

(1) There has been an assignment of the support obligation under section 408(a)(3) of the Act section 471(a)(17) of the Act or the IV-D agency is providing services under §302.33 of this chapter, and

(2) The State does not determine, using guidelines it must develop which are generally available to the public, that the case is inappropriate for application of this procedure.

(b) *Accuracy of amounts referred for offset.* The IV-D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Procedures for contesting offset and for reimbursing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for an noncustodial parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the noncustodial parent.

(3) The State must establish procedures for ensuring that in the event of a joint return, the noncustodial parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(d) *Notice to custodial parent.* The IV-D agency must inform individuals receiving services under §302.33 of this chapter, in advance that, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under §302.51(c) of this chapter.

(e) *Advance notice to noncustodial parent.* The State must send a written advance notice to inform the noncustodial parent of the referral for State in-

come tax refund offset and of the opportunity to contest the referral.

(f) *Fee for certain cases.* The State IV-D agency may charge an individual who is receiving services under §302.33(a)(1) (i) or (iii) of this chapter a reasonable fee to cover the cost of collecting past-due support using State tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(g) *Distribution of collections.* (1)(i) A State must distribute collections received as a result of State income tax refund offset in accordance with section 457 of the Act:

(ii) For cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, under §302.51(c) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under paragraph (g)(1) of this section, the IV-D agency must repay the excess to the noncustodial parent whose State income tax refund was offset within a reasonable period in accordance with State law.

(3) The State must credit amounts offset on individual payment records.

(h) *Information to the IV-D agency.* The State agency responsible for processing the State tax refund offset must notify the State IV-D agency of the noncustodial parent's home address and social security number or numbers. The State IV-D agency must provide this information to any other State involved in enforcing the support order.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19655, May 9, 1985; 50 FR 31720, Aug. 6, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 54 FR 32312, Aug. 4, 1989; 56 FR 8005, Feb. 26, 1991; 64 FR 6252, Feb. 9, 1999]

**§ 303.104 Procedures for posting security, bond or guarantee to secure payment of overdue support.**

(a) The State shall have in effect and use procedures which require that noncustodial parents post security, bond or give some other guarantee to secure payment of overdue support.

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(b) The State must provide advance notice to the noncustodial parent regarding the delinquency of the support payment and the requirement of posting security, bond or guarantee, and inform the noncustodial parent of his or her rights and the methods available for contesting the impending action, in full compliance with the State's procedural due process requirements.

(c) The State must develop guidelines which are generally available to the public to determine whether the case is inappropriate for application of this procedure.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19656, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986]

**§ 303.106 Procedures to prohibit retroactive modification of child support arrearages.**

(a) The State shall have in effect and use procedures which require that any payment or installment of support under any child support order is, on and after the date it is due:

(1) A judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced;

(2) Entitled as a judgment to full faith and credit in such State and in any other State; and

(3) Not subject to retroactive modification by such State or by any other State except as provided in paragraph (b) of this section.

(b) The procedures referred to in paragraph (a)(3) of this section may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

[54 FR 15764, Apr. 19, 1989]

**§ 303.107 Requirements for cooperative arrangements.**

The State must ensure that all cooperative arrangements:

(a) Contain a clear description of the specific duties, functions and responsibilities of each party;

(b) Specify clear and definite standards of performance which meet Federal requirements;

(c) Specify that the parties will comply with title IV-D of the Act, implementing Federal regulations and any other applicable Federal regulations and requirements;

(d) Specify the financial arrangements including budget estimates, covered expenditures, methods of determining costs, procedures for billing the IV-D agency, and any relevant Federal and State reimbursement requirements and limitations;

(e) Specify the kind of records that must be maintained and the appropriate Federal, State and local reporting and safeguarding requirements; and

(f) Specify the dates on which the arrangement begins and ends, any conditions for revision or renewal, and the circumstances under which the arrangement may be terminated.

[54 FR 30223, July 19, 1989]

**§ 303.108 Quarterly wage and unemployment compensation claims reporting to the National Directory of New Hires.**

(a) *What definitions apply to quarterly wage and unemployment compensation claims reporting?* When used in this section:

(1) *Reporting period* means time elapsed during a calendar quarter, e.g. January-March, April-June, July-September, October-December.

(2) *Wage information* means:

(i) The name of the employee;

(ii) The social security number of the employee;

(iii) The aggregate wages of the employee during the reporting period; and

(iv) The name, address (and optionally, any second address for wage withholding purposes), and Federal employer identification number of an employer reporting wages.

(3) *Unemployment compensation or claim information* means:

(i) Whether an individual is receiving, has received or has applied for unemployment compensation;

(ii) The individual's name and current (or most recent) home address;

(iii) The individual's social security number; and