

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 7. DEPARTMENT OF ECONOMIC SECURITY CHILD SUPPORT ENFORCEMENT

Editor's note: The following Notice of Final Rulemaking was reviewed per the Governor's Regulatory Review Plan memorandum, January 22, 2009 and its continuations on April 30 and June 29, 2009. (See a copy of the memoranda in this issue on pages 1268-1270.) The Governor's Office authorized the notice to proceed through the rulemaking process on March 6, 2009.

[R09-64]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R6-7-101 | Amend |
| R6-7-601 | Amend |
| R6-7-610 | New Section |
| R6-7-611 | New Section |
| R6-7-701 | Amend |
| R6-7-703 | Amend |
| R6-7-705 | Amend |
| R6-7-713 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing Statute: A.R.S. §§ 41-1954(A)(3); 46-408(G)
Implementing Statute: A.R.S. §§ 25-320, 25-510, 25-528
- 3. The effective date of the rules:**
September 5, 2009
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 15 A.A.R. 601, April 10, 2009
Notice of Proposed Rulemaking: 15 A.A.R. 622, April 17, 2009
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Beth Broeker |
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| | or |
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6. An explanation of the rules, including the agency's reasons for initiating the rules:

The rules explain how all child support monies received by the Title IV-D Agency in Title IV-D child support cases are distributed and disbursed under the federally mandated child support distribution laws. The distribution and disbursement process conforms to federal distribution and disbursement law requirements. The rules do not apply to non-Title IV-D child support cases.

On February 8, 2006, the Deficit Reduction Act of 2005, P.L. 109-171, was signed into law by the President. This federal legislation made changes that modify the distribution and disbursement of child support in child support cases governed by Title IV-D of the Social Security Act.

The Deficit Reduction Act requires all states to impose an annual fee of \$25 on recipients who have never received Temporary Assistance for Needy Families (TANF) in child support cases with collections of at least \$500. A.R.S. § 25-528 was passed in 2007 to support this federal requirement. In addition, the Deficit Reduction Act mandates that, effective October 1, 2009, the state's assignment of support rights is now limited to support that accrues during the period when families receive TANF assistance.

The 2008 Arizona legislative session resulted in two legislative changes that affect the distribution and disbursement of child support in child support cases governed by Title IV-D of the Social Security Act. A.R.S. § 25-510 was amended to eliminate interest from accruing on judgments for past support ordered September 26, 2008 and after. In addition, A.R.S. § 25-320 was amended to require that the courts establish a reasonable monthly cash medical support order to be paid when medical insurance for the child is not accessible or available at a reasonable cost.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

These rules do not impose any additional costs or requirements on small businesses. Support monies disbursed to obligees may be spent in the private sector for various services or products. The economic impact of the expenditure of support monies received for goods and services in the private sector is estimated to be substantial, but cannot be quantified.

The rules provide a clear listing of the order in which support-related payments are distributed and disbursed in current assistance, never assistance, and former assistance cases. The new rules will enhance understanding by obligees of this process. The rules also provide the details of the distribution and disbursement process and conform to the federally prescribed distribution and disbursement requirements for Title IV-D child support cases. Compliance with these requirements is necessary to obtain federal funds for the child support program.

The rules do not have an adverse economic impact on the public.

10. A description of the changes between the proposed rules, including supplemental notices, and the final rules (if applicable):

The Department has elected not to make the amendment to R6-7-701(I) that was contained in the Notice of Proposed Rulemaking. The Department had proposed that the time-frame in R6-7-701(I), authorized by federal regulation, be reduced from 180 days to 90 days, in order to allow the Title IV-D Agency to release joint federal income tax refunds earlier. The Title IV-D Agency had begun to see a reduction in the time it took for injured spouses to submit their claim to the IRS and for the IRS to process these claims. Based on that improvement in processing time, the Title IV-D Agency believed that it could reduce the hold time for such tax refunds. However, since the time that the Notice of Proposed Rulemaking was filed, the time-frames are increasing and it would be costly to the state to reduce the hold time. Therefore, the Title IV-D Agency will not make the amendment to this time-frame. The Department believes that this is not a substantial substantive change, because it maintains the status quo.

