

**CHAPTER 110  
CHILD SUPPORT PROGRAM**

**Authority**

N.J.S.A. 44:10-3, Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Public Law 105-34, the Taxpayer Relief Act 1997; Public Law 105-149, the Balanced Budget Act of 1997; the Work First New Jersey Act, Public Law 1997, c.13, c.14, c.37 and c.38; and the New Jersey Child Support Program Improvement Act (NJCSPIA), P.L. 1998, c.1; and the Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2.

**Source and Effective Date**

R.1998 d.506, effective September 22, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 110, Child Support Program, expires on March 20, 2004. See: 35 N.J.R. 3042(a).

**Chapter Historical Note**

Chapter 110, Child Support Program, was adopted as R.1998 d.189, effective April 20, 1998 (to expire September 23, 1998). See: 30 N.J.R. 1404(a).

Chapter 110, Child Support Program, was readopted as R.1998 d.506, effective September 22, 1998. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS OF THE CHILD SUPPORT PROGRAM**

**10:110-1.1 Purpose and scope of the Child Support Program**

Title IV-D of the Social Security Act, known as the Program for Child Support Enforcement and Establishment of Paternity, was established by Part B of P.L. 93-647 in 1975. Title IV-D charges the Child Support Program with locating alleged fathers and non-custodial parents, establishing paternity, and obtaining, enforcing and modifying support obligations (both monetary and health care coverage) owed by non-custodial parents to their children in both intrastate and interstate cases. As used herein, the terms "child support" and "Title IV-D" are interchangeable.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted a reference to modifying support obligations, and added "in both intrastate and interstate cases" at the end of the second sentence.

**10:110-1.2 Child Support Program administration**

(a) Title IV-D of the Social Security Act delegates responsibility for the operation of the Child Support Program to state IV-D agencies. In New Jersey, the state IV-D agency is the Department of Human Services, Division of Family Development, Office of Child Support and Paternity Programs (OCSPP).

(b) The OCSPP shall be the single organizational unit responsible for the supervision of the Child Support Program.

(c) The OCSPP shall coordinate child support services involving:

1. County welfare agencies (CWA);
2. County child support units (CWA/CSP units);
3. The Administrative Office of the Courts;
4. County prosecutor's offices;
5. County sheriff's offices; and
6. The State Attorney General's Office.

(d) The OCSPP shall supervise and monitor the child support program.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b), deleted "located in the Division of Family Development (Division)," following "OCSPP".

**10:110-1.3 Child support services**

(a) Child support services shall be provided to the populations described in this chapter.

(b) Child support services shall include, but not be limited to, the following services:

1. Location of non-custodial parents or alleged fathers, their employers, or their sources of income;
2. Establishment of paternity or filiation proceedings;
3. Establishment or modification of child support obligations, including health care coverage support;
4. Enforcement of child support and health care coverage support obligations; and
5. Collection and disbursement of child support payments.

**10:110-1.4 Eligibility for services**

(a) Individuals residing in New Jersey who receive WFNJ/TANF, WFNJ/GA, Title XIX Medicaid assistance or who are referred as Title IV-E foster care cases are eligible for child support services.

1. WFNJ/TANF and WFNJ/GA applicants and recipients, Title XIX Medicaid applicants and recipients, and Title IV-E DYFS referrals shall accept child support services, including health care coverage support, as a condition of eligibility for public assistance, unless good cause is found in accordance with N.J.A.C. 10:90-16.2 through 16.5 for not providing these services.
2. WFNJ/TANF, WFNJ/GA, or Medicaid assistance shall be denied or terminated for noncooperation with child support, unless good cause is found in accordance with N.J.A.C. 10:90-16.2 through 16.5.

3. Child support services shall continue to be provided to a custodial parent when the WFNJ/TANF, Title IV-E foster care, or Title XIX Medicaid case closes, unless the closure is due to noncooperation with child support service requirements.

4. Child support services shall be provided without requiring a formal application for services.

(b) New applicants who are requesting Title IV-D services and are residing in New Jersey or having a legal residence in New Jersey, who do not receive public assistance benefits described in (a) above, must make a formal application for child support services as a condition of eligibility for those services in accordance with N.J.A.C. 10:110-7.1(b).

(c) New applicants residing outside of New Jersey shall be eligible for child support services. Nonresidents may apply for services directly with the IV-D agency in the state of their residence or file a petition directly with the Family Division of the Superior Court of New Jersey.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), deleted "only" following "Medicaid" throughout, and substituted a reference to service requirements for a reference to services at the end of 3; in (b), substituted "New applicants who are requesting Title IV-D services and are" for "Individuals" at the beginning, and substituted a reference to formal applications for a reference to applications; and rewrote (c).

#### 10:110-1.5 Delivery of service

Title IV-D services provided by the county agency child support units to WFNJ/TANF applicants/recipients also shall be provided to nonpublic assistance applicants/recipients in both intrastate and interstate cases.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to Title IV-D services for a reference to attorney services, and inserted a reference to TANF applicants/recipients.

#### 10:110-1.6 Disclaimer of waiver

(a) The absence of a reference in this chapter to a power of or a remedy available to the child support program under Federal or State statute, regulation, or rule shall not operate as a waiver of any such power or the use of any such remedy, procedure, or mechanism.

(b) The failure to adhere to any time frames specified in this chapter shall not act as a waiver of the right to provide such child support service.

#### 10:110-1.7 Confidentiality and privacy

(a) The use or disclosure of information concerning applicants or recipients of support enforcement services, including legal guardians, putative fathers, and non-custodial parents, shall be limited to purposes directly connected with:

1. The administration of the State plan or program approved under parts A, B, D, E, or F of Title IV or under Titles I, X, XIV, XVI, XIX or XX of the Federal Social Security Act (42 U.S.C. §§ 301 et seq.) or the Supplemental Security Income program established under Title XVI of the Federal Social Security Act (42 U.S.C. §§ 301 et seq.);

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 which provides assistance, in cash or in kind, or services, directly to individuals on the basis of needs; and

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

(b) The Department is prohibited from disclosing to any committee or Federal, State or local legislative body any information that identifies by name or address any such applicant or recipient.

(c) The confidentiality and privacy safeguards of the child support program shall be in compliance with all applicable Federal and State laws, regulations, Court rules and as described herein. These confidentiality and privacy safeguards shall be binding on DHS, its subordinate agencies, and on all persons, agencies and organizations that contract with the DHS to provide IV-D services, directly or indirectly; or under any agreements or other instruments used for such purposes by the Department or its designees in implementing Title IV-D requirements.

1. The Department shall ensure that written notice of the Department's policy on the use, confidentiality, privacy safeguards, and disclosure of program information is provided to all agencies, organizations, persons and affiliated entities, including those entities procured under contract, subcontract or through affiliation agreements

(d) The Department shall develop, in accordance with the provisions of the Administrative Procedure Act, and the Rules on Agency Rulemaking, operational confidentiality and privacy safeguard standards or guidelines, as appropriate, to ensure the integrity, accuracy, and completeness of data and to detail the access to and use of all program data. The standards or guidelines shall contain written policies concerning access to and disclosure of data by IV-D employees and designees, including those under contracts, subcontracts or agreements, and the sharing and disclosure of the information, including systems controls and the audits of records.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), inserted a reference to legal guardians, putative fathers and non-custodial parents in the introductory paragraph; and added (c) and (d).

#### 10:110-1.8 Requests for information

(a) Nothing in this subchapter shall be construed as superseding or conflicting with the rule on safeguarding information at N.J.A.C. 10:110-1.7.

(b) Information concerning the non-custodial parent shall be released to consumer credit agencies upon their request in accordance with N.J.A.C. 10:110-15.2(a)8.

(c) Although other sources are available, the New Jersey Child Support Hotline shall provide case specific and general information about child support services 24 hours a day, seven days a week, in English and Spanish. Case specific information shall only be available to persons authorized by law to receive such information.

(d) Requests for information from custodial and non-custodial parents shall be handled as follows:

1. Copies of court orders, enforcement actions, fiscal records, and financial information used to calculate the obligation shall be released upon request by either the custodial or non-custodial parent in accordance with N.J.A.C. 10:110-1.7.

2. Information on the whereabouts of one party or the child shall not be released to another party against whom a protective order has been entered and the agency has been advised by the court, an out-of-State IV-D agency or by one or both of the parties that such an order exists.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (c), deleted a former first sentence, and added "Although other sources are available," at the beginning of the new first sentence; and in (d), added a reference to N.J.A.C. 10:110-1.7 at the end of 1, and added "and the agency has been advised by the court, an out-of-State IV-D agency or by one or both of the parties that such an order exists" at the end of 2.

## SUBCHAPTER 1A. DEFINITIONS

### 10:110-1A.1 Definitions

The following words and terms, used within this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Account" means a demand deposit account, checking or negotiable order of withdrawal account, savings account, time deposit account, equity securities account or money market mutual fund account, as permitted under Federal law.

"Administrative enforcement" means the use of high volume automated data processing to search various State data bases, including, but not limited to, license records, employment service data and State new hire registries, to determine whether information is available in response to a request made by another jurisdiction to enforce a support order.

"Appropriate enforcement methods" means mechanisms such as income withholding, withholding of civil lawsuits, and execution of the assets of the obligor which can result in immediate payment of the child support arrearage when available. In appropriate cases, the license revocation process may be used as an alternative to Rule 5:7-5 of the Court Rules.

"Arrearage" means the amount of unpaid support as determined by a court order or an administrative order from a state, for support of a child or of a child and the custodial parent.

"Child" means a person, whether over or under the age of majority, who is or is alleged to be owed a duty of child support by that person's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

"Child support" means the amount required to be paid under a judgment, decree, or order, whether temporary, final or subject to modification, issued by the Superior Court, Chancery Division, Family Part or a court or administrative agency of competent jurisdiction of another state, for the support and maintenance of a child, or the support and maintenance of a child and the parent with whom the child is living, which provides monetary support, health care coverage, any arrearage or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees and other relief.

"Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

"Child support related warrant" means an outstanding warrant for the arrest of a child support obligor or putative father issued by the court for failure to pay child support as ordered, failure to appear at a hearing to establish paternity or child support, or failure to appear at a hearing to enforce a child support order.

"Commissioner" means the Commissioner of Human Services.

"Court" means the Superior Court, Chancery Division, Family Part.

"Court order" means an order of the court or an order from an administrative or judicial tribunal in another state that is competent to enter or modify orders for paternity or child support.

"Court rules" means the Rules Governing the Court of the State of New Jersey.

"Credit reporting agency" means a nationally recognized credit reporting agency as approved by the commissioner and defined in the Federal Fair Credit Reporting Act (15 U.S.C. § 1681a(f)) as any entity which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing reports to third parties and which uses any means or facility or interstate commerce for the purpose of preparing or furnishing consumer reports.

“Custodial parent” means the parent or other person who has legal and physical custody of a child for the majority of the time. The custodial parent is responsible for day-to-day decisions related to the child and for providing the basic needs of the child on a daily basis. The custodial parent is the person to whom child support is payable. In shared parenting situations, the custodial parent is known as the parent of primary residence.

“Default order” means a court order entered due to a party’s failure to answer a complaint or motion or to appear at a court proceeding as required, after being properly served with notice.

“Department” means the Department of Human Services.

“Division” means the Division of Family Development.

“Employee” means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986. Employee does not include an employee of a Federal or state agency performing intelligence or counter-intelligence functions, if the head of such agency has determined that reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

“Employer” has the meaning given the term in section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity or labor organization.

“Financial institution” means:

1. A depository institution as defined in 12 U.S.C. § 1813(c);
2. An institution affiliated party as defined in 12 U.S.C. § 1813(u);
3. A Federal or State credit union as defined in 12 U.S.C. § 1752, including an institution affiliated party of a credit union as defined in 12 U.S.C. § 1786(r); and
4. A benefit association, insurance company, safe deposit company, money market mutual fund, investment and loan corporation or similar entity authorized to do business in this State, as permitted under Federal law.

“Health care coverage” means cash medical support, health insurance, dental insurance, eye care, pharmaceutical assistance and other types of medical support which are ordered by the court to maintain the health coverage of a child.

“Income,” for the purposes of enforcing a support order, means, but is not limited to, commissions, salaries, earnings, wages, rent monies, unemployment compensation, workers’ compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, claims, accounts, assets of estates, inheritances, trusts, Federal or State income tax

refunds, homestead rebates, State lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veteran’s benefits, union benefits, or earnings or other periodic entitlements to money from any source and any other property subject to withholding for child support pursuant to State law. For the purposes of establishing a support order, income is defined pursuant to the child support guidelines in Appendix IX of the Court Rules.

“Income withholding order” means an order or other legal process directed to an obligor’s employer as defined by the “New Jersey Child Support Improvement Act,” P.L. 1998, c.1, to withhold support from the income of the obligor.

“Labor organization” means a labor organization as defined in paragraph (5) of section 2 of the Federal “National Labor Relations Act” (29 U.S.C. § 152) and includes any entity used by the organization and an employer to carry out the requirements of paragraph (3) of the subsection (f) of section 8 of that Act (29 U.S.C. § 158(f)(3)) or an agreement between the organization and the employer.

“Law” includes decisional and statutory law, and rules and regulations having the force of law.

“License” means any license, registration or certificate issued by the State or its agencies or boards that is directly necessary to provide a product or service for compensation, to operate a motor vehicle, or for recreational or sporting purposes.

“Licensing authority” means any department, division, board, agency or other instrumentality of State government that issues a license, registration, certificate or other authorization to provide goods or services for compensation, to operation of a motor vehicle or for recreational or sporting purposes.

“Medicaid” means medical assistance provided under a State plan approved under Title XIX of the Social Security Act.

“Non-custodial parent” means the parent who does not have physical custody of the child on a day-to-day basis. In shared parenting situations, the non-custodial parent is known as the parent of alternate residence.

“Obligee” means:

1. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
2. A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

3. An individual seeking a judgment determining parentage of the individual's child or providing for the support of a child.

"Obligor" means an individual, or the estate of a decedent:

1. Who owes or is alleged to owe a duty of support;
2. Who is alleged but has not been adjudicated to be a parent of a child; or
3. Who is liable under a support order.

"Payor" means an employer or individual or entity that disburses or is in possession of income or assets payable to an obligor."

"Probation Division" means the Probation Division of the Superior Court, Chancery Division, Family Part.

"RURESA" means the "Revised Uniform Reciprocal Enforcement of Support Act (1968)," adopted in New Jersey as P.L. 1981, c.243 (N.J.S.A. 2A:4-30.24 et seq.).

"Spousal support" means a legally enforceable obligation assessed against a person for the support of a spouse or a former spouse.

"Spousal support order" means a support order for a spouse or former spouse of the obligor.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. State includes:

1. An Indian tribe; and
2. A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under UIFSA or the procedures under the "Uniform Reciprocal Enforcement of Support Act" or the "Revised Uniform Reciprocal Enforcement of Support Act."

"State case registry" means the automated system maintained by the Division that contains Federally required information on child support cases.

"State IV-D agency" means the Division of Family Development in the Department of Human Services.

"Support guidelines" means the set of presumptive standards for determining the amount of child support as established by Court Rule 5:6A and in Appendix IX.

"Support order" means a judgment, decree or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care coverage, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief. A support order shall be issued by the court or a court or administrative agency of another state.

"TANF" means the "Temporary Assistance to Needy Families" program established pursuant to Title IV-A of the Federal Social Security Act (42 U.S.C. § 601 et seq.). TANF includes the Work First New Jersey program for dependent children and their parents established pursuant to P.L. 1997, c.38 (N.J.S.A. 44:10-55 et seq.).

"Title IV-D" means Title IV-D of the Federal Social Security Act (42 U.S.C. §§ 651 et seq.).

"Title IV-D case" means a case under Title IV-A or Title XIX of the Federal Social Security Act (42 U.S.C. §§ 601 et seq.), that involves an assignment of support rights, an appropriate referral under Title IV-E of the Federal Social Security Act (42 U.S.C. §§ 601 et seq.), or a nonpublic assistance case, in which an application for Title IV-D services has been filed and a fee paid, as appropriate, with the Division, or an interstate case referred to the Division by another jurisdiction.

"UIFSA" means the "Uniform Interstate Family Support Act" to be adopted by each state to replace RURESA pursuant to P.L. 104-193.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "Medicaid"; and in "Support guidelines", inserted a reference to Court Rule 5:6A.

## SUBCHAPTER 2. CHILD SUPPORT ADMINISTRATION

### 10:110-2.1 Cooperative agreements and contracts for IV-D services.

The Department may enter into cooperative agreements with public entities in accordance with 45 C.F.R. 302.34 and contracts with private entities for the purpose of carrying out the responsibilities granted to the Division.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to the Department for a reference to the OCSPP.

### 10:110-2.2 Reciprocal agreements

A request for IV-D services by a foreign reciprocating country or a foreign country with which the State has an agreement as described in 42 U.S.C. § 459A(d) shall be treated as a request by another state.

**10:110-2.3 Full faith and credit**

In accordance with N.J.S.A. 2A:17-56.23a, full faith and credit shall be given to orders, either administrative or court, of this State or other states that comply with the laws of that jurisdiction and shall be fully enforceable and entitled as a judgment to full faith and credit and shall be a judgment by operation of law on or after the date it is due.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Added "In accordance with N.J.S.A. 2A:17-56.23a," at the beginning.

**10:110-2.4 Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2**

(a) Interstate cases shall be processed in accordance with the Uniform Interstate Family Support Act (UIFSA), P.L. 1998, c.2 utilizing the Federally mandated forms.

(b) Legal representation shall be provided by the CWA/CSP unit in IV-D cases to the petitioner or the initiating support enforcement agency, if any, in all proceedings brought under P.L. 1998, c.2.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

**10:110-2.5 Publicizing child support services**

The OCSPP shall regularly and frequently publicize the availability of child support services in accordance with 45 C.F.R. 302.30, including the availability of procedures for the voluntary establishment of paternity.

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**SUBCHAPTER 3. RESPONSIBILITIES IN THE DELIVERY OF SERVICES**
**10:110-3.1 OCSPP's responsibilities**

(a) The OCSPP shall transmit regulatory and procedural information to the various child support entities as necessary for implementation.

(b) The OCSPP shall provide technical assistance to the CWA/CSP units.

(c) The OCSPP shall respond to request for information from any person or entity.

(d) The OCSPP shall operate the Automated Child Support Enforcement System (ACSES).

(e) The OCSPP shall act in a manner consistent with the best interests of the child.

(f) The OCSPP shall operate the State Parent Locator Service (SPLS).

(g) The OCSPP shall be responsible for monitoring and self-assessment activities.

(h) The OCSPP shall be responsible for coordinating activities with the Office of Child Support Enforcement in the U.S. Department of Health and Human Services.

(i) The OCSPP shall establish, in a manner consistent with Federal and State laws, a system, that shall include procedures, for providing services in a timely manner. Procedures issued shall be consistent with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(j) In the administration of child support services, there shall be no discrimination on grounds of: race; color; religious affiliation; sex; national origin; ethnic background, marital, parental, or birth status; or disability or handicap by the Department or any other entity under contract or agreement with the Department involved in the provision of child support services, in accordance with Title VI of the Federal Civil Rights Act of 1964 (P.L. 88-352) and Section 504 of the Federal Rehabilitation Act of 1973 (P.L. 95-602), and the Americans with Disabilities Act (P.L. 101-336), and N.J.S.A. 10:5-1 et seq.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (j), substituted references to the Department for references to the Division throughout.

**10:110-3.2 County welfare agency's responsibilities**

(a) Each CWA shall maintain a CWA/CSP unit.

(b) The CWA shall allocate and/or hire staff for the CWA/CSP unit.

