

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

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CHILD SUPPORT ENFORCEMENT

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AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART A: GENERAL PROVISIONS

Section 160.1 Incorporation by Reference

Any rules or regulations of an agency of the United States or of a nationally recognized organization or association that are incorporated by reference in this Part are incorporated as of the date specified, and do not include any later amendments or editions.

(Source: Amended at 17 Ill. Reg. 18844, effective October 18, 1993)

Section 160.5 Definitions

"Assignment of Medical Support" refers to the transfer of support rights to the Department by the acceptance of Medicaid benefits under 42 USC 1396k and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1].

"Assignment of support" refers to the transfer of support rights to the Department by the acceptance of TANF benefits, pursuant to 42 USC 608(a)(3) and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1] or the Department of Children and Family Services ("DCFS"), in the case of IV-E foster care, pursuant to 42 USC 671(a)(17) and Section 9.1 of the Children and Family Services Act [20 ILCS 505/9.1].

"Assistance Standard" shall have the meaning ascribed to it in 89 Ill. Adm. Code 111.

"Cancellation" refers to the discontinuance of TANF financial and medical benefits for an assistance unit because of the failure to satisfy the conditions of eligibility under the Title IV-A State Plan.

"Child support enforcement services" refers to those services provided to establish, enforce and collect support, in accordance with an approved State Plan under Title IV-D of the Social Security Act (42 USC 654).

"Date of Collection" for distribution purposes in all cases refers to the date on which (a) a payor of income withholds an amount from a responsible relative's wages or other income to meet a support obligation when there is a served income withholding notice, (b) the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation when there is withholding of UIB, (c) a collection as a result of intercept of a federal income tax refund is received by the Department, or (d) in all other instances, a support payment is received by the State Disbursement Unit.

"IV-D account receivable" or "support account" refers to a part of the accounting system in KIDS used to record charges, payments, and account adjustments for a particular account. More than one account may exist for a given caretaker relative and for a given responsible relative. For example, a mother with two children by one father from one marriage, and three children by a second father from another marriage, will have two support accounts if there are two separate support obligations. If children are born in a non-marital relationship, there will be one account per child.

"IV-D program" or "IV-D" refers to the child support program set forth in 42 USC 651 et seq. and this Part.

"IV-E foster care" or "IV-E" refers to the foster care program set forth in 42 USC 670 et seq.

"Initial receipt in the State" for disbursement purposes in all cases refers to the date on which the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation, when there is a withholding of UIB, a collection as a result of intercept of a federal income tax refund is received by the Department, or in all other instances, a support payment is received by the State Disbursement Unit.

"Key Information Delivery System" or "KIDS" refers to the data processing system used to process all IV-D cases in Illinois.

"MANG" refers to Medical Assistance No Grant under the Medicaid Program, Title XIX of the Social Security Act (42 USC 1396k), that is medical assistance to families and individuals wherein no cash payment is made.

"Responsible relative" refers to a person who is responsible, or alleged to be responsible, under law for support of a dependent.

"Support case" refers to a case established in the KIDS for the purpose of providing establishment, enforcement and collection services to dependent children and their custodial parent, in accordance with the provisions of Title IV-D of the Social Security Act (42 USC 654).

"Support obligation" refers to the duty a non-custodial relative owes to his or her dependents, as set forth in a legally-valid court or administrative order.

"TANF" refers to Temporary Assistance for Needy Families, Title IV-A of the Social Security Act (42 USC 601 et seq.) that is financial and medical assistance available to families with one or more children or on behalf of children in foster care under the guardianship of the Department of Children and Family Services.

"TANF MANG" refers to Medical Assistance No Grant cases in which medical assistance only is available to families with one or more children.

"TANF MANG recipient" refers to a member of a family with one or more children receiving medical assistance only in the current month.

"TANF recipient" refers to a person who is receiving financial and medical assistance under the TANF program in the current month.

“Two business days”, for purposes of disbursement of support payments under Subpart F of this Part, shall have the meaning and be qualified in the same manner as in Section 454B of the Social Security Act (42 USC 654b).

