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TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #01-60(F)

DIGEST

Readopts rules in anticipation of IC 4-22-2.5-2, providing that all rules of Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Amends 470 IAC 2-5-1 by updating division and program titles in child support definitions, repealing subdivision (7) as unnecessary, and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-2 and 470 IAC 2-5-3 by updating division and program titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-4 as duplicating 45 CFR 302.33 (services to individuals not receiving Title IV-A or Title IV-E-foster care assistance). Amends 470 IAC 2-5-5 by updating division and program titles, adding (a) and (b) to replace safeguards to information from users of parent locator and child support services, which were in repealed 45 CFR 303.21, and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-6 and 470 IAC 2-5-7 by updating titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-8 as duplicating IC 12-17-2-26 (incentive payments for enforcing and collecting support rights). Repeals 470 IAC 2-5-9 as duplicative due to proposed changes to 470 IAC 2-5-5. Amends 470 IAC 2-5-10 by updating titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-11 as no longer necessary due to the repeal of 470 IAC 2-5-1(7). Amends 470 IAC 2-5-12, 470 IAC 2-5-13, and 470 IAC 2-5-14 by updating titles and eliminating reference to repealed Indiana Code sections. Amends 470 IAC 2-5-15 by updating terminology, rephrasing, and reorganizing to clarify recoupment of overpayments by offset procedures. Repeals 470 IAC 2-5-16, 470 IAC 2-5-17, and 470 IAC 2-5-18 as not relevant to Title IV-D, Child Support. Repeals 470 IAC 2-5-19 as covered in 470 IAC 1-4 (administrative appeals). Amends 470 IAC 2-5-20 by updating titles and eliminating reference to repealed Indiana Code sections. Repeals 470 IAC 2-5-21 as replaced by IC 31-16-15-10(b)(9) (notice to income payor of activation order; pro rata distribution). Amends 470 IAC 2-5-22 to reflect IC 12-17-2-21 (support-related duties of bureau). Effective 30 days after filing with the secretary of state.

470 IAC 2-5-1	470 IAC 2-5-12
470 IAC 2-5-2	470 IAC 2-5-13
470 IAC 2-5-3	470 IAC 2-5-14
470 IAC 2-5-4	470 IAC 2-5-15
470 IAC 2-5-5	470 IAC 2-5-16
470 IAC 2-5-6	470 IAC 2-5-17
470 IAC 2-5-7	470 IAC 2-5-18
470 IAC 2-5-8	470 IAC 2-5-19
470 IAC 2-5-9	470 IAC 2-5-20
470 IAC 2-5-10	470 IAC 2-5-21
470 IAC 2-5-11	470 IAC 2-5-22

SECTION 1. UNDER IC 4-22-2.5-3, 470 IAC 2-5-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-1 Definitions

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 1. ~~Definitions.~~ **The following definitions used in these rules and regulations** shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

(1) "Child support ~~enforcement~~ services" ~~include~~ **includes** the legal activities necessary to establish or enforce a child

support order, including: (a)

(A) enforcement of a prior support order secured in a divorce or paternity proceedings; (b)

(B) establishment and enforcement of a support order in a case where the parents are separated but not divorced; (c)

(C) establishment of paternity and securing a support order; and (d)

(D) modification of an existing support order ~~when the terms of such order are grossly inadequate.~~ **in accordance with the Indiana child support rules and guidelines.**

Child support Enforcement services do not include ~~providing legal representation involvement~~ in child custody and/or visitation disputes. ~~or in dissolution of marriage actions.~~

(2) "Costs" ~~include~~ **includes** administrative costs of the prosecuting attorney and the ~~state department division of public welfare: family and children~~ filing fees, witness fees, jury fees, change of venue fees, deposition fees, **genetic testing fees**, and other items generally allowed as costs in Indiana trial courts.