Minor typographical and formatting changes have been made at the suggestion of Council staff. No substantial substantive changes have been made.

11. A summary of the comments made regarding the rule and the agency response to them:

The Department has received no comments regarding this rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 7. DEPARTMENT OF ECONOMIC SECURITY
CHILD SUPPORT ENFORCEMENT**

ARTICLE 1. GENERAL PROVISIONS

Section

R6-7-101. Definitions

ARTICLE 6. TITLE IV-D DISTRIBUTION

Section

R6-7-601. Distribution

R6-7-610. Distribution of Cash Medical Support in Title XIX Cases

R6-7-611. Distribution of the Mandatory Annual Fee on and after October 1, 2007

ARTICLE 7. TITLE IV-D DISBURSEMENT

Section

R6-7-701. Disbursement

R6-7-703. Disbursement in Never Assistance Cases on and after January 1, 2003

R6-7-705. Disbursement in Current Assistance Cases on and after January 1, 2003

R6-7-713. Past Support Judgments

ARTICLE 1. GENERAL PROVISIONS

R6-7-101. Definitions

The following definitions apply in this Chapter unless otherwise provided in a specific Article of this Chapter:

1. "Allocation" means the prorated division of collections.
2. "Annual fee" means the amount owed by the recipient of services when the Title IV-D Agency has collected \$500.00 of support in a federal fiscal year.
- ~~2-3.~~ "Arrearages" means unpaid amounts of support owed.
- ~~3-4.~~ "Assistance unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount for cash assistance.
- ~~4-5.~~ "Business day" means a day on which state offices are open for regular business. A.R.S. § 46-408.
- ~~5-6.~~ "Caretaker" means an individual other than a parent in a Title IV-D case who has physical custody of a child and may have the right to support of that child under A.R.S. § 46-444.
- ~~6-7.~~ "Cash assistance" means temporary payments for needy families paid to a recipient for the purpose of meeting basic living expenses, as described by the Department at 6 A.A.C. 12.
8. "Cash medical support" means the court ordered monthly amount to be paid as an alternative when medical insurance is not accessible or available at a reasonable cost in accordance with A.R.S. § 25-320.
- ~~7-9.~~ "Child Not on Grant" means a child who:
 - a. Resides with an assistance unit receiving cash assistance,
 - b. Is not eligible for cash assistance due to the receipt of ~~social security~~ Social Security income, and
 - c. Is exempt from the assignment under A.R.S. § 46-407.
- ~~8-10.~~ "Child Support Case Registry" or "Registry" means certain automated records of all Title IV-D cases, and all other cases in which a support order is established, modified, or registered in Arizona on or after October 1, 1998.
- ~~9-11.~~ "Conditionally assigned arrearages" are arrearages that:
 - a. Do not exceed the total cumulative amount of unreimbursed cash assistance paid to a family as of the date the family stops receiving cash assistance,
 - b. Were temporarily assigned arrearages, and
 - c. Became conditionally assigned on the date that the family stopped receiving cash assistance or October 1, 2000, whichever date is later.
- ~~10-12.~~ "Current assistance case" means a Title IV-D case in which an assistance unit is currently receiving cash assistance.
- ~~11-13.~~ "Current support" means the monthly amount of money ordered by a court or an administrative entity for the support of a child, spouse, or former spouse and may include cash medical support.