"Unreimbursed former AFDC or TANF" refers to the total amount of financial assistance provided to a family unit, in accordance with Title IV-A of the Social Security Act (42 USC 601 et seq.) for which the State and Federal governments have not been reimbursed. The State and Federal governments are limited in the amount of support payments they may retain for "unreimbursed former AFDC or TANF", in accordance with the provisions set forth in Sections 160.100, 160.110 and 160.130 of this Part. The "amount of unreimbursed assistance accrued prior to the former AFDC or TANF cancellation", reported in the Department's "Statements of Child Support Account Activity for Former Recipients" (see Section 160.140), is that limited amount which the Department is entitled to retain.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.10 Child Support Enforcement Program

- a) Under Title IV-D of the Social Security Act (42 USC 651 et seq.) the Department undertakes to establish, modify, enforce and collect child and spouse support obligations from responsible relatives as defined in 89 Ill. Adm. Code 103.10. "IV-D cases" consist of:
- 1) children receiving Temporary Assistance for Needy Families (TANF);
 - 2) children receiving AFDC MANG;
 - 3) children receiving foster care maintenance payments under Title IV-E of the Social Security Act (42 USC 670 et seq.);
 - 4) children of applicants for TANF, where the caretaker or specified relative is the putative father or relative of the putative father;
 - 5) children of applicants for TANF, where the mother and putative father of the children born out of wedlock are living together;
 - 6) children of applicants for TANF, where the caretaker relative is reapplying for cash or medical assistance and was in sanctioned status for noncooperation at the time the case was previously canceled;
 - 7) a spouse or former spouse when the former spouse/spouse lives with the child;
 - 8) former AFDC and TANF recipients following AFDC and TANF cancellation pursuant to subsection (g) of this Section;
 - 9) persons not receiving TANF, AFDC MANG , or Foster Care Services under Title IV-E upon application to the Department for such services;
 - 10) persons receiving AFDC MANG that previously received AFDC or TANF cash assistance;
 - 11) persons similarly situated to subsections (a)(1) through (10) above and receiving Title IV-D support services in other states; and
 - 12) persons similarly situated to those described in subsections (a)(1) through (10) above and receiving support services in other countries or subdivisions thereof which have been declared to be foreign reciprocating countries by the Secretary of State under Section 459A of the Social Security Act (42 USC 659A).
- b) Title IV-D is implemented by the Department through its Division of Child Support Enforcement.
- c) The Division of Child Support Enforcement has sole responsibility for:
- 1) identifying and locating the absent parent;
 - 2) establishing the parentage of a child born out of wedlock;
 - 3) establishing support obligations;
 - 4) enforcing and collecting support;
 - 5) receiving and distributing support payments;
 - 6) maintaining accurate records of location and support activities; and

- 7) advising the local office of circumstances which may affect the family's eligibility for TANF or AFDC MANG (for example, the father is living in the home, or a child no longer lives in the home, etc.).
- d) For Title IV-D children, the Department determines financial ability and establishes the support obligation of the absent parent through order of the court or through administrative process in accordance with Section 160.60.
- e) The Department shall explain to each TANF applicant or recipient his or her responsibility to cooperate with the Department in obtaining support from absent parents and enforcing support obligations and the consequence of noncooperation.
- f) Whenever a family ceases to receive TANF cash assistance, IV-E foster care or medical assistance, the Department shall notify the family that Title IV-D services will be continued unless the family advises the Department that it does not wish to receive Title IV-D services. Additionally, the notice shall advise that no application or application fee is required. Finally, the notice shall also include a description of the Title IV-D services available from the Department and information on the Department's cost recovery (for example, filing fees) and distribution policies. (45 CFR 302.33(a) and (d) and 303.7(d)(4) and (5) (1989))
- g) Whenever a family ceases to receive AFDC MANG assistance:
 - 1) if the family previously received TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in (f) of this Section; or
 - 2) if the family did not previously receive TANF cash assistance, IV-D services shall be continued without the filing of a new application as explained in (f) of this Section.

