

# TITLE 465 DEPARTMENT OF CHILD SERVICES

## ARTICLE 1. PUBLIC ASSISTANCE

### Rule 1. Child Support

#### 465 IAC 1-1-1 Definitions

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-14-10; IC 31-14-11; IC 31-25-1; IC 31-25-3-1; IC 31-25-3-2; IC 31-25-4

Sec. 1. The following definitions shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

- (1) "Child support payment" means any monies received and processed for distribution of payment to a child support recipient through the statewide child support system.
- (2) "Child support services" means the legal activities necessary to establish or enforce a child support order, including:
  - (A) parent location efforts;
  - (B) enforcement of a prior support order secured in a divorce or paternity proceedings;
  - (C) establishment and enforcement of a support order in a case where the parents are separated but not divorced;
  - (D) establishment of paternity and securing a support order under IC 31-14-10 or IC 31-14-11;
  - (E) modification of an existing support order in accordance with the Indiana child support rules and guidelines; and
  - (F) other services that might be allowed or encouraged under the federal Title IV-D program.

Child support services do not include involvement in child custody and/or visitation disputes or the establishment or enforcement of postsecondary education expenses.

- (3) "County child support office" means the local government officials operating under a cooperative agreement with the department pursuant to IC 31-25-4-13.1.
- (4) "Department" means the Indiana department of child services established under IC 31-25-1.
- (5) "Nonpublic assistance participant" in the child support program means a person who is not currently receiving assistance under Title IV-A, IV-E, or XIX of the federal Social Security Act. This includes:
  - (A) a person who:
    - (i) never received assistance under Title IV-A, IV-E, or XIX of the federal Social Security Act;
    - (ii) has executed a written application for child support services; and
    - (iii) paid any required application fee, if applicable; or
  - (B) a person who:
    - (i) formerly received assistance under Title IV-A, IV-E, or XIX of the federal Social Security Act;
    - (ii) continues to receive child support services after the termination of the public assistance benefits; and
    - (iii) is not required to execute a written application for child support services or pay a fee.

- (6) "Overpayment", for the purposes of collections in the child support program, means any child support payments collected and distributed to an individual exceeding the amount the individual is entitled to receive, or to an individual not entitled to receive the payment; payments not completed as a result of insufficient funds from the payment source; or fraudulent payments.

*(Department of Child Services; Title 2, Ch 7, Reg 2-700; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 732; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1283; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-1) to the Department of Child Services (465 IAC 1-1-1) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

#### 465 IAC 1-1-2 Eligibility and fees for child support services; collection processing service

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4-19

Sec. 2. Any person who, in the month of application, is a nonpublic assistance participant shall be eligible for child support services as requested, upon the filing of an application with a county child support office. An application fee not to exceed twenty-five dollars (\$25) shall be assessed for each application for services. The application fee may be paid either by the applicant for services or from state funds. (*Department of Child Services; Title 2, Ch 7, Reg 2-701; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 718; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 734; filed Jul 16, 1982, 1:58 p.m.: 5 IR 1827; filed Mar 29, 1985, 10:05 a.m.: 8 IR 992; filed Aug 13, 1991, 9:15 a.m.: 15 IR 7; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-2) to the Department of Child Services (465 IAC 1-1-2) by P.L.234-2005, SECTION 195, effective July 1, 2005.

**465 IAC 1-1-3 Recovery of costs in nonpublic assistance child support cases (Repealed)**

Sec. 3. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

**465 IAC 1-1-4 Safeguarding information (Repealed)**

Sec. 4. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

**465 IAC 1-1-5 Funding and withholding of funds to the clerk of the circuit court**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4-5; IC 31-25-4-24

Sec. 5. (a) The department shall reimburse the clerk of the circuit court for the clerk's activities performed under the cooperative agreement between the department and the clerk of the circuit court. The extent of this reimbursement shall be governed by the terms of the budget submitted by the clerk and approved by the department. In no case shall the reimbursement exceed the percentages allowed by federal law and regulations.

(b) In the event the clerk does not perform the activities required by the cooperative agreement, the department shall have the authority to withhold reimbursement funds due to the clerk of the circuit court. The department shall not withhold such funds until the department has forwarded written notice to the clerk sixty (60) days prior to the date upon which reimbursement will be withheld. Such notice shall contain the date reimbursement will be withheld and the reasons therefor. (*Department of Child Services; Title 2, Ch 7, Reg 2-707; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 721; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1285; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-6) to the Department of Child Services (465 IAC 1-1-5) by P.L.234-2005, SECTION 195, effective July 1, 2005.

**465 IAC 1-1-6 Cancellation of cooperative agreement with the prosecuting attorney; notice; withholding of reimbursement; failure to take legal action**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4-13.1; IC 31-25-4-20; IC 31-25-4-25

Sec. 6. (a) Either party to the cooperative agreement entered into between the department and the prosecuting attorney may cancel that agreement prior to its expiration date by giving the other party to the agreement advance notice of the intention to cancel the agreement. Such notice shall be in writing and shall be forwarded to the other party to the agreement sixty (60) days prior to the date the agreement will be canceled. Such notice shall contain the date of the intended cancellation and the reason therefor.

(b) In the event the department gives the prosecuting attorney prior notice of its intention to cancel the cooperative agreement, the department shall have the right to withhold reimbursement funds due and owing to such prosecuting attorney on

and after the date of intended cancellation.