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- ~~12-14.~~ "Department" means the Department of Economic Security.
- ~~13-15.~~ "Disbursement" means the payment of monies to an obligee or other authorized recipient.
- ~~14-16.~~ "Distribution" means application of support and related collections to one or more specific obligations or debts.
- ~~15-17.~~ "F.A.A." means the Family Assistance Administration, the entity within the Department responsible for administering the Department's Cash Assistance Program.
18. "Federal fiscal year" means the 12 consecutive months beginning October 1 and ending September 30 for which the Office of Child Support Enforcement in the United States Department of Health and Human Services plans the use of its funds.
- ~~16-19.~~ "Federal income tax refund offset" means the intercept of Internal Revenue Service income tax refunds to pay support as provided in 26 U.S.C. 6402 and 42 U.S.C. 664.
- ~~17-20.~~ "Fees and costs" means amounts ordered by the court or administrative entity or agreed to be paid to the Title IV-D Agency for genetic testing, service of process, or other expenses.
- ~~18-21.~~ "Former assistance case" means a Title IV-D case in which an assistance unit formerly received cash assistance and is no longer receiving cash assistance.
- ~~19-22.~~ "Futures" means an amount of support received by the Title IV-D Agency, excluding any federal or state income tax refund offset, which when received exceeds the amount of current support owed in a Title IV-D case with no arrearages or other unpaid obligations as stated in 45 CFR 302.51(b) (~~Office of the Federal Register, National Archives and Records Administration, October 1, 2004~~), which is incorporated by reference and on file with the Department. This incorporation by reference does not include any later amendments or editions. Futures do not include prepaid support.
- ~~20-23.~~ "Handling fee" means the monthly charge prescribed in A.R.S. § 25-510, which is payable to the Title IV-D Agency's Clearinghouse.
- ~~21-24.~~ "Income withholding order" means an order that directs an obligor's employer, payor, or the obligor to withhold monies from the obligor's income.
- ~~22-25.~~ "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under A.R.S. Title 25, Chapter 9 or a law or procedure substantially similar to A.R.S. Title 25, Chapter 9 that Chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act. A.R.S. § 25-1202.
- ~~23-26.~~ "Injured spouse claim" means a written request from the spouse of an obligor stating that the spouse has an interest in an income tax refund based on a joint federal income tax return.
- ~~24-27.~~ "IRS tax reversal" means a rescission by the Internal Revenue Service of a federal income tax refund offset that was previously received by the Title IV-D Agency.
- ~~25-28.~~ "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage. A.R.S. § 25-1202.
- ~~26-29.~~ "Medical assistance" means benefits received from a state agency under Title XIX of the Social Security Act.
- ~~27-30.~~ "Medical support judgment" means a judgment for the costs of medical insurance coverage or uncovered medical expenses of the child.
- ~~28-31.~~ "Never assigned arrearages" means arrearages that:
- Accrue in a never assistance case, or in a former assistance case after an assistance unit's most recent period of cash assistance ends, and;
 - Are not assigned.
- ~~29-32.~~ "Never assistance case" means a Title IV-D case in which a family never received cash assistance, but could be receiving or has received medical assistance under Title XIX of the Social Security Act.
- ~~30-33.~~ "Nonobligated spouse" means the spouse who filed an Arizona state income tax return jointly with an obligor.
- ~~31-34.~~ "Non-periodic payment" means a non-recurring amount or an amount that is not paid at regular intervals.
- ~~32-35.~~ "Obligee" means a person or agency entitled to receive support. A.R.S. § 25-500.
- ~~33-36.~~ "Obligor" means a person obligated to pay support. A.R.S. § 25-500.
- ~~34-37.~~ "OCSE" means the Office of Child Support Enforcement in the United States Department of Health and Human Services.
- ~~35-38.~~ "Order" means a legal directive issued by an officer or entity legally authorized to issue orders.
- ~~36-39.~~ "Past support" means the amount of support reduced to a written judgment for the care and support of a child for the period before a current child support order is established.
- ~~37-40.~~ "Permanently assigned arrearages" means arrearages that do not exceed the total cumulative amount of unreimbursed cash assistance paid to an assistance unit at the time the assistance unit leaves assistance and:
- Accrued before the family received assistance and were assigned to the state before October 1, 1997, or;
 - Accrue during any period in which the assistance unit received cash assistance and were assigned to the state on or after October 1, 1997.
- ~~38-41.~~ "Pregnancy and childbirth expenses" means the costs of pregnancy and childbirth, which may be reduced to a written judgment under A.R.S. § 25-809.