(c) The CWA shall maintain a separate line of authority for CWA/CSP unit staff.

1. The CWA/CSP unit functions shall not be performed by staff who also perform income maintenance or social service functions.

2. Exceptions shall be granted by the Commissioner of Human Services and the U.S. Department of Health and Human Services where it is determined, based on documentation, that such separation is not administratively feasible in sparsely populated counties.

(d) The CWA shall have attorneys on staff or under contract, sufficient to represent child support matters in court as necessary.

(e) The CWA shall be billed quarterly, according to its usage for the service provided by the New Jersey Child Support Hotline.

(f) The CWA shall be billed for submitting the following types of cases to the Federal Parent Locator Service (FPLS):

1. Child support cases in which an assignment of support rights to the State is not required;
2. Non-IV-D locate only cases;
3. Parental kidnapping cases; or
4. Child custody cases.

(g) The CWA shall be billed quarterly for FPLS services, per case, at a rate determined by the U.S. Department of Health and Human Services. FPLS fees paid by the counties will be used to reimburse the Federal government for the expense of operating the FPLS.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Deleted a former (c); recodified former (d) through (h) as (c) through (g); and rewrote the new (c).

### 10:110-3.3 CWA/CSP unit's responsibilities

(a) The CWA/CSP unit shall organize in a way that effectively and efficiently handles child support cases.

(b) The CWA/CSP unit shall make the determination as to whether the applicant/recipient is cooperating with the child support requirements for receipt of WFNJ/TANF cash benefit and Medicaid benefits.

(c) The CWA/CSP unit shall provide child support services as described in this chapter.

(d) The CWA/CSP unit shall notify on a quarterly basis individuals who have assigned rights of support of the amount of support payments collected.

(e) The CWA/CSP unit shall notify the WFNJ/TANF custodial parent within five working days, when public assistance is terminated, that child support services shall continue unless the client requests in writing that such services be terminated.

(f) The CWA/CSP units shall cooperate on inter-county cases.

(g) The CWA/CSP unit shall, in cases where support is subject to an assignment or an application for Title IV-D services has been filed, direct the probation division, obligor or payee to change the payee to the appropriate designated state entity.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), deleted “, in a manner consistent with State and Federal requirements,” following “unit”; and rewrote (g).

### 10:110-3.4 Monitoring of Administrative Office of the Courts' responsibilities

(a) The OCSPP shall be responsible for monitoring the activities included in the Cooperative Agreement between the Department and AOC, which shall include, but is not limited to, the following activities:

1. Developing standard operating procedures, practices and forms, which shall be reviewed by the Department prior to adoption and implementation;

2. Enforcement and collection of support payments in all Title IV-D cases and collection of income withholding payments in non-IV-D cases;

3. Providing technical assistance and training to AOC staff;

4. Monitoring procedures to evaluate staff performance;

5. Reviewing and maintaining financial and other necessary data as Federally required relating to performance of Title IV-D activities and submitting data to the Department upon request or as Federally required;

6. Taking appropriate action on any case referred by the Department;

7. Receiving, distributing and responding to all incoming interstate IV-D cases;

8. Developing procedures for cash handling and accounting functions as Federally required;

9. Distributing collections, with the exception of Federal tax offset collections, within two business days of receipt, if sufficient identifying information is provided; and

10. Providing copies of any order establishing or modifying a child support obligation, or notice of determination that there should be no change in the child support amount within time frames contained in the Cooperative Agreement.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph, and substituted references to the Department for references to the Division throughout.

## SUBCHAPTER 4. CUSTODIAL PARENT'S RIGHTS AND RESPONSIBILITIES

### 10:110-4.1 Custodial parent's rights

(a) The custodial parent shall be provided with appropriate notice of any action that significantly impacts the status of their child support case.

(b) If support is collected during a quarter, the WFNJ/TANF custodial parent shall be provided with a quarterly notice of child support collected. The notice shall include:

1. The amount of current support collected;
2. The amount paid toward arrearages; and
3. The amount paid to the family.

(c) The nonpublic assistance custodial parent has the right to receive payments in a timely manner.

1. Payments, except Federal tax offset collections, shall be distributed within two calendar days of receipt, if sufficient identifying information is available.

(d) The following information shall be made available through the New Jersey Child Support Hotline in accordance with N.J.A.C. 10:110-1.8(c):

1. The amount of current support collected;
2. The amount paid toward arrearages; and
3. The amount paid to the family.

#### 10:110-4.2 Custodial parent's responsibilities in Title IV-D cases

(a) Custodial parents in Title IV-D cases shall:

1. In a WFNJ/TANF case, cooperate in the establishment of paternity and the establishment, modification and enforcement of child support and health care coverage in accordance with N.J.A.C. 10:90-16.2 through 16.5.

2. In a WFNJ/TANF case, promptly inform the CWA/CSP unit of any divorce actions or court actions to establish a child support order;

3. In a WFNJ/TANF case, provide the CWA/CSP unit copies of any legal documents pertaining to divorce, support, or custody;

4. Inform the CWA/CSP unit of any changes in custody in a WFNJ/TANF case and the court in a nonpublic assistance case; and

5. In a WFNJ/TANF case, notify the CWA/CSP unit in writing of any change of name or address and, in a nonpublic assistance case, notify the court of any change.

(b) Custodial parents receiving Title IV-D services from a CWA/CSP unit shall notify the CWA/CSP unit if an attorney is retained to handle a child support matter.

(c) Custodial parents in a WFNJ/TANF case shall notify the CWA/CSP unit immediately of any change in their financial circumstances.

(d) Custodial parents in a WFNJ/TANF cases shall remit immediately any child support payment received from any person or entity to the CWA/CSP unit in accordance with N.J.A.C. 10:90-2.2(a)6.

(e) Custodial parents receiving services from a CWA/CSP unit shall notify the CWA/CSP unit of any protective order entered to which they are a party. In nonpublic assistance cases the custodial parent shall notify the county agency providing Title IV-D services of any protective order.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote the section.

#### 10:110-4.3 Non-custodial parents responsibilities in a Title IV-D case

(a) Non-custodial parents responsibilities in a Title IV-D case are as set forth in (a)1 through 7 below. Non-custodial parents shall:

1. Appear at all court hearings in response to a summons issued by the court;

2. Respond to a subpoena requesting information pertaining to the establishment of paternity or the establishment, enforcement or modification of an order for child support or health care coverage;

3. Appear for scheduled genetic testing to determine paternity;

4. Pay child support and provide health care coverage as ordered by the court;

5. Participate in work activities as ordered by the court;

6. Inform the court of any changes in custody; and

7. Notify the court of any change in employer or address.

New Rule, R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

### SUBCHAPTER 5. DELIVERY OF CHILD SUPPORT SERVICES

#### 10:110-5.1 Providing child support services

Child support services shall be provided as described in this chapter.

#### 10:110-5.2 Administrative subpoena

(a) In accordance with P.L. 1998, c.1 and N.J.S.A. 2A:17-56.34, the Department or its designee, including the probation divisions, may compel, by administrative subpoena, the production of books, papers, accounts, records, and documents, any financial or other information needed for the establishment, modification or enforcement of a support order.

(b) The subpoena shall be served by certified and regular mail on the person or entity in possession of the information or record that is sought.

(c) Rules concerning civil penalties for lack of response to administrative subpoena are as follows:

1. A civil penalty of \$25.00 per violation shall be imposed for failure to respond to an administrative subpoena.

2. A civil penalty of \$500.00 shall be imposed for:
  - i. Conspiracy between the non-custodial parent and the entity not to supply the information; or
  - ii. Conspiracy between the non-custodial parent and the entity to supply inaccurate or incomplete information.
3. Payment of the penalty shall be waived if, in response to the notice of the imposition of the penalty, the person or entity complies with the administrative subpoena.
4. All penalties assessed under this section shall be payable to the State Treasurer and may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "In accordance with P.L. 1998, c.1 and N.J.S.A. 2A:17-56.34, the Department or its designee, including the probation divisions," for "The Department" at the beginning.

### 10:110-5.3 Administrative enforcement

(a) Wherever possible, compliance with established child support orders shall be administratively enforced through methods described in this chapter.

(b) Administrative enforcement shall be used, to the same extent as used for intrastate cases, in response to a request made by another state to enforce a support order.

1. Neither state shall consider the case to be transferred to the caseload of the other state.
2. Records shall be maintained of:
  - i. The number of requests for assistance received by the State;
  - ii. The number of cases for which the State collected support in response to the administrative enforcement request; and
  - iii. The amount of support collected.

(c) A request for assistance in enforcing a support order through the use of administrative enforcement shall be transmitted to another state via the Federally mandated forms.

(d) Electronic means shall be utilized whenever feasible.

### 10:110-5.4 Work activities

(a) In cases where a child is receiving assistance under a State program funded under TANF, and all the provisions at (b) below concerning the obligor are met, the Department is authorized to petition the court to issue an order that requires the obligor to:

1. Pay the support in accordance with a plan approved by the court; or

2. Participate in work activities as ordered by the court, if the obligor is subject to such a plan and is not incapacitated.

i. A petition for participation in a work activity shall include a request to adjust the child support amount of the support order to conform with the Child Support Guidelines of New Jersey Supreme Court Rule 5:6A, incorporated herein by reference.

(b) In cases where a child is receiving assistance under a State program funded under TANF, and the following provisions concerning the obligor are met, the Department is authorized to petition the court for issuance of an order against the obligor as stipulated at (a) above:

1. The obligor resides in New Jersey;
2. The obligor has arrears equal to or greater than \$500.00; and
3. The obligor has made no regular payments for the past 60 days; and
4. There is no verified employer of record; and
5. The obligor is not participating in a work activity as an applicant/recipient of WFNJ/TANF, WFNJ/GA or Food Stamps.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph; and added (b).

## SUBCHAPTER 6. CWA AS PAYEE

### 10:110-6.1 Assignment of rights

(a) An application for or receipt of WFNJ/TANF shall operate as an assignment of support rights to the county agency.