(c) No prosecuting attorney shall be subject to cancellation of the cooperative agreement for breach of the provisions in the agreement, which require him or her to take legal action to establish and enforce support obligations, unless the failure to take legal action in a particular case is clear abuse of discretion. (*Department of Child Services; Title 2, Ch 7, Reg 2-708; filed Jan 6, 1977, 2:05 p.m.; Rules and Regs. 1978, p. 721; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1285; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-7) to the Department of Child Services (465 IAC 1-1-6) by P.L.234-2005, SECTION 195, effective July 1, 2005.

#### **465 IAC 1-1-7 Date of collection; individual (Repealed)**

Sec. 7. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

#### **465 IAC 1-1-8 Requirements for converting support payments received directly by the recipient; condition for continuing eligibility for assistance**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4

Sec. 8. (a) As a condition of continuing eligibility for assistance, any temporary assistance to needy families (TANF) recipient who, after executing an assignment of support rights, receives a direct court ordered child support payment from or on behalf of the obligor must:

(1) convert that payment to the form prescribed by this section; and

(2) promptly forward that converted payment to the Indiana state central collection unit at the office of the child support bureau.

(b) Any support payment received from an individual must be converted to a money order, cashier's check, or certified check payable to the Indiana state central collection unit and contain or be accompanied by the following information:

(1) The recipient's name.

(2) The recipient's Title IV-D case number.

(3) The obligor from whom or on whose behalf the support payment was made.

(c) Any support payment received from the clerk of the court or any payment in the form of a military allotment must be endorsed by the recipient and contain or be accompanied by the following information:

(1) The recipient's name.

(2) The recipient's Title IV-D case number.

(3) The obligor from whom or on whose behalf the support payment was made.

(*Department of Child Services; Title 2, Ch 7, Reg 2-722; filed Nov 2, 1977, 2:14 p.m.; Rules and Regs. 1978, p. 738; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1286; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-12) to the Department of Child Services (465 IAC 1-1-8) by P.L.234-2005, SECTION 195, effective July 1, 2005.

#### **465 IAC 1-1-9 Distribution of child support collections (Repealed)**

Sec. 9. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

#### **465 IAC 1-1-10 Distribution of support to nonpublic assistance participants who receive child support services (Repealed)**

Sec. 10. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

#### **465 IAC 1-1-11 Recoupment of an overpayment of child support collections (Repealed)**

Sec. 11. (*Repealed by Department of Child Services; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

**465 IAC 1-1-11.5 Recoupment of child support overpayments from subsequent child support payments**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4

Sec. 11.5. (a) When the department determines that a child support payment processed through the statewide child support system has resulted in an overpayment to an individual, such overpayment may be recouped from the individual by the department.

(b) Upon determination by the department that child support payment(s) resulted in an overpayment to an individual, the department shall:

(1) provide the individual with notice of intent to recoup the overpayment, in accordance with subsections (d) and (e); and

(2) attempt to obtain the individual's written consent for recoupment of the overpayment.

(c) If the individual fails to respond after three (3) notices provided by the department in accordance with subsections (d) and (e), the individual's consent to recoupment may be presumed, and the department may proceed to recoup the overpayment by the withholding of subsequent child support payments up to the amount of overpayment distributed to the individual.

(d) Notice(s) required under this section shall specify:

(1) that a child support payment was distributed in error to the individual;

(2) the amount of the payment(s) and the date(s) the payment(s) were distributed to the individual;

(3) the address to which the individual should send a response to the notice;

(4) that the individual has fifteen (15) days from the date the notice is mailed in which to respond in writing to the notice; and

(5) that, if the individual fails to respond after the third notice, the individual's consent may be presumed and the department may proceed to recoup the overpayment by the withholding of subsequent child support payments up to the total amount of the overpayment(s) distributed to the individual.

(e) Notice(s) provided under this section will be sent no earlier than thirty (30) days after any prior notice under this section has been provided.

(f) Nothing in this section shall be interpreted to preclude or prevent the department from entering into an agreement with the individual or pursuing any other criminal, civil, or administrative remedies to recover an overpayment of child support. (*Department of Child Services; 465 IAC 1-1-11.5; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*)

**465 IAC 1-1-12 Withdrawal from nonpublic assistance child support services; notice and payment of charges**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 31-25-4-19

Sec. 12. A nonpublic assistance participant in the child support program who receives child support services may withdraw from the program by notifying the local county child support office, in writing, of the intention to withdraw from participation in the program. Upon the effective date of withdrawal, as determined by the department, the individual will no longer be entitled to any child support services. (*Department of Child Services; Title 2, Ch 7, Reg 2-760; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 744; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1288; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-20) to the Department of Child Services (465 IAC 1-1-12) by P.L.234-2005, SECTION 195, effective July 1, 2005.

**465 IAC 1-1-13 State income tax refund intercept**

Authority: IC 31-25-2-18; IC 31-25-4-27

Affected: IC 6-8.1-9.5

Sec. 13. Whenever the department, pursuant to IC 6-8.1-9.5, intercepts a state income tax refund for child support owed, and the amount offset is found to be in error or to exceed the amount of overdue support, the department shall promptly refund the

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appropriate excess amount to the obligor. (*Department of Child Services; 465 IAC 1-1-13; filed May 8, 1986, 1:45 p.m.: 9 IR 2200; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1288; readopted filed Nov 27, 2007, 6:52 a.m.: 20071226-IR-465070551RFA; readopted filed Nov 26, 2013, 4:02 p.m.: 20131225-IR-465130459RFA; filed Oct 26, 2016, 1:50 p.m.: 20161123-IR-465160054FRA*) NOTE: Transferred from the Division of Family Resources (470 IAC 2-5-22) to the Department of Child Services (465 IAC 1-1-13) by P.L.234-2005, SECTION 195, effective July 1, 2005.

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