- 39-42. "Pregnancy and childbirth judgment" means a final court order for the costs of pregnancy and childbirth.
- 40-43. "Prepaid support" means payments for monthly support that the obligor or the obligor's agent designate in writing as payments for support in future months, even in cases with arrearages.
- 41-44. "Related payments" means monies other than support received under an order or agreement.
- 42-45. *Responding state* means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under A.R.S. Title 25, Chapter 9 or a law substantially similar to A.R.S. Title 25, Chapter 9 ~~that Chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.~~ A.R.S. § 25-1202.
- 43-46. "Spousal maintenance" or "spousal support" means an amount of money ordered under A.R.S. § 25-319 or a similar law of another state, for the support or maintenance of a spouse or former spouse.
- 44-47. "State" has the meaning in A.R.S. § 25-1202(22).
- 45-48. *Support* means the provision of maintenance or subsistence and includes medical insurance coverage, or cash medical support, and uncovered medical costs for the child, arrearages, interest on arrearages, past support, interest on past support and reimbursement for expended public assistance. In a Title IV-D case, support includes spousal maintenance or spousal support that is included in the same order that directs child support. A.R.S. § 25-500.
- 46-49. "Support Payment Clearinghouse" or "Clearinghouse" means the state disbursement unit for the Title IV-D Agency established under A.R.S. § 46-441 to collect and disburse all payments under support orders or agreements.
- 47-50. "Temporarily assigned arrearages"
- a. Means arrearages that:
 - i. Do not exceed the total cumulative amount of unreimbursed cash assistance paid to an assistance unit as of the date the unit stops receiving cash assistance;
 - ii. Accrue before any period in which the assistance unit receives cash assistance for arrearages assigned to the state on or after October 1, 1997; and
 - iii. Are not permanently assigned arrearages; and
 - b. The temporary assignment is no longer effective on October 1, 2000, or when the assistance unit stops receiving cash assistance, whichever is later.
 - c. Effective on and after October 1, 2009, no new temporary assignments of unpaid support begin.
- 48-51. *Temporary assistance for needy families* ~~(TANF)~~ (TANF) means assistance granted under § 403 of Title IV of the Social Security Act, as it exists after August 21, 1996. A.R.S. § 46-101.
- 49-52. "Title IV-A" means Title IV-A of the Social Security Act, 42 U.S.C. 601 et seq.
- 50-53. "Title IV-D" means Title IV-D of the Social Security Act, 42 U.S.C. 651 et seq.
- 51-54. "Title IV-D Agency" means the Division of Child Support Enforcement and all of its contracting entities that administer Title IV-D services.
- 52-55. "Title IV-E" means Title IV-E of the Social Security Act, 42 U.S.C. 670 et seq.
- 53-56. "Title XIX" means Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq.
57. "Title XIX Agency" means the Arizona Health Care Cost Containment System (AHCCCS).
- 54-58. *Tribunal* means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage. A.R.S. § 25-1202.
- 55-59. "UIFSA" means the Uniform Interstate Family Support Act, A.R.S. §§ 25-1201 et seq.
- 56-60. "Unassigned arrearages" means previously permanently assigned and temporarily assigned arrearages that exceed the total cumulative amount of unreimbursed cash assistance paid to a family as of the date the family stops receiving cash assistance and includes both unassigned during-assistance arrearages and unassigned pre-assistance arrearages.
- 57-61. "Unassigned during-assistance arrearages" means all previously permanently assigned arrearages that:
 - a. Exceed the total cumulative amount of unreimbursed cash assistance paid to an assistance unit as of the date the assistance unit stops receiving cash assistance, and;
 - b. Accrue during any period in which the assistance unit receives cash assistance for arrearages assigned to the state on or after October 1, 1997.
- 58-62. "Unassigned pre-assistance arrearages" means all previously temporarily assigned arrearages that:
 - a. Exceed the total cumulative amount of unreimbursed cash assistance paid to an assistance unit as of the date the assistance unit stops receiving cash assistance, and;
 - b. Accrue before any period in which the assistance unit receives cash assistance for arrearages assigned to the state on or after October 1, 1997 but before October 1, 2009.
- 59-63. "Unreimbursed cash assistance" means the total, cumulative amount of cash assistance for which the state of Arizona has not received reimbursement.
- 60-64. "Voluntary payment" means monies received by the Title IV-D Agency on behalf of a child for whom no order for support is established.

