. The State must add an exclusion indicator when they wish to remove an obligor from the PDP. Current federal procedures to remove an obligor from the PDP provide that states must notify OCSE through the IDB standard update process. Expedited processing is allowable only for life-or-death situations involving an immediate family member or the erroneous submittal of an individual.

Current State Procedures

Through the federal offset process, the Department of Child Support Services (DCSS), via the IDB, submits LCSA-provided obligor information to OCSE on those cases that meet the criteria for federal tax refund (IRS) offsets and/or administrative offsets. When DCSS submits an obligor record with arrears greater than \$5,000, OCSE automatically extracts the file record from the records and forwards that record to DoS for passport denial unless the case has been specifically excluded from the PDP. Child support arrears may be submitted with spousal support arrears if the spousal support is included in the court order. Any time the arrearages fall below \$5,000, IDB automatically installs the 'PAS' exclusion code.

California's Child Support Warning Notice notifies an obligor that his/her name has been submitted for state and/or federal offset programs prior to offset. This notice also informs obligors that the DoS will refuse to issue a passport in cases with arrearages that have, at any time, reached more than \$5,000. This Notice also informs the obligor of his/her right to request a review of past due arrearages.

Revised Passport Denial Program Policy

The current procedures described above will continue except that the IDB will no longer automatically install a PAS exclusion code on cases when the arrears are below \$5000. All existing exclusion codes will be removed as of the effective date of this policy. The only time an exclusion code will be entered on IDB and sent to OCSE is in those instances where the obligor meets the extenuating circumstances as described below.

Obligors who have been entered into the PDP will not be subject to removal unless:

- There has been erroneous submittal of an individual (mistaken identity) who has never owed support.
- The obligor has paid his/her arrearages down to zero.
- A member of the obligor's immediate family has a life threatening illness and resides outside the United States. Immediate family member means a parent, guardian, natural or adopted child, grandparent, sibling, aunt, uncle, step-child, step-parent, step-sibling, spouse of the obligor, or domestic partner. In order for an exclusion to be granted, the obligor must provide documentation as required in the Documentation section below.
- The death or imminent death of an immediate family member (as defined above) occurring outside of the United States. In order for an exclusion to be granted, the obligor must provide documentation as required in the Documentation section below.
- The erroneous submittal of an obligor who has never owed over \$5,000 in support obligations.
- The filing of a petition for bankruptcy protection by the obligor unless the automatic stay under Title 11 U.S.C. Section 362(h), has been lifted or no longer is in effect and the obligation was not discharged by the bankruptcy proceeding.
- The government of another country has requested that the obligor be permitted to participate in legal proceedings in that country.

An opportunity for the obligor to work abroad shall not be considered an extenuating circumstance.

If an obligor requests exclusion from PDP, the LCSA shall review the request within 10 calendar days. Keep in mind that when a passport is released, the passport is good for 10 years. To remove an individual who was erroneously entered into the program, or who meets the above circumstances, the LCSA will contact the Public Inquiry Response Team (PIRT) at DCSS to request that the passport be released on an expedited basis. On all requests to remove an obligor from the PDP, the LCSA must complete the DCSS 0056 and fax the form and supporting documents to (916) 464-5062. DCSS will key the exclusion code, and expedite the release request to OCSE.

After an obligor has paid his/her arrearages down to zero, he/she will automatically be removed from the PDP, once the LCSA submits arrearage data to DCSS IDB showing the balance as zero, and that data is then forwarded to OCSE. Paying the arrearages down to an amount under \$5,000 will not remove the NCP from the PDP.

If an obligor files for bankruptcy, the LCSA should request that a PAS exclusion code be set once the bankruptcy documentation is received unless the case is deleted from DCSS IDB in an update submission file.

If an obligor owes arrearages in more than one LCSA, all case arrearages will be combined and submitted to OCSE. All LCSAs involved must agree to exclude the obligor from PDP in order for an exclusion code to be set.

Other Extenuating Circumstances

If the LCSA has determined that an obligor should be excluded from the PDP due to other extenuating circumstances, the LCSA should prepare a written justification signed by the LCSA Director or his/her designee. If there is a court order, the LCSA shall exclude the obligor from the PDP. The justification, any documentation, and a completed DCSS 0056 should be faxed to the DCSS PIRT at (916) 464-5062, for processing. These requests will be considered on an individual, case by case basis by the DCSS Director, or assigned designee. The LCSA will be notified of the disposition of the request.

Documentation

The LCSA must document any passport exclusion in the case record. All requests for passport denial exclusion shall include a completed DCSS 0056, which includes:

1. The signature of the LCSA Director or designee.
2. A request for key data entry of the passport exclusion code that will delete the obligor from the PDP.
3. A dated letter signed by the treating physician that substantiates the life threatening illness of an immediate family member, if the exclusion is based on the extenuating circumstance specified above.
4. A death certificate or dated letter signed by a representative of the Red Cross, or a substantially similar organization in a foreign country, substantiating the death of an immediate family member, if the exclusion is based on the extenuating circumstance specified above.
5. A copy of the filed court order specifying the release of the obligor's passport.
6. If there is an erroneous submission of an individual, a copy of the "Notice of Denial" from the DoS, if available.

New Reporting Requirement

The revised Child Support Program Passport Release Request Form DCSS 0056 includes the financial and payment information OCSE needs for the releasing of a passport. It is crucial that the form be completely filled out as incomplete forms will be returned to the LCSA, which could delay the passport release. This form is now used in place of the CS 871 and CS 872 for passport release only.

Implementation

This policy will be effective beginning August 1, 2005. All existing PAS codes will be cancelled at that time. The only PAS exclusion codes entered after this date will be those that meet the extenuating circumstances noted above.

This statewide policy provides uniform treatment of obligors who have built up arrearages over \$5000. The State will work with the LCSAs to document and substantiate any PDP exclusions.

Currently, there is a federal bill pending before Congress that will drop the \$5,000 threshold to \$2,500. This bill is part of the TANF reauthorization, and if passed, would be effective on October 1, 2006.

If you have any questions on the release of a passport, please contact Carolee St. Clair at (916) 464-5027. If you have any questions on the passport policy, please contact Tanya Morales at (916) 464-5261.

Sincerely,

STEVE GROGAN
Acting Deputy Director
Technology Services Division

Attachments

cc: Intercept Coordinators
Passport Denial Coordinators