(Source: Amended at 23 Ill. Reg. 2313, effective January 22, 1999)

Section 160.12 Administrative Accountability Process

- a) A recipient of or an applicant for child support enforcement services may request an explanation of any decision, not appealable and/or not subject to other review, denying or terminating services or concerning the Department's or its contractor's alleged failure to provide services or the provision of services in an amount or manner that is considered inadequate.
- b) A request for explanation through the Administrative Accountability Analysis process may be made by the recipient or applicant in person, by mail or by telephone. If the recipient or applicant requests an explanation by telephone, the request for an explanation form will be sent to the recipient or applicant.
- c) The request for an explanation must be in writing, signed by the recipient or applicant or his or her authorized representative and:
 - 1) specify the decision, alleged failure to act or deficient action that is the basis for the request; and
 - 2) be submitted to the Department within 60 days after the action or alleged failure to act.
- d) A recipient or applicant who is represented by another person must identify that person as his or her representative in writing.
- e) If a request must be processed by another unit, such as the Account Review Unit, the inquiry shall be referred to the unit and the recipient or applicant shall be notified in writing of the referral.
- f) At the option of the applicant or recipient, the Department's explanation shall be provided orally in an interview, in writing, or both orally and in writing.
- g) The Department shall respond with its explanation to a timely written request for an explanation within 30 days from the date of the request.
- h) A recipient of or an applicant for child support enforcement services may request a conference if the Department fails to respond with an explanation to a request for an explanation or fails to respond in a manner satisfactory to the recipient or applicant within 30 days from the date of the request for an explanation.
- i) A request for a conference must be in writing, signed by the recipient or applicant or his or her authorized representative and:
 - 1) if applicable, state why the Department's explanation was not satisfactory;
 - 2) indicate whether the recipient or applicant wants the conference to be conducted in person or by telephone; and
 - 3) be submitted to the Department within 60 days after the explanation was provided by the Department, or within 60 days after the time for providing an explanation expired.
- j) If the recipient or applicant requests a conference by telephone, the request for conference

- form will be sent to the recipient or applicant.
- k) If a timely request for a conference is received by the Department, the office of the administrator of the child support enforcement program shall provide a conference.
 - l) A recipient or applicant who has requested a conference may:
 - 1) review the Department's record pertaining to the explanation before or at the conference;
 - 2) be represented in the conference by a person of his or her own choosing; and
 - 3) present relevant matters at the conference in support of his or her position.
 - m) No part of the Department's cost for providing a conference shall be borne by the recipient or applicant.
 - n) A conference shall be conducted by a representative of the Department's child support enforcement program who did not participate in the alleged action or inaction which is the subject of the conference.
 - o) A conference shall be conducted and written results of the conference provided to all interested parties within 60 days from the date of submittal of the written request for a conference, unless there is delay in the conduct of the conference occasioned by the recipient or applicant or his or her representative.

(Source: Added at 19 Ill. Reg. 8298, effective June 15, 1995)

Section 160.15 Application Processing Fee for IV-D Non-TANF Cases

- a) For the purposes of this Section, the following definitions apply:
 - 1) "Family unit" means all persons living in a household who are related by blood or marriage.
 - 2) "Poverty line" means the non-farm income official poverty line applicable to Illinois, as determined by the federal Office of Management and Budget and revised annually in accordance with 42 U.S.C. 9902.
 - 3) "Gross monthly income" means the total of all monthly income from all sources, excluding child support and maintenance.
- b) Commencing with the effective date of this Section, in IV-D non-TANF cases where an application for child support services is required, the Department shall charge the applicant an application processing fee as follows:
 - 1) \$25 where the gross monthly income of the applicant's family unit is at least 133 percent of the poverty line applicable to families of the same size; or
 - 2) \$15 where the gross monthly income of the applicant's family unit is at least equal to the assistance standard but less than 133 percent of the poverty line applicable to families of the same size; or
 - 3) One cent where the gross monthly income of the applicant's family unit is less than the assistance standard applicable to families of the same size, except that the one cent fee shall be paid by the Department out of State funds.
- c) The application processing fee shall be non-refundable and shall be paid prior to the commencement of child support enforcement services.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