ARTICLE 6. TITLE IV-D DISTRIBUTION

R6-7-601. Distribution

- A. The Title IV-D Agency shall distribute monies collected in a Title IV-D case in accordance with state and federal law and the provisions of this Article in the following sequence to:
1. Current child support;
 2. Current spousal maintenance;
 3. Current cash medical support;
 - ~~3-4.~~ Child support judgments for arrearage and or past support judgments, and the applicable corresponding interest;
 - ~~4-5.~~ Spousal maintenance arrearage judgments for arrearage or past support and the applicable corresponding interest;
 - ~~5-6.~~ Pregnancy and childbirth judgments and the corresponding interest;
 - ~~6-7.~~ Cash medical support judgments and the corresponding interest;
 8. Judgments for uncovered medical costs and the corresponding interest;
 - ~~7-9.~~ Child support arrearages not reduced to a written judgment and the corresponding interest;
 - ~~8-10.~~ Spousal maintenance arrearages not reduced to a written judgment and the corresponding interest;
 11. Cash medical support arrearages not reduced to a written judgment, and the corresponding interest;
 - ~~9-12.~~ Current month's handling fee;
 - ~~10-13.~~ Handling fees owed to the Support Payment Clearinghouse;
 - ~~11-14.~~ IRS tax reversals;
 - ~~12-15.~~ Other fees or costs; and
 - ~~13-16.~~ Futures.
- B. Arrearage payments distributed in a Title IV-D case are applied first to the principal and then to the interest that accrued on that principal in the following order:
1. The oldest written judgment's principal and interest and then to each successive written judgment's principal and interest.
 2. Arrearages not reduced to a written judgment and the corresponding interest.
- C. The Title IV-D Agency shall credit amounts received as support from or on behalf of the obligor as the required support obligation for the month in which they are received unless they are submitted by an employer. Payments submitted by an employer as the result of an income withholding order are considered received in the month in which the income was withheld by the employer. The date of receipt for income withholding order payments is the last day of the pay period from which the payment is withheld.
- D. A voluntary payment received in a cash assistance case shall be retained by the Title IV-D Agency and shared with the federal government. Any monies received in excess of cash assistance owed to the state and federal government shall be paid to the obligee.

R6-7-610. Distribution of Cash Medical Support in Title XIX Cases

- A.** The Title IV-D Agency shall retain current cash medical support monies for a child receiving Title XIX services under A.R.S. § 46-407 where the recipient of services is an individual to whom court ordered medical support is owed.
- B.** When a child is receiving Title XIX services, the Title IV-D Agency shall disburse all current cash medical support for that child to the Title XIX Agency in accordance with 45 CFR 302.51 on or after the end of the month in which the current cash medical support is collected. The Title IV-D Agency shall distribute arrearages that accrue and are collected while the child is receiving Title XIX services on or after the end of the month in which the arrearages are collected.
- C.** When a child is no longer receiving Title XIX services, the Title IV-D Agency shall disburse current cash medical support in accordance with R6-7-701. The Title IV-D Agency shall distribute collections of cash medical support arrears that accrued while the child was receiving Title XIX services in accordance with R6-7-601 to the Title XIX Agency.
- D.** If a cash medical support order covers children who are not receiving Title XIX services and children who are receiving Title XIX services, the Title IV-D Agency shall divide the ordered cash medical support amount by the number of children in the order. The Title IV-D Agency shall distribute the prorated share of cash medical support for the benefit of the children receiving Title XIX services to the Title XIX Agency and the prorated share of cash medical support for the benefit of the children not receiving Title XIX services to the obligee.
- E.** When a case is former Title XIX and former assistance with arrearages assigned to the state under A.R.S. § 46-407, the Title IV-D Agency shall first apply arrearage collections to the child and spousal support arrearages assigned under A.R.S. § 46-407.

