

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



May 12, 1982

FSD LETTER NO. 82-7

ALL-COUNTY LETTER NO. 82-44

TO: ALL DISTRICT ATTORNEYS
ALL TITLE IV-D AGENCIES
ALL COUNTY WELFARE DEPARTMENTS

SUBJECT: CONFIDENTIALITY, TIMEFRAME FOR REFERRAL OF CASES FROM IV-A TO IV-D,
PROCESSING OF UNDISTRIBUTED COLLECTIONS WHEN AID IS TERMINATED,
COLLECTION AND DISTRIBUTION OF CHILD SUPPORT FOR MINOR MOTHERS, TWO
PERCENT SERVICE CHARGE, PATERNITY REFERRAL

This letter is being issued to revise, update, and clarify various policies in the Child Support Program.

Confidentiality

In order to use public social service records (e.g., AFDC) to enforce the law, the violation of the law must be directly connected with the administration of public social services (see Welfare and Institutions Code Section 10850), or those programs outlined in 45 CFR 302.18, including the administration of the Child Support Program.

It is our opinion that the release of otherwise confidential custodial parent information to parents with visitation privileges is generally not permitted under Welfare and Institutions Code Section 10850 or 45 CFR 302.18.

For guidance on the possible release of this information, we refer you to departmental regulations MPP Section 19-004.6 which states:

.6 Disclosure to Parents Who Wish to be Reunited With Their Family

- .61 Where a person claims to be an absent parent, his/her identification should be verified.
- .62 No acknowledgment to the requesting parent that the child(ren) or other parent are receiving aid may be made.
- .63 If the family is aided, the aided caretaker shall be contacted for permission to release information. If permission is granted, the information shall be released.
- .64 If the absent parent alleges that the aided parent has kidnapped, abused or neglected the child(ren), the case should be referred to the child protective services for appropriate action. The name and address of the applicant or recipient may be released to law enforcement officials for the purpose of locating abducting parents and the abducted child(ren).

Timeframe for Referral of Cases From IV-A to IV-D

Interpretation of both Federal and State regulations indicates that AFDC absent parent cases need not be referred from IV-A to IV-D until eligibility has been determined.

Reference: EAS Manual Section 43-201.14 which states the appropriate documents must be forwarded from IV-A to IV-D "not later than two days after aid has commenced".

45 CFR 235.70 requires "prompt notice within two working days of the furnishing of aid".

The definition of "commencement of aid" and "furnishing of aid" is the date on which cash is given to the family, a check or warrant is mailed to the family, or other similar circumstances in which an assistance payment is made to the family.

Processing of Undistributed Collections When Aid is Terminated

In order to eliminate credited amounts appearing in obligors' accounts and resolve the problem of an ex-recipient receiving a lump sum payment and then returning to aid with the IV-D agency having no chance of collecting for those payments already distributed and credited to the obligor's account, the following policy is being issued:

- IF:
- 1) The recipient is no longer receiving assistance;
 - 2) The obligor has continuously met his current obligation;
 - 3) There is no arrearage;
 - 4) The three-month enforcement period has expired; and,
 - 5) The recipient has not signed a non-welfare application.

THEN: Any money remaining in the obligor's account will be returned to the obligor.

Collection and Distribution of Child Support for Minor Mothers

45 CFR 232.11 Assignment of Rights to Support

"(1) As a condition of eligibility for assistance, each applicant of AFDC shall assign to the State any rights to support from any other person such as applicant or recipient may have." (emphasis added)

45 CFR 302.32 Child Support Payments to the IV-D Agency

"(a) In any case in which child support payments are collected for a recipient of aid under the State's Title IV-A plan with respect to whom an assignment under 232.11 is effective, such payments shall be made to the IV-D agency and shall not be paid directly to the family...." (emphasis added)

45 CFR 302.52 Incentive Payments to State and Political Subdivisions

"(a) Eligibility for incentives. The IV-D agency shall pay incentives to political subdivisions of the State or to another State when both of the requirements set forth below are met.

(1) The political subdivision (or a legal entity of the political subdivision, such as a Prosecuting District Attorney or a Friend of the Court) or other State makes the enforcement and collection of the support rights assigned under 232.11 of this title....

(2) The enforcement and collection of the assigned support rights are made pursuant to a State IV-D Plan."

Based on the above referenced sections, it is the State's position that all minor mothers shall be referred to the Family Support Division for enforcement of child support. When the FSD makes a collection on behalf of the minor mother, it will be used to repay the assistance paid to the FBU in which the minor mother is included, and incentives will be claimed on the recoupment.

Two Percent Service Charge

Based on an Attorney General's opinion (52 Op. Atty Gen. 120 (1969)), a two percent service charge may be collected in the following instances and manner:

There must be an existing court order with the two percent service charge included above the amount of the child support obligation or prior notice must be given to the obligor that there is a service charge. The service charge should be collected in the following manner:

IF: The full child support obligation is received but not the two percent fee

THEN: The county may deduct the fee

IF: Partial payment of the child support obligation is received

THEN: The county may deduct a proportional amount of the two percent fee

Paternity Referral

EAS Manual Section 43-201 requires the Welfare Department to take certain action "when an AFDC application is filed on behalf of a child whose parents are un-married and paternity has not been established by a court order." (emphasis added)

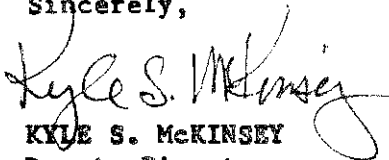
This requirement includes AFDC-U cases where the alleged father is not absent from the home.

Upon receipt of the case, the District Attorney shall determine, whether he elects to proceed in the establishment of paternity in such cases.

Attached for your information is a copy of the Family Court Roster issued by Philadelphia.

If you have any questions, please contact your county Child Support Operations analyst at 916/322-6384.

Sincerely,


KYLE S. MCKINSEY
Deputy Director

Attachment