(b) Assignment of support rights applies to any Division of Youth and Family Services (DYFS) case referred for child support services.

(c) Assignment of medical support rights to the CWA is automatic upon application for or receipt of Medicaid assistance.

(d) Whenever a family is no longer eligible for assistance under WFNJ/TANF, DYFS or Medicaid, the county agency shall notify the family within five working days of the notification of ineligibility or termination, that Title IV-D services shall continue unless the family notifies the county agency that services are no longer desired.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote the section.

**10:110-6.2 Support payments**

All support rights due the WFNJ/TANF applicant/recipient, which are assigned to the county, shall be paid through the probation division as ordered by the court. The first \$50.00 of any payments for a month received in that month which were made by the non-custodial parent in the month when due, shall be paid to the family.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted a reference to the county for a reference to the State in the first sentence, and substituted a reference to noncustodial parents for a reference to absent parents in the second sentence.

**10:110-6.3 (Reserved)****10:110-6.4 Authorization to seek or enforce a child support obligation**

An application for services by a nonpublic assistance recipient of child support services shall operate as authorization to seek or assist the party to establish, modify, or enforce child support as requested.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Substituted "or assist the party to establish, modify, or enforce child support as requested" for "modify, or enforce child support" at the end.

**SUBCHAPTER 7. APPLICATION****10:110-7.1 Application fees**

(a) For public assistance recipients, there is no application fee for child support services.

1. If public assistance and child support services are terminated by the applicant/recipient, the CWA/CSP shall require that a IV-D application be filed and that the \$6.00 application fee be paid if it is requested that services be reinstated.

(b) For nonpublic assistance recipients, the application fee for child support services is \$6.00.

1. Where the custodial parent requests only payment disbursement and monitoring services, a \$25.00 annual fee shall be assessed.

2. Non IV-D income withholding cases shall be exempt from all application fees.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
In (b), added 2.

**10:110-7.2 Application process**

(a) Applications shall be made accessible to the public. There shall be included with each application information describing child support services, the custodial and non-

custodial parent's rights and responsibilities, application fees or recovery of cost charged by an out-of-State IV-D agency, and payment distribution policies.

1. An application shall be provided on the day a request is made in person.

2. An application shall be sent within five working days of the date a written or telephone request for an application is received.

(b) An application shall not be required from a foreign reciprocating country or foreign obligee.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "application fees or recovery of cost charged by an out-of-State IV-D agency," for "fees," following "responsibilities" in the introductory paragraph.

**SUBCHAPTER 8. INTAKE AND CASE RECORD MAINTENANCE****10:110-8.1 Investigative interview/case action**

(a) An investigative interview shall be scheduled with the applicant/ recipient to obtain sufficient information to determine cooperation with child support requirements, in accordance with N.J.A.C. 10:90-16.2 through 16.5, for the receipt of WFNJ/TANF cash assistance and health care coverage and to assist in the provision of child support services.

(b) Case action procedures are as follows:

1. For a WFNJ/TANF applicant/recipient, if sufficient information is provided, action to establish paternity and/or support shall be taken.

i. If it is determined that the WFNJ/TANF applicant/recipient has not cooperated in accordance with N.J.A.C. 10:90-16.2 through 16.5:

(1) The applicant/recipient and the children in the assistance unit shall not be eligible for cash benefits under WFNJ.

(2) The applicant/recipient shall be ineligible for Medicaid. However, if an applicant/recipient is pregnant at denial or termination of WFNJ/TANF, Medicaid eligibility shall continue until pregnancy and the 60 day post-partum eligibility period are concluded.

(3) The children in the WFNJ/TANF unit shall continue to receive Medicaid, subject to the notice requirements pertaining to adverse action notices pursuant to N.J.A.C. 10:90-9.

2. For a nonpublic assistance applicant/recipient, if sufficient information as required by the court is provided, assistance in establishing paternity in accordance with

N.J.A.C. 10:110-12.2 shall be attempted or in filing a complaint for paternity and/or support shall be provided.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote (b)2.

#### 10:110-8.2 Case records

(a) Automated case records shall be maintained for all cases receiving child support services.

(b) The case record shall be established within no more than 20 calendar days of the filing of a IV-D application.

(c) New information shall be added to the case record within no more than five working days of receipt.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b) and (c), inserted "no more than" following "within".

## SUBCHAPTER 9. CHILD SUPPORT AND PATERNITY

### Authority

N.J.S.A. 44:10-58.

### Source and Effective Date

Subchapter 9, Cooperation, was repealed by R.2001 d.150, effective May 7, 2001. Subchapter 9, Child Support and Paternity, was adopted as new rules by R.2001 d.150, effective May 7, 2001.  
See: 33 N.J.R. 182(a), 33 N.J.R. 1381(a).

#### 10:110-9.1 Introduction

(a) P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for locating non-custodial parents, establishing paternity for children born out-of-wedlock and establishing, enforcing and/or modifying support obligations owed by noncustodial parents to their children. Title IV-D services with regard to paternity determinations and support collections shall be available to WFNJ individual, a Medicaid individual, a Title IV-E individual or any other individual not receiving WFNJ who files an application for child support services.

(b) The WFNJ program is designed to promote self-sufficiency. Support collections are a vital financial resource to all individuals attempting to attain and/or maintain self-sufficiency. Applicant/recipient cooperation with the county welfare agency child support unit (CWA/CSU) is a necessary step in obtaining support collections. Child support cooperation is an interactive ongoing process based on individual case circumstances. The applicant/recipient has a continuing responsibility to provide all necessary and new information available to them. The CWA/CSU is responsible for assisting the clients in obtaining information in its efforts to make paternity determinations and to obtain support collections from their responsible parent(s).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), in second sentence substituted "unit (CWA/CSU)" for "(CWA/CSP unit)"; in (b), in fourth sentence substituted "CWA/CSU" for "CWA/CSP unit".

#### 10:110-9.2 Cooperation with child support for WFNJ eligibility

(a) The first step in the WFNJ application process is cooperation with child support. In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. The application process for WFNJ benefits for both WFNJ/TANF and WFNJ/GA individuals begins with the agency worker assigned to ascertain cooperation requirements of child support. For TANF purposes, at the time of the IV-D interview with the WFNJ/TANF applicant/recipient, the CWA/CSU worker shall explain the child support cooperation requirements set out in this section and N.J.A.C. 10:110-9.3, the good faith effort requirement set out in N.J.A.C. 10:110-9.4, and what constitutes a claim for good cause exceptions from the child support requirements, as outlined at N.J.A.C. 10:110-9.5 and the related procedures for those individuals affected by family violence at N.J.A.C. 10:90-20. The CWA/CSU worker, as an agency program contact person, shall notify all WFNJ/TANF individuals having contact with the CWA/CSU of the WFNJ Family Violence Option (FVO) in accordance with N.J.A.C. 10:90-20.2, and explain the purpose of the WFNJ FVO and of the availability and opportunity for referral to the CWA FVO representative. Except in extraordinary circumstances, the IV-D interview shall be conducted at the time of application.

- i. For TANF purposes, the IV-D interview to establish cooperation shall begin with the applicant/recipient signing the affidavit of cooperation and completing the child support questionnaire which includes providing information related to the non-custodial parent in accordance with N.J.A.C. 10:110-9.4(b) and (c), unless the WFNJ/TANF individual requests a WFNJ FVO Waiver in accordance with N.J.A.C. 10:110-9.5 and 20.6 for reason of family violence as a good cause exception from child support requirements, or any of the other reasons for good cause exemption from child support requirements in accordance with N.J.A.C. 10:110-9.5. The WFNJ FVO Waiver and WFNJ/TANF Waiver means the same as a good cause exception from the child support requirements for reason of family violence or the risk of family violence and are used interchangeably throughout this subchapter.

- (1) The WFNJ/TANF applicant/recipient is required to provide information related to the non-custodial parent at the time of the IV-D interview but not later than 30 calendar days from the date of the notice of initial cooperation with child support in accordance with N.J.A.C. 10:110-9.4(d).

i. A certification documenting unsuccessful efforts to locate a party shall be documented and provided to the court when appropriate before any adverse action is taken based on failure of the party to respond to a notice.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a)2, inserted "by regular mail" following "notice" in the introductory paragraph, and substituted "documented and provided to the court when appropriate" for "provided to the court" following "shall be" in i.

### **10:110-10.3 Diligent efforts to serve process in enforcement actions**

Diligent efforts to serve process in enforcement actions means making inquiries that may include, but are not limited to, the U.S. Postal Service, the Division of Motor Vehicles in the Department of Transportation, the Department of Labor, the Department of Corrections, and the Division of Taxation in the Department of Treasury.

## **SUBCHAPTER 11. LOCATION**

### **10:110-11.1 General location statement**

(a) Within no more than 75 calendar days of the determination that location is necessary, all appropriate location

sources shall be accessed in an attempt to locate non-custodial parents or alleged fathers and/or their assets.

#### **1. In these location investigations:**

i. All appropriate local, State and Federal resources available shall be utilized;

ii. Location efforts in interstate cases (cases in which one party does not live in New Jersey) shall be coordinated; and

iii. Cases, when appropriate, shall be referred to the Federal Parent Locator Service (FPLS).

2. Where adequate identifying information exists but location attempts have failed, repeat location attempts shall be made quarterly, shall be limited to automated sources, and shall include State employment security files.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), substituted "all appropriate location sources shall be accessed in an attempt" for "investigations shall be conducted" following "necessary," in the introductory paragraph.

### **10:110-11.2 Location sources**

(a) A New Hires directory shall be maintained, and all employers and labor organizations doing business in the State shall report to the Department or its designee:

1. The hiring of, or contracting with, any person who works in this State and to whom the employer anticipates paying earnings; and

2. The rehiring or return to work of any employee who is laid off, furloughed, separated, granted a leave without pay, or terminated from employment in this State.