R6-7-611. Distribution of the Mandatory Annual Fee on and after October 1, 2007

- A.** The Title IV-D Agency shall charge a \$25.00 annual fee to a recipient of services who has never received assistance under a state or tribal Title IV-A program for each Title IV-D case. The Title IV-D Agency shall retain the \$25.00 fee from collections of support that exceed \$500.00 within a federal fiscal year for each Title IV-D case.
- B.** After the first \$500.00 of support collections in a federal fiscal year, the Title IV-D Agency shall retain the fee from future collections and pay the mandatory fee before distributing collections pursuant to R6-7-601.
- C.** If, after the \$500.00 collection threshold has been met, no further collections are received, or less than \$25.00 is collected

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within that year, the Title IV-D Agency shall charge the balance of the fee to the recipient of services after notice of a deadline for payment of the fee. If the recipient does not pay the fee by the deadline, the Title IV-D Agency shall retain the fee from future collections of support in subsequent federal fiscal years.

- D.** If a foreign country has requested enforcement of a support order in a Title IV-D case, the annual fee of \$25.00, owed pursuant to R6-7-611(A), shall be charged to the obligor.

ARTICLE 7. TITLE IV-D DISBURSEMENT

R6-7-701. Disbursement

- A.** The Title IV-D Agency shall disburse support and related payments that the Title IV-D Agency receives in a Title IV-D case to one or more of the following recipients:
1. An obligee or an agent authorized in writing by an obligee or as determined by law;
 2. A Title IV-D agency of another state if the agency submits a request for support establishment or enforcement services and is authorized to receive support under U.I.F.S.A.;
 3. The federal government, if Arizona is providing or has provided cash assistance to the assistance unit, or a member of the assistance unit, or if Arizona is providing or has provided Title IV-E foster care maintenance payments, or if the annual \$25.00 fee is owed, pursuant to R6-7-611;
 4. A state, if the state is providing or has provided cash assistance to the assistance unit that does not exceed the total amount of unreimbursed cash assistance;
 5. An obligor, if a refund is due;
 6. A bankruptcy trustee;
 7. A state or federal agency as authorized by law;
 8. A caretaker under Arizona statute and R6-7-712.
- B.** The Title IV-D Agency shall issue payments due to an obligee at the last known address filed with the Child Support Case Registry or the last address known to F.A.A.
- C.** If a payment to an obligee is returned to the Title IV-D Agency because it was undeliverable, the Title IV-D Agency shall make a reasonable effort to locate the obligee for the period authorized in A.R.S. § 25-503.
- D.** If the Title IV-D Agency is unable to locate the obligee by the end of the period authorized in A.R.S. § 25-503, the Title IV-D Agency shall contact the obligor to request oral or written approval to apply the funds to arrearages and any other unpaid obligations owed to the state. If the Title IV-D Agency is unable after a reasonable effort to locate the obligee or obligor, and an arrearage is still owed to the state, the Title IV-D Agency shall apply the payments to the arrearage. Any remaining amounts shall be handled consistent with applicable law.
- E.** If an obligee requests that the Title IV-D Agency directly deposit support in a financial institution and the financial institution returns those monies because the obligee's account is closed, or the financial institution will not accept the deposit, the Title IV-D Agency shall make a reasonable effort to locate the obligee for the period authorized in A.R.S. § 25-503, after receiving notice that the account is closed or that the financial institution will not accept the deposit.
- F.** Neither the return of monies to an obligor due to an inability to locate the obligee, nor the application of monies to arrearages or other support-related debts terminates an obligor's obligation ordered by a court or administrative entity.
- G.** The Title IV-D Agency shall disburse support that the Title IV-D Agency receives for a current assistance case within two business days of the last day of the month in which the Clearinghouse receives the payment.
- H.** Except as provided in subsections (G), (I), (J), (K), (L), and (M), the Title IV-D Agency shall disburse support within two business days of receipt by the Clearinghouse unless the Clearinghouse is unable to disburse the support for one or more of the following reasons:
1. The Title IV-D Agency does not have the obligee's current address;
 2. The Title IV-D Agency or its payment posting contractor lacks sufficient information to identify the case to which the payment must be applied;
 3. An action is pending before the Title IV-D Agency to determine whether:
 - a. An administrative income withholding order is enforceable under A.R.S. § 25-505.01; or
 - b. A limited income withholding order is enforceable under A.R.S. § 25-505;
 4. The payment is for futures that federal law requires the Title IV-D Agency to hold for disbursement in a future month, or for prepaid support;
 5. A court or administrative order, bankruptcy stay, or state or federal law requires the Title IV-D Agency to retain support or to use a different disbursement method or time-frame;
 6. The Title IV-D Agency lacks information regarding a support order, an agreement, or any other obligation owed to the Department;
 7. Support is returned to the Title IV-D Agency or the Clearinghouse due to the obligee's incarceration or because the obligee or only child still covered by the order is deceased;
 8. A check received from an obligor or other payor has previously been dishonored, precluding the acceptance of a personal check under A.R.S. § 25-503; or