(3) "Current support", **for purposes of payment distribution**, means (a) ~~all support collected in a given month from an absent parent who is paying voluntarily and not pursuant to a court order;~~ or (b) all support collected in a given month from an **absent parent obligor** who is paying support pursuant to a court order, up to the amount of the monthly court ordered support obligation which is in effect during the month in which the payment is received.

(4) ~~A "Non-AFDC~~ **"Nonpublic assistance participant"** in the child support program ~~is means~~ a person who is not receiving Aid to Families with Dependent Children (AFDC) **but assistance under Title IV-A, IV-E, or XIX of the federal Social Security Act (federal public assistance programs), and** who has executed a written application for child support services **and paid the required state fee.**

(5) "Parent locator service" includes efforts to locate absent parents for the sole purpose of establishing and enforcing child support obligations. Parent location efforts are carried out by: (1)

(A) the Indiana state parent locator service, administered by the ~~Indiana state department division of public welfare;~~ **family and children, child support division;** (2) **bureau;**

(B) the parent locator service administered by another state; and (3)

(C) The federal parent locator service. ~~A condition precedent for utilizing the Federal Parent Locator Service is the exhaustion of state location resources.~~

(6) "Support arrearage", **for purposes of payment distribution**, means all support collected in a given month from an absent parent who is paying support pursuant to a court order, but ~~which~~ is in excess of the absent parent's current court ordered support obligation for that month and ~~which~~ represents payment of a court ordered support obligation ~~which that~~ had accrued in prior months. ~~The terms "support arrearage" and "back support", shall be synonymous.~~

(7) "Valid Child Support Payments" mean:

(a) All child support payments received by the Indiana state department of public welfare from a Circuit Court Clerk made payable to the Indiana state department of public welfare which are accompanied by proper identification to assure accurate crediting of each payment to the correct account. Such proper identification is a minimum of payor name; payee name and the Title IV-D case number.

(b) All child support payments mailed to or received by the Indiana state department of public welfare; from an individual other than a Circuit Court Clerk, which are accompanied by proper identification as set forth in part (a) above; and further; which are in the form of a money order; certified check; cashier's check or military allotment made payable to the Indiana state department of public welfare.

(c) All converted child support payments mailed to or received by the Indiana state department of public welfare from an Aid to Families with Dependent Children recipient which meets the requirements for a valid child support payment described in Regulation 2-722.

IC 12-1-2-2(e)

IC 12-1-2-3(f)

IC 12-1-6.1-19 (*Division of Family and Children; 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*)

SECTION 2. UNDER IC 4-22-2.5-3, 470 IAC 2-5-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-2 Eligibility and fees for parent locator and child support services; collection processing service

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2-22

Sec. 2. Any person who, in the month of application, is not receiving for himself or on behalf of any of his children aid to families with dependent children (AFDC) a recipient of a federal public assistance program shall be eligible for the parent locator and child support enforcement services administered by the state department of public welfare upon the filing of an application with the county department of public welfare in the county of the applicant's residence. **a county child support office.** A nonrefundable twenty-five dollar (\$25) application fee shall accompany each application for such services. (*Division of Family and Children; 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*)

SECTION 3. UNDER IC 4-22-2.5-3, 470 IAC 2-5-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-3 Recovery of costs in nonpublic assistance child support cases

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2-22

Sec. 3. ~~Recovery of Costs in Non-AFDC Child Support Cases. In the event that the state department of public welfare recovers~~ **(a) When child support payments are collected for a non-AFDC nonpublic assistance participant, in the Child Support Program,** the actual costs, in excess of the application fee, incurred by the state department of public welfare ~~or its agents in the determination of paternity or collection of child support on behalf of said the person shall~~ **may** be recovered by the state. ~~department of public welfare:~~