(b) Information in (a) above shall be reported within 15 days of the hiring, rehiring, or return to work of the employee if the employer reports electronically or magnetically, and 20 days if the employer utilizes another form of reporting.

(c) The report in (a) above shall contain:

1. The employee's name, address, Social Security number and date of birth; and

2. The employer's name, address and Federal tax identification number.

(d) An employer, who fails to report as required, shall be given a written warning of noncompliance by the Department for the first violation and shall be subject to a civil penalty:

1. Which shall not exceed \$25.00 per violation; or

2. If the failure to report is the result of a conspiracy between the employer and employee to not supply the required report or to supply a false and incomplete report, the employer shall be subject to a civil penalty which shall not exceed \$500.00.

(e) Payment of the penalty shall be waived if, in response to the imposition of the penalty, the person or entity complies with the reporting requirement.

(f) No civil penalty shall be imposed upon an employer or labor organization who reports the hiring of, or contracting with, the rehiring or return to work of any employee consistent with the Federal requirements which include, the employee's name, address and Social Security number and the employer's name, address and Federal tax identification number, when the employee's date of birth is unavailable to the employer or labor organization.

(g) All penalties assessed under this section shall be paid to the State Treasurer and may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

(h) New hire information may be disclosed to:

1. The National Directory of New Hires;

2. Agencies responsible for the administration of a program under Title IV-A, Title XIX, Title I, Title XIV or Title XVI;

3. Agency responsible for administration of the Food Stamp Program; and

4. Agency operating the unemployment insurance benefit and workers' compensation programs.

(i) Any employer or labor organization doing business in this State who has employees who are employed in two or more states and has designated a state other than this State for reporting new hire information in accordance with 42 U.S.C. § 453A shall be deemed in compliance with P.L. 1998, c.1.

(j) State Parent Locator Service (SPLS) shall be established to perform parent locator services.

(k) Through the SPLS, location referrals to the Federal Parent Locator Service (FPLS) shall be submitted electronically.

1. Submission of the FPLS referrals, and the distribution, security and use of the returned information shall be in accordance with Federal requirements contained in 45 C.F.R. 303.70 and with instructions issued by the Federal Office of Child Support Enforcement.

(l) In accordance with N.J.A.C. 10:110-1.7, the OCSPP shall have access, including automated access when feasible, to the following resources, if appropriate, for child support enforcement purposes:

1. Records of other state and local government agencies including, but not limited to:

i. Bureau of Vital Statistics in the Department of Health and Senior Services;

ii. Division of Taxation in the Department of Treasury;

iii. Records concerning real and titled property;

iv. Records of occupational, professional, recreational and sporting licenses;

v. Records concerning the ownership and control of corporations, partnerships, and other business entities;

vi. Records of the Department of Labor;

vii. Records of agencies administering public assistance programs;

viii. Records of the Division of Motor Vehicles in the Department of Transportation;

ix. Records of the Department of Corrections, including records relating to State-sentenced inmates and parolees; and

2. Records held by private entities, including information on the assets and liabilities of individuals held by financial institutions and the names and addresses of individuals and the names and addresses of the employers of the individual appearing in customer records of public utilities and cable television companies in accordance with N.J.A.C. 10:110-5.2.

(m) Personal sources, such as the relatives, friends, employers and landlords, may be contacted in order to obtain location information.

(n) The use and disclosure of information obtained through the sources identified in this section shall be in accordance with the rules contained herein, and as detailed at N.J.A.C. 10:110-1.7.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote (h); and added (n).

## SUBCHAPTER 12. PATERNITY ESTABLISHMENT

### 10:110-12.1 Identification of the alleged father

(a) Provided that an allegation of paternity is made as provided in this subchapter, paternity shall be established or service of process completed as necessary to commence proceedings to establish paternity within no more than 90 calendar days of locating the alleged father.

(b) Before initiating proceedings to establish paternity, an allegation of paternity shall be obtained. Provided that the child's age is no more than five years past the age of majority, the allegation may be made by:

1. The child's mother;
2. The custodial parent, if the custodial parent is not the mother;
3. A man alleging himself to be the child's biological father; or
4. The child.

(c) In cases where there are multiple alleged fathers, the CWA/CSP unit shall:

1. Initiate paternity establishment proceedings against all alleged fathers named by the client. If one of the alleged fathers is excluded through genetic testing or if the court rules that he is not the father, the complaint shall be amended removing that individual as a defendant and the complaint shall proceed against the remaining defendants or the defendant whose genetic test established at least a 95 percent probability of paternity.

2. A consent order will be attempted in accordance with individual county procedures prior to the scheduled court date.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote (a) and (c).

### 10:110-12.2 Voluntary acknowledgment of paternity

(a) The OCSPP shall establish and operate a voluntary acknowledgment of paternity program that shall be known as the Paternity Opportunity Program (POP). POP will allow for the voluntary acknowledgment of paternity through the execution of a Certificate of Parentage which shall have the same force and effect as a court order or judgment of paternity.

(b) In all cases in which sufficient information is available to initiate paternity establishment proceedings, the parties, including an unemancipated minor, shall be offered the opportunity to voluntarily sign a Certificate of Parentage (COP).

(c) Prior to the parties signing the COP, both the custodial parent and the alleged father shall be notified of the legal consequences associated with signing the COP, their rights in the COP process, and the alternatives to signing the COP.

1. The notice shall be given orally, or through the use of video or audio equipment, and in writing.

2. The notice shall specify that:

- i. Either party may rescind the COP within 60 days of the date of signing, or by the date of establishment of a support order whichever date is earlier. Additionally, the notice shall provide instructions on the manner in which the COP may be rescinded.

- ii. A signed COP, that is not rescinded as specified in (b)2i above, shall be considered a legal finding of paternity.

- iii. Either party may request genetic testing before signing the COP.

- iv. Should both parents sign the COP, the alleged father shall obtain standing in any adoption or custody proceeding involving the child and may seek visitation rights.

- v. By signing the COP, the alleged father shall become responsible for child support and health care coverage for the child, and the OCSPP may seek, modify and enforce orders regarding support issues.

(d) The COP shall serve to satisfy the method of collection of Social Security numbers as required pursuant to N.J.S.A. 26:8-28c. The COP shall contain, at a minimum, the following information:

1. Current full name of mother, father and child;
2. Date of birth of mother, father and child;
3. Address of mother and father;
4. Birthplace of child;

5. Brief explanation of the legal significance of signing the COP and a statement that both parents have 60 days to rescind the COP;

6. A sworn statement by the father that he is the natural father of the child;

7. The Social Security numbers, except in those cases in which a person is ineligible to apply for one, and addresses of the father and mother;

8. The signature of the mother and father authenticated by a witness or notary; and

9. Instructions for filing the COP with the agency designated by the State IV-D agency.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote the section.

### 10:110-12.3 Contested paternity

(a) If the parties will not sign a COP and no complaint has been filed, a complaint to establish paternity and support obligations shall be filed in a court of competent jurisdiction.

1. The complaint shall be filed and service of process necessary to commence proceedings to establish paternity completed within no more than 90 calendar days of locating the alleged father.

2. The parties shall be required to submit to genetic testing, unless there is good cause for refusal in accordance with N.J.A.C. 10:90-16.2 through 16.5, if:

i. The party alleging paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties had the requisite sexual contact during the probable period of conception; or

ii. The party denying paternity requests genetic testing and completes a sworn statement setting forth facts that establish a reasonable possibility that the parties did not have the requisite sexual contact during the probable period of conception or has reason to believe he is not the biological father.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).  
Rewrote (a).

### 10:110-12.4 Genetic testing

(a) A list of approved genetic testing laboratories shall be developed through the competitive procurement process. The State shall award a contract to each laboratory on the list.

(b) If the CWA/CSP unit determines that genetic tests should be required, or if a party request genetic tests before signing the COP, or if the court orders genetic tests, the

CWA/CSP unit shall schedule the genetic test at a State-approved facility.

(c) The CWA shall provide initial payment for all costs associated with the genetic testing, including, but not limited to, costs related to performing the tests and costs related to analyzing the test results. The CWA/CSP unit shall ask the court to stipulate that the CWA be reimbursed the cost for genetic testing by either of the parties involved as determined by the practice of the court, unless:

1. The court declares that the alleged father is not the biological father and specifies that the alleged father is not financially responsible; or

2. The court declares the alleged father to be indigent, in which case the alleged father may be held liable for the cost and possible future payment.

(d) If genetic test results show the alleged father meets the 95 percent or higher threshold of probability, a rebuttable presumption of paternity is created and is the basis for entry of a judgment of paternity.

(e) Either party may object to the genetic test results by sending a written objection to the appropriate county child support agency within 10 calendar days of receipt of the results. If no complaint has been filed, the written objection shall be filed with the CWA/CSP unit. If a complaint has been filed, the written objection shall be filed, with the court and the CWA/CSP unit.

1. The party objecting to the genetic testing results shall be responsible for advance payment of any additional genetic testing.

(f) In order for a county to receive Federal reimbursement for genetic testing fees, it must choose the lowest cost vendor that can provide accessible, timely service and fulfill the unique needs of that agency. The county shall contact and interview the laboratories on the list, beginning with the lowest cost vendor, until a qualifying vendor is chosen. Once a vendor is chosen, the county agency is not under obligation to contact or interview those laboratories of higher cost. The county shall then request approval from OCSPP to use the State contract with the chosen laboratory or to independently negotiate a contract with that laboratory at a lower cost than the State contract. If the lowest cost vendor on the list was not the county's choice, justification shall be provided. The same would apply to the next lowest cost vendor and so on until the chosen vendor is reached. Once OCSPP approval is granted the county agency will be responsible for carrying out the terms of the contract.

Amended by R.1998 d.506, effective October 19, 1998.  
See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (e), rewrote the introductory paragraph; and added (f).