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9. Other circumstances exist that prevent proper and timely disbursement of support through no fault or lack of diligence on the part of the Title IV-D Agency.
- I. If a federal income tax refund offset is based on a joint federal income tax return, the Title IV-D Agency shall retain the offset for 180 days after receipt of the refund monies unless the Internal Revenue Service notifies the Title IV-D Agency of the resolution of an injured spouse claim, or until the spouse signs a waiver of any right to claim a portion of the refund. The Title IV-D Agency shall distribute and disburse a federal income tax refund offset that is based on a joint tax return in accordance with R6-7-709, R6-7-710 and R6-7-711. The offset collections do not accrue interest and the Title IV-D Agency shall not pay interest on these monies.
- J. *If a [state income] tax refund is based on a joint income tax return and the department of economic security receives a written claim from the nonobligated spouse within forty-five days after the notice of a setoff for overdue child support, the setoff only applies to that portion of the refund due to the obligor. The nonobligated spouse shall provide to the department of economic security copies of both the obligated and nonobligated spouse's federal W-2 forms and evidence of estimated tax payments supporting the proportionate share of each spouse's payment of tax. The department of economic security shall retain the amount of the set off refund due to the obligated spouse determined by a proration based on the tax payments of each spouse by estimated tax payment or tax withheld from wages. ~~A.R.S. § 42-1122(O)~~ A.R.S. § 42-1122(S).*
- K. The Title IV-D Agency shall distribute and disburse an Arizona income tax refund setoff that is based on a joint income tax return in accordance with R6-7-601. The Title IV-D Agency shall not pay interest on these monies except as provided in A.R.S. §§ 42-1122 and 42-1123.
- L. The Title IV-D Agency shall retain a state lottery prize that has been set off under A.R.S. § 5-525 for 30 days after the date on the notice of setoff and right to appeal as prescribed in A.R.S. § 5-525. The Title IV-D Agency shall not pay interest on these monies except as provided in A.R.S. § 5-525.
- M. In addition to the reasons for retaining support already stated in this rule, the Title IV-D Agency may retain support for more than two business days if:
1. The amount received exceeds the amount due or owing, but is neither futures nor prepaid support;
 2. The obligee's and obligor's financial accounts maintained by the Title IV-D Agency are out of balance;
 3. An obligor has multiple cases and, in at least one case, has no known obligation to support a child, or a child covered by the support order is receiving ~~social security~~ Social Security benefits and A.R.S. § 46-407 applies;
 4. A personal or business check received for support in one case exceeds \$2,500 and there is no history of checks that exceed \$2,500 clearing in that case. In no event shall the Title IV-D Agency retain these monies for more than 10 business days;
 5. The Title IV-D Agency has received a notice of a stop payment order on a payment; or
 6. The amount to be disbursed in a check is less than \$3.00. When the amount held reaches \$3.00 or more, the Title IV-D Agency shall disburse the amount.
- N. If a support payment received by the Title IV-D Agency exceeds the amount due or owing and is neither futures nor prepaid support, the Title IV-D Agency shall refund the excess to the obligor at the last known address provided to the Child Support Case Registry.
- O. If an obligee cannot be located before a case is closed, the Title IV-D Agency shall send any undisbursed amounts owed to the obligee back to the obligor.