(b) The state department division of public welfare family and children shall first attempt to recover these costs from obligor-absent parent obligor who has been ordered to make support payments to the non-AFDC nonpublic assistance participant. in the Child Support Program. In the event If the state department division of public welfare family and children is unable to recover all or parts of these costs from the obligor-absent parent, obligor, the state department shall division may recover the unpaid costs from the ~~non-AFDC nonpublic assistance participant in the child support program.~~

(c) The state department division of public welfare shall family and children will recover these unpaid costs from the ~~non-AFDC nonpublic assistance participant in the following manner:~~

(1) The ~~state department division of public welfare family and children shall first recover unpaid costs out of any lump sum support arrearage payment recovered on the recipient's behalf as a result of the court order. or~~

(2) If this lump sum payment is insufficient to pay all of the unpaid costs, the ~~state department division of public welfare family and children shall recover the remaining unpaid costs out of the support payments it collects on behalf of the non-AFDC nonpublic assistance participant. In so doing, the state department division of public welfare family and children shall deduct amounts out of the support collection received on behalf of the non-AFDC nonpublic assistance participant.~~

~~IC 12-1-2-2(e)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-13~~

~~IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-702; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 719; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 734; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284*)~~

SECTION 4. UNDER IC 4-22-2.5-3, 470 IAC 2-5-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-5 Safeguarding information

Authority: IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-14; IC 12-17-2

Sec. 5. ~~Safeguarding Information.~~ **(a)** No individually identifiable information secured from an applicant or recipient of parent locator and child support services by the ~~State Department~~ **division of Public Welfare family and children** shall be disclosed or released, except ~~under the conditions specified in P.L. 93-647, as permitted under 42 U.S.C. 651 et seq., as amended, and the any regulations promulgated thereunder. Except that the State Department of Public Welfare will comply with provisions of IC 12-1-10-2 regarding publications of the names and addresses of persons receiving public assistance.~~

(b) The use or disclosure of information concerning applicants or recipients of support enforcement services is limited to purposes directly connected with the following:

(1) The administration of the plan or program approved:

(A) under Part A, B, D, E, or F of Title IV;

(B) under Title I, X, XIV, XVI, XIX, or XX; or

(C) the Supplemental Security Income Program established under Title XVI.

(2) Any investigations, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

(3) The administration of any other federal or federally assisted program that provides assistance, in cash or in kind, or services directly to individuals on the basis of need.

(4) Reporting to an appropriate agency or official information on known or suspected instances or physical or mental injury, sexual abuse, or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child enforcement activity under circumstances that indicate that the child's health or welfare is threatened thereby.

(c) These safeguards shall also prohibit disclosure to any committee, or legislative body (federal, state, or local) of any information that identifies by name or address any such applicant or recipient.

IC 12-1-2-2(c)

IC 12-1-2-3(f)

IC 12-1-6.1-15

IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-704; filed Jan 6, 1977, 2:05 p.m.: Rules and Regs. 1978, p. 719; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1284*)

SECTION 5. UNDER IC 4-22-2.5-3, 470 IAC 2-5-6 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-6 Funding and withholding of funds to the clerk of the circuit court

Authority: IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2-23; IC 12-17-2-27

Sec. 6. ~~Funding and Withholding of Funds to the Clerk of the Circuit Court.~~ **(a)** The ~~State Department~~ **division of Public Welfare family and children** shall reimburse the clerk of the circuit court for the clerk's activities performed under the cooperative agreement between the ~~State Department~~ **division of Public Welfare family and children** 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 ~~State Department~~ **division of Public Welfare family and children**. 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 ~~State Department~~ **division of Public Welfare family and children** shall have the authority to withhold reimbursement funds due to the clerk of the circuit court. The ~~State Department~~ **division of Public Welfare family and children** shall not withhold such funds until the ~~State Department~~ **division of Public Welfare family and children** has forwarded written notice to the clerk ~~twenty (20)~~ **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.