Section 160.20 Assignment of Rights to Support

- a) BY ACCEPTING FINANCIAL AID UNDER THE PUBLIC AID CODE, A SPOUSE OR A PARENT OR OTHER PERSON HAVING CUSTODY OF A CHILD SHALL BE DEEMED TO HAVE MADE ASSIGNMENT TO THE DEPARTMENT OF ANY AND ALL RIGHTS, TITLE, AND INTEREST IN ANY SUPPORT OBLIGATIONS UP TO THE AMOUNT OF ASSISTANCE PROVIDED. THE RIGHTS TO SUPPORT ASSIGNED TO THE DEPARTMENT SHALL CONSTITUTE AN OBLIGATION OWED TO THE STATE BY THE PERSON WHO IS RESPONSIBLE FOR PROVIDING THE SUPPORT, AND SHALL BE COLLECTIBLE UNDER ALL APPLICABLE PROCESSES (Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1]).
- b) Notwithstanding the authority cited in subsection (a) of this Section, the following provisions shall apply:
 - 1) For an assignment entered into prior to October 1, 1998, the applicant assigns the Department all rights that have previously accrued and that shall accrue prior to the family leaving assistance.
 - 2) For an assignment first entered into on or after October 1, 1998:
 - A) With respect to any support collections by federal income tax refund offsets, the applicant assigns the Department all rights that have previously accrued and that shall accrue prior to the family leaving assistance; and
 - B) With respect to any support collections by other than federal income tax offset:
 - i) The applicant assigns to the Department any support rights that accrue and will accrue while the family is receiving assistance; and
 - ii) The applicant temporarily assigns to the Department all rights to support that accrued prior to the family receiving assistance, such assignment to be in effect only until the family ceases to receive assistance.
- c) The amount of support assigned to the Department shall not exceed the cumulative amount of unreimbursed assistance provided to the family during all periods of assistance.
- d) For an explanation of assignment of medical support, see 89 Ill. Adm. Code 112.54, Assignment of Medical Support Rights and also 89 Ill. Adm. Code 120.319, Assignment of Rights to Medical Support and Collection of Payments.

(Source: Amended at 23 Ill. Reg. 2313, effective January 22, 1999)

Section 160.25 Recoupment

- a) The Department shall seek written agreements from individuals applying for or receiving IV-D non-TANF support enforcement services authorizing recoupment, through retention of up to ten percent of future child support collections, in the event the individual receives funds through the Department's child support enforcement program to which he or she was not entitled. Recoupment shall apply only to such funds received by the individual after the date of the agreement.
- b) In those cases in which the client has signed an agreement authorizing recoupment from child support collections, the Department shall provide the client with a notice at least 45 days prior to commencing recoupment which shall inform the client of the following:
 - 1) the IV-D non-TANF identification number of the case in which the client received funds to which the client was not entitled;
 - 2) the responsible relative's name;
 - 3) the amount to be recouped;
 - 4) the reason the client was not entitled to the funds;
 - 5) that up to ten percent of each child support payment collected in the IV-D non-TANF case will be retained by the Department until the full amount stated in the notice is recouped, commencing with the next payment of child support received from the responsible relative 45 days after the date of mailing of the notice;
 - 6) the opportunity, within 30 days after the date of mailing of the notice, to prevent recoupment by payment of the full amount stated in the advance notice; and
 - 7) the opportunity to contest the determination that the client received funds to which the client was not entitled or the amount of such funds by requesting a redetermination by the Department.
- c) The Department shall be stayed from commencing recoupment when a request for redetermination is received within 30 days after the date of mailing of the advance notice. For purposes of computing whether a request for redetermination was made within the 30 day period, the day immediately after the mailing of the advance notice shall be considered as the first day and the day the request for redetermination was received by the Department shall be considered as the last day.
- d) The Department shall provide the client with notice of the results of the redetermination.
- e) The Department shall reimburse the client for any amount due that was previously recouped, based on the results of the redetermination.
- f) The Department shall inform individuals applying for or receiving IV-D non-TANF support enforcement services that they will be liable for repayment of any amount received if the Department determines they were not entitled to that amount.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section 160.30 Cooperation With Support Enforcement Program