R6-7-703. Disbursement in Never Assistance Cases on and after January 1, 2003

Except as provided in R6-7-710 and R6-7-711 for federal income tax refund offsets, and R6-7-611 for the mandatory annual fee effective on and after October 1, 2009, the Title IV-D Agency shall disburse support and related payments collected for an Arizona never assistance case to a recipient of services under Title IV-D or Title XIX of the Social Security Act as follows:

1. First, to current support;
2. Second, to never assigned arrearages;
3. Third, to the handling fee for the month in which the Title IV-D Agency receives the support and unpaid handling fees;
4. Fourth, to fees and costs;
5. Fifth, to futures.

R6-7-705. Disbursement in Current Assistance Cases on and after January 1, 2003

A. Except as provided in R6-7-710 and R6-7-711 for federal income tax refund offsets, For all recipients who applied for current assistance prior to October 1, 2009 and therefore assigned their rights to support to the state, the Title IV-D Agency shall disburse support and related payments, except as provided in R6-7-710 and R6-7-711 for federal income tax refund offsets, collected for an Arizona Title IV-D current assistance case as follows:

1. First, to current support assigned to the state of Arizona, not to exceed the total amount of unreimbursed cash assistance;
2. Second, to temporarily assigned arrearages;
3. Third, to permanently assigned arrearages;

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4. Fourth, to unassigned arrearages;
5. Fifth, to the handling fee for the month in which the Title IV-D Agency receives the support and other unpaid handling fees;
6. Sixth, to fees and costs;
7. Seventh, to futures.

B. For all recipients who applied for current assistance on and after October 1, 2009, the Title IV-D Agency shall disburse support and related payments, except as provided in R6-7-710 and R6-7-711 for federal income tax refund offsets, collected for an Arizona Title IV-D current assistance case as follows:

1. First, to current support assigned to the state of Arizona, not to exceed the total amount of unreimbursed cash assistance;
2. Second, to temporarily assigned arrearages which were assigned prior to October 1, 2009;
3. Third, to permanently assigned arrearages;
4. Fourth, to never assigned arrearages;
5. Fifth, to conditionally assigned arrearages based on assignments entered prior to October 1, 2009;
6. Sixth, to unassigned pre-assistance arrearages;
7. Seventh, to unassigned during-assistance arrearages;
8. Eighth, to the handling fee for the month in which the Title IV-D Agency receives the support and other unpaid handling fees;
9. Ninth, to fees and costs;
10. Tenth, to futures.

R6-7-713. Past Support Judgments

If a court or an administrative entity orders past support that covers a period in which the obligee was on cash assistance, the amount for that period is assigned to the state and the Title IV-D Agency shall distribute collections in accordance with A.R.S. § 46-408 and disburse support in accordance with this Article. If a child covered by the order was receiving Title IV-E foster care maintenance payments for any of the period covered by the judgment, the amount for that period is assigned to the state and collections shall be distributed in accordance with R6-7-608. A past support judgment ordered on and after September 26, 2008 does not accrue interest.