IC 12-1-2-3(c)

IC 12-1-2-3(f)

IC 12-1-6.1-14

IC 12-1-6.1-17

IC 12-1-6.1-19 (*Division of Family and Children; 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*)

SECTION 6. UNDER IC 4-22-2.5-3, 470 IAC 2-5-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-7 Cancellation of cooperative agreement with the prosecuting attorney; notice; withholding of reimbursement; failure to take legal action

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2-23

Sec. 7. ~~Cancellation of Cooperative Agreement with the Prosecuting Attorney.~~ (a) Either party to the cooperative agreement entered into between the ~~State Department division~~ of ~~Public Welfare family and children~~ 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 ~~twenty (20)~~ **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 ~~State Department division~~ of ~~Public Welfare family and children~~ gives the prosecuting attorney prior notice of its intention to cancel the cooperative agreement, the ~~State Department division~~ of ~~Public Welfare family and children~~ 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 agreement for breach of the provisions in ~~his~~ **the** cooperative 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.

IC 12-1-2-2(e)

IC 12-1-2-3(f)

IC 12-1-6.1-14

IC 12-1-6.1-19 (*Division of Family and Children; 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*)

SECTION 7. UNDER IC 4-22-2.5-3, 470 IAC 2-5-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-10 Date of collection; individual

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 10. ~~Date of Collection.~~ The date of collection from an individual ~~other than a Circuit Court Clerk~~ shall be the date upon which a ~~valid~~ child support payment is received by the Indiana ~~state department division~~ of ~~public welfare family and children~~ in the office of the child support ~~division~~: **bureau or a clerk of the circuit court.**

IC 12-1-2-2(e)

IC 12-1-2-3(f)

IC 12-1-6.1-2

IC 12-1-6.1-4

IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-720; 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*)

SECTION 8. UNDER IC 4-22-2.5-3, 470 IAC 2-5-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-12 Requirements for converting support payments received directly by the recipient; condition for continuing eligibility for assistance

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 12. ~~Converting Support Payments Received Directly by the Recipient:~~ (a) As a condition of continuing eligibility for assistance, any ~~Aid to Families with Dependent Children~~ **temporary assistance to needy families (TANF)** recipient who, after executing an assignment of his support rights to the Indiana ~~state department division~~ of ~~public welfare,~~ **family and children**, receives a **direct court ordered** child support payment from or on behalf of the ~~absent parent who is the subject of the assignment obligor~~ must:

- (1) convert that payment to the form prescribed by this ~~regulation,~~ **section**; and
- (2) promptly forward that converted payment to the Indiana ~~state department division~~ of ~~public welfare~~ **family and children** at the office of the child support ~~division:~~ **bureau or the clerk of the circuit court.**

(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 department division~~ of ~~public welfare~~ **family and children** or the ~~clerk of the circuit court~~ and contain or be accompanied by the following information:

- (1) The recipient's name.
- (2) The recipient's Title IV-D case number. ~~and~~
- (3) The ~~absent parent-obligor~~ **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. ~~and~~
- (3) The ~~absent parent-obligor~~ **obligor** from whom or on whose behalf the support payment was made.

Any payment by the recipient to the Indiana state department of public welfare in an effort to comply with this regulation shall not constitute a valid support payment unless it meets the requirements of this regulation.

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-2~~

~~IC 12-1-6.1-12~~

~~IC 12-1-6.1-17~~

~~IC 12-1-6.1-19 (Division of Family and Children; 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)~~

SECTION 9. UNDER IC 4-22-2.5-3, 470 IAC 2-5-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-13 Distribution of child support collections

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 13. (a) The ~~state department division~~ of ~~public welfare~~ **family and children** shall distribute the child support moneys it collects on behalf of ~~Aid to Families with Dependent Children (AFDC)~~ **temporary assistance to needy families (TANF)** recipients according to the provisions of title 45 of the Code of Federal Regulations Section 302.51. **in accordance with 42 U.S.C. 657 and 45 CFR 302.51.**

(b) The same procedure for distributing support payments will be utilized when ~~an AFDC~~ **a TANF** award is suspended except that the ~~state department division~~ of ~~public welfare~~ **family and children** will continue to collect child support payments for the ~~AFDC~~ **TANF** recipient during the period of suspension.