### 10:110-12.5 Establishing paternity in interstate cases

Within no more than 20 calendar days of determining the alleged father is out-of-State, appropriate legal action or

location action shall be initiated, if necessary. Whenever appropriate, proceedings to establish paternity shall be in accordance with the New Jersey Parentage Act at N.J.S.A. 9:17-46(b) and P.L. 1998, c.2.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "no more than" following "Within" at the beginning, and added a reference to P.L. 1998, c.2 at the end.

#### 10:110-12.6 Adoptions and artificial insemination

(a) When a child has been legally adopted, an action by a county child support agency to establish paternity against an alleged biological father shall not be initiated unless a court of competent jurisdiction overturns the adoption.

(b) When a child is conceived through an alternate means of conception or the artificial insemination of the mother with sperm donated anonymously to a "sperm bank" or similar institution, an action by a county child support agency to establish paternity shall not be initiated. Verification of artificial insemination circumstances is delineated at N.J.A.C. 10:90-16.5(a)5.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "by a county child support agency" following "action" throughout; and in (b), inserted "an alternate means of conception or" following "through" in the first sentence, and added a second sentence.

#### 10:110-12.7 Special circumstances

(a) Paternity proceedings shall be waived in a WFNJ/TANF case when good cause is established pursuant to N.J.A.C. 10:90-16.2 through 16.5.

(b) If a child is born to married parents, but the mother alleges that someone other than the presumed father (the husband) is the child's biological father, an action to establish paternity may be pursued against the alleged biological father.

1. The legal relationship between the presumed father and the child may be severed by a court of competent jurisdiction, and the biological father can be adjudicated the legal father.

2. When the presumed father signs an Affidavit of Denial of Paternity, and the biological father and mother sign a COP, action to establish a child support obligation may be pursued.

(c) Paternity establishment shall be pursued regardless of either parent's status as a minor.

1. A minor mother's sworn statement regarding the identity of her child's biological father shall be accepted without requiring the mother's parent or guardian to witness the document.

2. Unemancipated minors may execute the COP.

3. If the alleged father is a minor and will not sign a COP, a paternity complaint shall be filed with a court of competent jurisdiction. The court's rules regarding legal actions taken against minors shall be followed.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), inserted "in a WFNJ/TANF case" following "waived"; and in (b), substituted "may" for "shall" following "paternity" in the introductory paragraph, and rewrote 2.

### SUBCHAPTER 13. ESTABLISHING SUPPORT OBLIGATIONS

#### 10:110-13.1 General statement

(a) In cases where there is no order for child support and health care coverage within no more than 90 calendar days of determining the location of the non-custodial parent, an order for support shall be established or service of process completed as necessary to commence proceedings to establish an order.

1. A consent order will be attempted in accordance with individual county procedures prior to the scheduled court date.

2. If paternity is acknowledged and/or support and health care coverage are agreed upon, the consent order shall be forwarded to the appropriate court for review and approval by the court.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph and 1.

#### 10:110-13.2 Determining the amount of child support obligations

(a) All child support orders shall be established or modified in accordance with the New Jersey Child Support Guidelines as adopted by the Supreme Court in Rule 5:6A and Appendix IX.

1. The Child Support Guidelines may be modified or disregarded by the court only where good cause is shown.

2. The determination of good cause is within the sound discretion of the court.

3. If the Child Support Guidelines are not applied in a specific case or the guidelines-based award is adjusted, the reason for the deviation and the amount of the guidelines-based award (before any adjustment) shall be specified in writing on the guidelines worksheet or in the support order and recorded on ACSES.

(b) Application of the Child Support Guidelines results in a rebuttable presumption that the amount computed is the correct amount for the current child support obligation.

(c) An order or judgment requiring one or both of the parties to provide health care coverage for the child shall be sought when such health care coverage is available at reasonable cost. Health care coverage shall be deemed to be of reasonable cost when it is available through a parent's employer or other group.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote the introductory paragraph.

## SUBCHAPTER 14. REVIEW AND MODIFICATION

### 10:110-14.1 Case selection

(a) Every three years, the CWA/CSP unit shall review for possible adjustment all WFNJ/TANF and Foster Care cases on which the support order exists. Additionally, the CWA/CSP unit shall review for possible adjustment all active Medicaid only cases if an existing order was established, last reviewed or modified three years prior and does not contain a health care coverage provision. To ensure that the review is initiated by the three-year anniversary date, the Automated Child Support Enforcement System (ACSES) shall generate a monthly report from the State case registry listing all WFNJ/TANF, Foster Care and applicable Medicaid cases where the review date recorded in the State case registry is at least two years and 11 months earlier than the date on which the report is generated. This review shall occur unless the State has developed an Automated Cost-of-Living Adjustment for Support Payments Program.

(b) Upon the written request of either party, the CWA/CSP unit shall review for possible adjustment non-public assistance cases on which the support order was established, last reviewed or modified at least three years prior and the necessary financial information is available to the CWA/CSP unit for both parties. This review shall occur unless the State has developed an Automated Cost-of-Living Adjustment for Support Program.

1. Within 15 calendar days of receipt of a request for review, it shall be determined whether a review shall be conducted.

2. Within no more than 180 calendar days of determining that a review shall be conducted or locating the non-requesting parent, whichever occurs later, the CWA/CSP shall:

- i. Notify the parties that a review shall be conducted;
- ii. Conduct a review of the order;
- iii. Notify the parties of the proposed adjustment or the determination that there should be no adjustment; and

iv. Adjust the order or determine that the order should not be adjusted.

(c) The CWA/CSP unit shall not initiate a review when:

1. In a WFNJ/TANF case there has been a determination of good cause, pursuant to N.J.A.C. 10:90-16.2 through 16.5, and neither party has requested a review;

2. In a Title IV-E foster care case, the Division of Youth and Family Services has made a determination of good cause and neither party has requested a review;

3. It is determined that the most recent order or review is less than 36 months old;

4. There is no valid address for one or both of the parties;

5. The child support order is not a New Jersey order;

6. In a Medicaid Title XIX case, the order contains a health care coverage provision and neither party has requested a review; or

7. It is determined that a review would not be in the best interest of the child.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (b)2, inserted "no more than" following "Within" in the introductory paragraph.

### 10:110-14.2 Review process

(a) On any case where it is determined that a review is warranted, both parties shall receive notice of the review at least 30 calendar days prior to the commencement of the review.

(b) On any case where it is determined that a review is warranted, the parties shall complete and return a Financial Information Sheet within 10 calendar days of the date on the request letter.

1. If the Financial Information Sheet is not returned by the requesting party, the CWA/CSP unit shall notify the custodial and non-custodial parents that the review is being terminated for failure to cooperate.

2. If the review was requested on a nonpublic assistance case, the IV-D client shall be asked to sign the "Authorization to Review Support."

(c) Employment and income information provided by both parties, as well as information gathered from other sources (that is, employers, New Jersey's Wage Reporting System, and so forth) shall be used to conduct the review.

(d) When all necessary information is obtained, but in no event before expiration of the 10-day period for completing and returning the Financial Information Sheet, a review shall be conducted to determine if an adjustment to the order is appropriate.

1. To conduct a review means to apply the Child Support Guidelines using the most recently available financial information for the parties or to determine whether a health care coverage provision should be added to a support order.

2. After conducting the review, an adjustment shall be sought if:

- i. The newly calculated amount differs from the existing obligation amount by 20 percent or more; or
- ii. There is no health care coverage provision in the support order, and either or both parties have health care coverage available at reasonable cost as defined in 45 C.F.R. 303.31.

(e) Upon completion of the review, a written notice shall be sent to both parents regarding the results of the review.

1. The notice shall be sent by certified and regular mail to the parties' residential addresses.

2. If the notice advises the parties that an adjustment of the order shall be pursued:

i. A Consent to Modify Order Form shall be provided with each notice.

ii. The notice shall inform the parties:

- (1) Of the new child support amount;
- (2) That a modification of the order shall be sought to include a health care coverage provision, if appropriate;
- (3) That if both parties agree with the review findings, each party may avoid a court appearance by signing the Consent to Modify Order Form and returning it within 30 calendar days of the date the notice was served;
- (4) That if either party disagrees with the review findings (that is, either party disagrees that an adjustment is appropriate, disagree with the new child support obligation, or disagree with the determination of responsibility for providing health care coverage for the child), either party may object to the adjustment by filing a written challenge within 30 calendar days of the date of service; and
- (5) That if a challenge is not received within 30 calendar days, the court may proceed to adjust the child support obligation.

3. If the notice advises that an adjustment of the order is not appropriate, the notice shall advise the parties that:

- i. If either party disagrees with the review findings, either party may challenge by filing a written objection within 30 calendar days of the date of service; and
- ii. If a challenge is not received within 30 calendar days, another review of the order shall not be conducted for 36 months.

(f) If a party files a challenge, the individual filing the challenge shall provide supporting documentation within the 30-day period. If documentation is provided, the case shall be referred to an attorney of the CWA for review, and if appropriate, the filing of a motion for court action.

(g) In cases where it is determined an adjustment is appropriate, and the parties either return the Consent to Modify Order Form within 30 calendar days or do not challenge the determination, the case shall be referred to the probation division for appropriate action.

(h) A case shall also be referred to an attorney when the CWA/CSP unit conducting the review is unable to determine if a case qualified for an adjustment or a court hearing is requested by one or both of the parties. In cases where a conflict of interest exists between the CWA/CSP attorney and the involved parties, a "Conflicts Counsel" shall be necessary to process and resolve the case review.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (d)2ii, added C.F.R. reference at the end; in (e)2ii(3), substituted a reference to 30 calendar days for a reference to 30 days; rewrote (f); and added (h).

#### 10:110-14.3 Reviews in interstate cases

(a) When a request for a review is received in an interstate case and New Jersey is the controlling order state, the matter shall be reviewed by the appropriate CWA/CSP unit in accordance with N.J.S.A. 2A:17-56.9(a) and the Child Support Guidelines.

(b) When a request for review is received in an interstate case and it is determined that the controlling order is in another state, a request for review shall be sent to the responding jurisdiction via the appropriate Federally mandated standard interstate child support enforcement forms.