IC 12-1-2-2(c)

IC 12-1-2-3(f)

IC 12-1-6.1-2

IC 12-1-6.1-12

IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-730; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 739; filed Aug 26, 1987, 11:00 a.m.: 11 IR 86; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1286*)

SECTION 10. UNDER IC 4-22-2.5-3, 470 IAC 2-5-14 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-14 Distribution of support to nonpublic assistance participants who receive child support services

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 14. ~~Distribution of Support to Non-AFDC Participants who Receive Child Support Enforcement Services:~~ Upon the receipt of a valid child support payment made on behalf of a ~~non-AFDC~~ **nonpublic assistance** participant, in the Child Support Program who receives Child Support Enforcement Services, the Indiana state department **division** of public welfare **family and children shall**, after the deduction of any unpaid costs described in ~~regulation 2-700~~, shall **470 IAC 2-5-1 [section 1 of this rule]**, forward the **monthly remaining** support collection received to the ~~non-AFDC~~ **nonpublic assistance** participant. ~~not later than sixty (60) days after the end of the month in which the support collections were made by the Indiana state department of public welfare at the offices of the child support division.~~

IC 12-1-2-2(c)

IC 12-1-2-3(f)

IC 12-1-6.1-13

IC 12-1-6.1-14

IC 12-1-6.1-19 (*Division of Family and Children; Title 2, Ch 7, Reg 2-731; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 740; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1287*)

SECTION 11. UNDER IC 4-22-2.5-3, 470 IAC 2-5-15 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-15 Recoupment of an overpayment of child support collections

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2

Sec. 15. (a) When the Indiana state department of public welfare determines that an aid to families with dependent children assistance (AFDC) recipient or a non-AFDC participant who receives Title IV-D child support enforcement services has received from the Indiana state department of public welfare an overpayment of child support collections for any month, such overpayment shall be recouped by the Indiana state department of public welfare. In non-AFDC cases the recoupment will be made by withholding in subsequent months the amount of child support collection payable to the participant until the overpayment has been repaid or recouped in full.

(b) In AFDC cases the recoupment will be made by withholding in subsequent months the amount of any child support collection payable to the AFDC recipient under 45 C.F.R. 302.51(b)(3) or (b)(5), until the overpayment has been recouped or repaid in full. Child support collections payable to the AFDC recipient as a disregard payment under 45 C.F.R. 302.51(b)(1) shall not be withheld to recoup any such overpayments.

(c) If an AFDC recipient withdraws from or becomes ineligible for public assistance before any overpayment of child support collections is fully repaid or recouped, the Indiana state department of public welfare may not continue to recoup the overpayment out of the ex-recipient's current support payments. However, the Indiana state department of public welfare may recoup overpayments out of child support arrearages, if:

(1) the ex-recipient's right to the child support arrearages accrued before his termination from public assistance; and

(2) all past public assistance paid to the AFDC family has been fully repaid.

(a) When the bureau determines that, in processing collections to program participants from federal or state tax or administrative offset procedures or from payments posted at the bureau's central office, moneys have been distributed to which a participant is not legally entitled, such overpayments may be recouped by the bureau.

(b) In active temporary assistance to needy families (TANF) cases, the recoupment of moneys shall be made from support payments, other than current support, to which the TANF recipient would otherwise have been entitled, through the submission of the overpaid participant for state tax offset, through subsequent federal tax offset collections from the obligor, or through a repayment agreement entered into between the participant and the bureau.