### SUBCHAPTER 15. ENFORCING SUPPORT OBLIGATIONS

#### 10:110-15.1 General statement

(a) The enforcement of child support obligations includes:

1. Ensuring that current child support obligations are met;
2. Collecting past-due child support obligations;
3. Enforcing health care coverage; and
4. Collecting spousal support obligations when spousal support is ordered in conjunction with child support.

(b) All Federal requirements and time frames set forth in 45 C.F.R. 303.6 for enforcement of support obligations shall be followed.

#### 10:110-15.2 Child support enforcement remedies

(a) Available enforcement remedies shall include, but are not limited to:

1. Provisions concerning income withholding are as follows:

i. Orders established or modified on or after November 1, 1990 shall be subject to income withholding, regardless of whether support payments are in arrears, unless the parties demonstrate, and the court finds, that there is good cause not to require immediate income withholding or both parties sign a written agreement that provides for an alternative arrangement.

(1) Regardless of any alternative arrangement, the non-custodial parent's income shall be subject to income withholding on the date the non-custodial parent fails to make support payments in an amount equal to or exceeding the support due for 14 calendar days or if the obligee, for good cause, or the obligor requests that withholding be initiated.

ii. Where the non-custodial parent is subject to immediate income withholding, a notice to the non-custodial parent's employer directing the employer to withhold the current child support amount, and if appropriate, an additional sum to be applied to any past-due support owed by the non-custodial parent shall be sent within two business days after the date verified employment information regarding a non-custodial parent is entered into the ACSES.

iii. If there is more than one child support withholding against the same obligor, the total amount withheld from the obligor's income shall be allocated among all obligees on a prorated basis.

(1) The withheld amounts shall first be applied to the current support obligations for all obligees.

(2) The withheld amounts that remain after all current support obligations are satisfied shall be allocated among all the obligees to pay past-due support in accordance with Federal distribution requirements.

iv. Employers shall be provided with the option of sending amounts to one location through Electronic Funds Transfer (EFT).

v. Employers identified through the automated matching with the State New Hire Directory shall be issued an income withholding notice within two business days.

2. Unemployment compensation benefits intercept provisions are as follows:

i. Under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor, the unemployment benefits of non-custodial parents who owe past-due support shall be garnished. The county agency shall pay all direct costs incurred in submitting cases and processing collections under the agreement. Such payments are retroactive to the date of garnishment program implementation. Since the State prepays such fees, payment from the counties shall be in the form of reimbursement to the State.

3. Workers compensation benefits intercept provisions are as follows:

i. The workers compensation benefits of non-custodial parents who owe past-due support shall be subject to income withholding.

4. Account seizure provisions are as follows:

i. Provisions concerning financial institution information matching program are as follows:

(1) Each financial institution doing business in the State shall provide information on all non-custodial parents who maintain an account at the financial institution and who owe past due child support that equals or exceeds the amount of support payable for three months and for which no regular payments are being made.

(2) Pursuant to an agreement entered into with the Department, a financial institution's information can be provided by:

(A) All accounts method. The financial institution shall provide OCSPP with a file that includes the name, address of record and either Social Security number, tax identification number or other identifying information of each individual maintaining an account at the financial institution as shown on its records for OCSPP to match against its data base;

(B) Matched accounts method. OCSPP shall provide the financial institutions with information of child support debtors meeting the criteria in (a)4i(1) above for the financial institutions to match against their account records and the financial institutions shall report any matches to OCSPP; or

(C) Other mutually agreed upon method. The financial institution shall provide OCSPP the name, address of record and either Social Security number, tax identification number or other identifying information in a form and by a method mutually agreeable to the financial institution and the Department.

(3) Financial institutions shall provide the information required on a quarterly basis, by electronic or magnetic media, mail, facsimile or any automated

data exchange method or other means authorized by the Department.

(4) Financial institutions shall be paid a reasonable fee for the data match. To the extent consistent with Federal and State law, financial institutions shall be reimbursed for actual costs that are reasonably and efficiently incurred in conducting the data match.

(5) No financial institution-affiliated party shall be required to provide information required by this section if the financial institution with which the party is affiliated has otherwise provided the required information.

ii. Provisions concerning action to be taken where there is a match as identified under (a)4i above are as follows:

(1) In response to a lien or a levy, a financial institution shall encumber or surrender assets of an obligor who is the subject of a child support lien, held by the financial institution.

(A) To the extent consistent with Federal law, the encumbrance or surrender shall be subject to any right to any fees and penalties or set-off the financial institutions may have against the assets under State law.

(B) A financial institution is entitled to collect or deduct from the account its reasonable and normally scheduled processing fee for a levy; and collect or deduct its normally scheduled account activity fee to maintain the account for any period the account is blocked, frozen or encumbered. The provisions of this section shall not be construed to preclude a financial institution from exercising its right to charge back or recoup a deposit to an account.

(2) All the levies for accounts at a particular financial institution shall be sent to the financial institution, together with a report listing all of the levies.

(A) The financial institution shall freeze each account levied immediately. If the account is closed, the financial institution shall provide notice to OCSPP.

(B) The financial institution shall remit the funds as directed.

(C) The financial institution shall remit those monies in the levied account as of the date the levy is received by the financial institution, up to the amount of the levy as directed.

(D) The amount subject to levy in a joint account, as defined in section 2 of P.L. 1979, c.491 (N.J.S.A. 17:161-2), shall be in accordance with the provisions of section 4 of P.L. 1979, c.491 (N.J.S.A. 17:161-4).

iii. Notice of intent to levy an account and the right to challenge the levy shall be provided by OCSPP to the accountholder.

(1) The accountholder shall have 30 calendar days following the notice's postmark date to contest the levy.

(2) The assets shall be held and not distributed to any party until the contest period has expired or while an action on these assets is pending in court.

iv. Disclosure of information provisions are as follows:

(1) A financial institution shall not be liable under any Federal or State law, notwithstanding any other provision of Federal or State law to the contrary, to any person for any disclosure of information to the Department for the purpose of establishing, modifying or enforcing a child support obligation of an individual, or for encumbering, holding, refusing to release to the obligor or surrendering any assets held by the financial institution, in response to a notice of lien or levy issued by the Department, or for any other action taken in good faith to comply with the requirement of P.L. 1998, c.1.

(2) In obtaining a financial record of an individual from a financial institution, the Department may only disclose the financial information for the purpose of, and to the extent necessary to establish, modify or enforce a child support obligation of the individual.

(3) If any officer or employee of the Department knowingly, or by reason of negligence, discloses a financial record of an individual, the injured individual may bring a civil action for damages against the officer or employee. Unauthorized release of information shall also be cause for administrative discipline of any employee who engages in an unauthorized release. In the case of willful unauthorized release of information, such action by an employee shall be cause for termination of employment.

(4) No liability shall arise under this section with respect to any disclosure which results from a good faith but erroneous interpretation.

5. Federal income tax refund intercept provisions are as follows:

i. Cases shall be submitted by the OCSPP to the Federal Office of Child Support Enforcement for Federal income tax refund intercept in accordance with 45 C.F.R. 303.72 and instructions issued by the Federal Office of Child Support Enforcement. The CWA shall pay all direct costs incurred in submitting cases and in processing tax offset payments. Since the State prepays these fees, payment from the counties shall be in the form of reimbursement to the State.

ii. The Federal Office of Child Support Enforcement shall issue notice to all cases submitted by the OCSPP for Federal income tax refund intercept.

6. Lottery winnings intercept provisions are as follows:

i. Under the State Lottery Intercept Agreement with the New Jersey Department of Treasury, the Social Security number of lottery winners in excess of \$600.00 shall be electronically matched with the Social Security number of non-custodial parents who owe past-due support for possible interception.

ii. A notice shall be sent to the obligor advising of the OCSPP's intent to intercept the lottery winnings. The notice shall include:

(1) The amount of past support owed;

(2) Notification that an appeal based on a mistake of fact must be made in writing within 10 business days of the date of the notice to the OCSPP;

(3) Notification that if no appeal is received within 10 business days, the past due amount indicated on the notice shall be withheld and applied to the child support debt; and

(4) Notification that any excess lottery winnings shall be sent directly to the obligor by the Division of Lottery.

iii. The CWA shall pay all direct costs incurred in submitting cases and processing collections under the agreement. Since the State prepays such fees, payment from the counties shall be in the form of reimbursement to the State.

iv. A Title IV-D obligor who has been determined delinquent shall be prohibited from assigning an annuity award.

7. License suspension, revocation, or denial provisions are as follows:

i. Motor vehicle, professional, occupational, recreational, or sporting licenses held or applied for by an obligor may be suspended, revoked, or denied in accordance with N.J.S.A. 2A:17-56.51 et seq.

8. Credit bureau reporting provisions are as follows:

i. A notice shall be sent to the obligor if past-due support is owed. The notice shall inform the obligor that the following information shall be reported to the credit reporting agency:

(1) The obligor's name;

(2) The obligor's Social Security number; and

(3) The debt amount.

ii. The notice shall:

(1) Be sent to the obligor's last known address by first class mail;

(2) Specify the amount of the past-due support the obligor owes;

(3) Advise of the intention to notify the credit reporting agency of the amount of past-due support; and

(4) Notify the obligor that a court hearing can be requested on the issue within 10 calendar days of the date on the notice by sending a written request for a hearing.

iii. If the obligor requests a hearing within the 10-day time period, the request shall be forwarded to the AOC for appropriate action in accordance with established court procedures.

iv. In cases where OCSPP is requesting a consumer report from a credit reporting agency for the purpose of establishing a non-custodial parent or alleged father's capacity to make child support payments, notice shall be sent by regular and certified mail 10 days prior to requesting such information from a credit reporting agency.

9. IRS full collection provisions are as follows:

i. Applications for full collection by the Internal Revenue Service (IRS) shall be submitted on both public assistance and nonpublic assistance cases in accordance with 45 C.F.R. 303.71. In nonpublic assistance cases, the custodial parent shall pay the amount of the fee charged by the IRS for full collection services with submittal of the application. For WFNJ/TANF cases, the CWA/CSP shall be billed a collection fee of \$122.50 for each application certified by the U.S. Department of Health and Human Services.

10. Set-Off of Individual Liability Program (SOIL) provisions are as follows:

i. Cases for offset shall be submitted by the OCSPP to the New Jersey Set-Off of Individual Liability Program (SOIL) pursuant to N.J.A.C. 18:35-2.3.

(1) Cases submitted under this program shall meet the following criteria:

(A) There shall be a court order issued by a court of competent jurisdiction for child support or a judgment; and

(B) The delinquent amount owed shall be greater than the monthly support obligation for SOIL. The selection amount for the submittal of arrears only cases to SOIL is \$25.00.

(2) Cases shall be submitted at least once per year via magnetic tape in accordance with specifications issued annually.

(3) The Division of Taxation shall be responsible for notifying all taxpayers whose refunds or rebates

are subject to offset due to past-due child support. The notification shall state:

(A) The taxpayer has 35 calendar days from the date of the notice to file an appeal with the OCSPP;

(B) All inquiries or appeals regarding the offset of their State Income Tax/Homestead Rebate shall be directed to OCSPP; and

(C) The manner in which appeals are resolved shall be made by the OCSPP.

(4) In situations where an appeal is received and the obligor and his or her employed spouse may have filed a joint return and the spouse is not responsible for the child support debt, the appeal, together with supporting documentation, shall be forwarded to OCSPP for resolution.

(A) Where the obligor's appeal challenges the amount of arrearages, OCSPP shall place the case on appeal status and refer the case to the AOC for resolution.

(5) The CWA shall pay all direct costs incurred in submitting cases and processing collections under the State Income Tax Refund/ Homestead Rebate Program. Since the State prepays such fees, payments from countries shall be in the form of reimbursement to the State.

11. Civil award/settlements provisions are as follows:

i. Upon resolution of any civil action where a party is entitled to receive a monetary award or settlement the provisions of N.J.S.A. 2A:17-56.37 shall apply.

ii. During the 30 day period before monies may be disbursed to the entitled party, the probation division, in cooperation with the Clerk of the Superior Court and the OCSPP, shall:

(1) Review the Automated Child Support Enforcement System (ACSES) to determine if the party is a Title IV-D child support obligor; and

(2) Within 30 days, advise the attorney submitting the notice in writing whether or not the party is a Title IV-D child support obligor according to ACSES and of any past due amount as of the date of the written response.

iii. An attorney may disburse monies due the entitled party, for purposes other than those specified in (a)11i above, if notice that the party owes any child support is not received from the probation division and the OCSPP within the 30 day period.

iv. An attorney who has not received notice from the probation division and the OCSPP and disburses monies due to that person after the 30 day period, for purposes other than those specified in (a)11i above, shall be immune from civil or criminal liability.

v. An attorney who withholds monies pending a determination by the probation division and the OCSPP shall not be liable for payments which otherwise would have been made pursuant to (a)11i above, which were not so identified to the attorney.

vi. An attorney who receives written determination by the probation division and the OCSPP within the 30 day period and as soon as practicable forwards the money to the probation division or the OCSPP for payment to the child support obligee, shall not be liable to the litigant or to the litigant's creditors.

vii. An attorney shall not be required to challenge a probation division or the OCSPP determination as to child support arrearages unless retained by the litigant to do so.

12. Denial, revocation or limitation of passport provisions are as follows:

i. Cases shall be certified by the OCSPP to the Secretary of the U.S. Department of Health and Human Services for the possible denial, revocation or limitation of delinquent obligors' passports pursuant to 42 U.S.C. § 652(K).

(1) Cases shall be submitted as part of the Federal Intercept process. However, only obligors who owe past-due child support exceeding \$5,000 shall be considered for this process.

(A) Notice to the obligor of the intent to deny, suspend or revoke a passport, will be provided by the Federal Office of Child Support Enforcement.

13. Uniform Fraudulent Transfer Act provisions are as follows:

i. In any case where a transfer by a child support judgment debtor pursuant to the Uniform Fraudulent Transfer Act, N.J.S.A. 25:2-20 et seq., is known and a prima facie case is established, the CWA/CSP unit shall seek to avoid the transfer or obtain a settlement in the best interest of the child support creditor.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), rewrote 1i, 3i, 4ii(2)(C), 7, 8iii, 11 and 12i, inserted 1v, substituted a reference to consumer reports for a reference to information in 8iv, and made internal reference changes in 11iv and v.

## SUBCHAPTER 16. PROCESSING SUPPORT PAYMENTS

### 10:110-16.1 Distribution of excess child support

(a) When an individual applies for or receives assistance under WFNJ/TANF, he or she assigns to the CWA any rights to support he or she may have, and any rights to support on behalf of any other individual for whom assistance is being sought or paid.

(b) If the entire support obligation for the month is collected and it exceeds the current month's assistance payment, the State shall retain the excess to apply toward the unreimbursed assistance (URA) for preceding months.

1. If URA is zero dollars, then any excess child support collected is paid to the family.

#### 10:110-16.2 Time frames

(a) Amounts collected pursuant to 42 U.S.C. § 657 shall be distributed within two business days after receipt, if sufficient information with which to identify the payee is provided.

(b) Distribution of collections made on past-due amounts shall be delayed when the non-custodial parent makes a timely appeal and resolution of that appeal is pending.

(c) The date of collection for purposes of Federal distribution regulations is the date the payment is received, except the date of collection shall be the date of withholding when the following circumstances exist:

1. The employer withheld current support in the month in which it was due; and
2. The withholding was received in a subsequent month.

### SUBCHAPTER 17. DISTRIBUTION OF ARREARAGE PAYMENTS

#### 10:110-17.1 Payments on arrearages

(a) Payments on past-due child support shall be used to satisfy claims as follows:

1. If the obligee is receiving WFNJ/TANF cash assistance, any payment shall first satisfy amounts owed to the county agency before any payment to the obligee.
2. If the obligee has never received WFNJ/TANF cash assistance, all payments shall go the obligee.
3. If the obligee formerly received WFNJ/TANF cash assistance:
  - i. Payments from Federal tax intercepts first shall satisfy any amounts owed to the county agency.
  - ii. All other payments shall satisfy amounts in the following priority order:
    - (1) Amounts which have accrued since the family left public assistance.
    - (2) Amounts owed to the county agency.
    - (3) Any remaining balance to the family.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), deleted "Before October 1, 2000" at the beginning of the introductory paragraph.

### SUBCHAPTER 18. INCENTIVE PAYMENTS

#### 10:110-18.1 CWA share of incentive

(a) The Division shall determine the appropriate share of incentives a CWA shall receive in accordance with section 458 of the Social Security Act, as amended. Factors considered in computing the incentive for CWAs include:

1. The efficiency and effectiveness of the CWA's activities in implementing the requirements of the Title IV-D Program.
2. The percentages shall be computed separately for each segment, based on the ratio of the State's WFNJ/TANF collections to the State's total IV-D administrative costs.
3. The portion of the incentive payments paid for a specific year in recognition of its nonpublic assistance collections shall be limited to 115 percent of its WFNJ/TANF collections.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

In (a), added a reference to section 458 of the Social Security Act at the end of the first sentence in the introductory paragraph.

#### 10:110-18.2 Total incentive estimate

The Federal Office of Child Support Enforcement will estimate the total incentive to be received by a state for the upcoming fiscal year.

### SUBCHAPTER 19. STATE CASE REGISTRY

#### 10:110-19.1 Maintaining the State Case Registry

The State Case Registry which shall be known as the Automated Child Support Enforcement System (ACSES) shall be maintained in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 and the New Jersey Child Support Program Improvement Act, P.L. 1998, c.1.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Inserted "which shall be known as the Automated Child Support Enforcement System (ACSES)" following "Registry".

## SUBCHAPTER 20. CASE CLOSURE

**10:110-20.1 General rules**

All Federal requirements and time frames set forth in 45 C.F.R. 303.11 for closure of IV-D cases shall be followed.

**10:110-20.2 Retention of case records**

(a) Each county agency shall retain all material normally kept in the IV-D case folder for the time periods indicated in (b) below. At the expiration of such time period the Child Support and Paternity unit may, at its option, destroy records in accordance with the retention period indicated below, while continuing to retain the material specified in (b) below.

(b) Retention periods are as follows:

1. All records in each case folder shall be retained for a period of three and one-third years after agency action, court action, and/or all arrears have been satisfied, and:

- i. The non-custodial parent has died during the effective period that a court order for support existed; or
- ii. The custodial parent terminates his or her assistance grant and no court order for child support existed at any time; or
- iii. The custodial parent terminates his or her assistance grant and all amounts owed to the county agency have been satisfied.

2. All records in each case folder shall be retained in each instance of unresolved "suits and claims" matters, open and unpaid assigned support, or unpaid arrearage amounts, until the question is resolved, then retained accordingly, as follows:

i. Case folders shall be retained for a period of three and one-third years after recovery of all arrears owed to the county agency, and:

- (1) The custodial parent terminates assistance; or
- (2) The custodial parent is receiving an assistance grant, an order for support exists or efforts are continuing to establish an order for support.

(c) The case files shall be destroyed in a manner that ensures the protection of all confidential information contained in the case records. A permanent record shall be maintained showing the date and the manner in which each case folder was destroyed.

Amended by R.1998 d.506, effective October 19, 1998.

See: 30 N.J.R. 1956(a), 30 N.J.R. 3822(a).

Rewrote (b).

**10:110-20.3 Reopening a closed case**

(a) A closed WFNJ/TANF case shall be reopened if new information is received that may make establishment of paternity and/or an order for support, including health care coverage, or enforcement of an order possible.

(b) On nonpublic assistance cases, upon request of the custodial parent to reopen a closed case, the custodial parent shall be required to complete a new application and pay the application fee on cases that have been closed for longer than 30 days.