(c) If the overpayment is made to a nonpublic assistance participant, including a former public assistance recipient, the recoupment shall be made through a repayment agreement entered into between the participant and the bureau, the submission of the overpaid participant for state tax offset or through subsequent federal tax offset collections from the obligor. If the overpaid participant does not enter into a repayment agreement with the bureau within thirty (30) days of notice of the overpayment, the recoupment will be made by withholding in subsequent months the amount of child support collection payable to the participant until the overpayment has been repaid or recouped in full.

(d) If the overpayment in a ~~non-AFDC nonpublic assistance~~ case results from the IRS recalling all or part of an intercepted tax refund from child support ~~division bureau~~ funds, the ~~non-AFDC nonpublic assistance~~ participant is obligated to reimburse the child support ~~division bureau~~ for the recalled amount ~~which that~~ the participant received, and the recalled amount constitutes a debt owed by the ~~non-AFDC nonpublic assistance~~ participant to the child support ~~division bureau~~.

(e) If a noncustodial party receives moneys from the bureau that are subsequently determined to be moneys to which that person was not entitled, the recoupment shall be made through the submission of the overpaid person for state tax offset collection or through a repayment agreement between the person and the bureau. (*Division of Family and Children; Title 2, Ch 7, Reg 2-732; filed Nov 2, 1977, 2:14 p.m.: Rules and Regs. 1978, p. 740; filed Apr 7, 1988, 8:30 a.m.: 11 IR 2856; filed Mar 8, 1989, 9:40 a.m.: 12 IR 1506; errata, 12 IR 1636; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1287*)

SECTION 12. UNDER IC 4-22-2.5-3, 470 IAC 2-5-20 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-20 Withdrawal from nonpublic assistance child support services; notice and payment of charges

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 12-17-2-22

Sec. 20. ~~Withdrawal From Non-AFDC Child Support Services.~~ A ~~non-AFDC nonpublic assistance~~ participant in the child support program who receives parent locator and/or child support ~~Enforcement~~ services may withdraw from the program by notifying the ~~Indiana state department of public welfare, office of the child support division local county child support enforcement office,~~ in writing, of ~~his the~~ intention to withdraw and by paying all charges due and owing the ~~Indiana state department of public welfare.~~ **from participation in the program.** Upon the effective date of withdrawal, as determined by the ~~Indiana state department division of public welfare, family and children,~~ the ~~Indiana state department of public welfare~~ shall cease to collect child support payments on behalf of the ~~non-AFDC~~ participant. **individual will no longer be entitled to any child support services.**

~~IC 12-1-2-2(c)~~

~~IC 12-1-2-3(f)~~

~~IC 12-1-6.1-13~~

~~IC 12-1-6.1-19~~ (*Division of Family and Children; 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*)

SECTION 13. UNDER IC 4-22-2.5-3, 470 IAC 2-5-22 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

470 IAC 2-5-22 State income tax refund intercept

Authority: IC 12-13-2-3; IC 12-13-5-3; IC 12-17-2-30

Affected: IC 6-8.1-9.5; IC 12-17-2-14

Sec. 22. (a) ~~In non-AFDC cases the child support division shall, prior to any state income tax refund offset, inform the non-AFDC custodial parent that any offset amount will first be used to satisfy any unreimbursed past public assistance (AFDC and foster care maintenance) which has been provided to the family.~~

(b) Whenever the ~~state department division~~ of ~~public welfare, family and children~~, 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 division~~ shall promptly refund the appropriate excess amount to the absent parent. (*Division of Family and Children; 470 IAC 2-5-22; filed May 8, 1986, 1:45 p.m.: 9 IR 2200; readopted filed Nov 14, 2001, 4:43 p.m.: 25 IR 1288*)

SECTION 14. THE FOLLOWING ARE REPEALED: 470 IAC 2-5-4; 470 IAC 2-5-8; 470 IAC 2-5-9; 470 IAC 2-5-11; 470 IAC 2-5-16; 470 IAC 2-5-17; 470 IAC 2-5-18; 470 IAC 2-5-19; 470 IAC 2-5-21.

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