- a) As a condition of eligibility, unless the Department determines there is good cause for refusing, a caretaker relative (see 89 Ill. Adm. Code 101.20 for definition of "caretaker relative") must cooperate with the Department in:
 - 1) identifying and locating the responsible relative of a child for whom aid is claimed;
 - 2) establishing the paternity of a child for whom aid is claimed;
 - 3) obtaining support from the responsible relative; and
 - 4) enforcing support obligations.
- b) If the caretaker relative and his or her spouse are in the home and are included in the assistance grant, both must comply with the cooperation requirements. A caretaker relative who fails or refuses, without good cause (see Sections 160.35 through 160.45), to cooperate in the enforcement of support obligations shall be ineligible for medical assistance for himself or herself. If a caretaker states, without good cause, a refusal to cooperate with child support enforcement requirements, the family is not eligible for cash benefits. A caretaker who fails to cooperate, without valid reason, is subject to the following provisions:
 - 1) For the first instance of non-cooperation, the cash assistance payment will be reduced by 50 percent of the family's Payment Level until the cooperation requirement is met. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment will be stopped.
 - 2) For the second instance of non-cooperation, the cash assistance payment will be reduced by 50 percent of the family's Payment Level for three months. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment will be stopped.
 - 3) For the third (or more) instance of non-cooperation, the family's entire cash assistance payment will be stopped for at least three months. Cash assistance will be reinstated for the fourth month if the cooperation requirement is met during the three-month sanction period.
 - 4) Sanction penalties accumulate during any single period of continuous assistance. A loss of all cash assistance due to sanction shall not be considered a break in assistance. If a family member's non-cooperation occurs during a sanction period which was the result of another member's non-cooperation, the next progressive sanction penalty shall apply.
 - 5) No sanction will be imposed until staff have a reconciliation meeting to determine whether the client had valid reason for failing to comply with requirements and the client has either failed to attend the meeting or failed to show valid reason. If the

- client fails to show valid reason, the reconciliation process will continue to enable resolution of disputes. Failure of the client to appear for a scheduled meeting is not considered an instance of noncooperation.
- 6) The Department shall establish a reconciliation procedure to assist in resolving disputes related to any aspect of cooperation. Through the reconciliation process, the Department will have a mechanism to identify good cause and valid reason, ensure that the client is aware of the issue and enable the client to perform the required activity without facing sanction.
- c) "Cooperating with the Department" in the context of subsection (a) of this Section means any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in subsection (a) of this Section:
- 1) appearing at such places as an office of the Department or the Department's legal representative (such as the Attorney General or his designee), as necessary, to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the caretaker relative;
 - 2) appearing and testifying as a witness at judicial or administrative proceedings;
 - 3) paying to the Department any child support payments received from the responsible relative; and
 - 4) providing information, or attesting to the lack of information, under penalty of perjury (for the penalty for perjury, see Section 32-2 of the Criminal Code [720 ILCS 5/32-2]). All caretaker relatives must sign a statement attesting that:
 - A) he or she has, to the best of his or her ability, provided all information requested of him or her; and
 - B) all information which he or she has provided is true and correct, to the best of his or her knowledge.
- d) Grounds for a determination that a caretaker relative has failed or refused to cooperate with the requirements of subsection (c) of this Section are as follows:
- 1) failure or refusal, without a valid reason, to appear for an appointment or interview at such places as the Department's or the Department's legal representative's office;
 - 2) failure or refusal, without a valid reason, to appear and testify as a witness at a judicial or administrative proceeding;
 - 3) failure or refusal, without a valid reason, to submit to a court or administratively-ordered genetic test; or
 - 4) failure or refusal during an appointment or interview to attest under penalty of perjury that:
 - A) he or she has provided all verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by him or her about the identity and location of the responsible relative; and

- B) the information provided is true and correct, to the best of his or her knowledge.
- 5) A caretaker relative may claim a valid reason for failure or refusal to appear for an appointment or interview, to appear and testify as a witness at a judicial or administrative proceeding or to submit to a court or administratively-ordered genetic test.
- A) Examples of valid reasons for failure or refusal to cooperate include, but are not limited to:
 - i) illness;
 - ii) incapacity (for example, a broken leg, information of a scheduled surgery or recuperation from surgery);
 - iii) death in the family;
 - iv) non-Child Support Enforcement court required appearance;
 - v) temporary incarceration;
 - vi) family crisis;
 - vii) breakdown in child care arrangements;
 - viii) sudden or unexpected emergency;
 - ix) unavailability of otherwise suitable child care;
 - x) breakdown in transportation arrangements or lack of reasonably available transportation; or
 - xi) non-receipt of notice of appointment or interview, court date or genetic test date.
 - B) The Department will not require a caretaker relative to provide proof of a valid reason for failure or refusal to cooperate unless:
 - i) the caretaker relative has failed or refused to appear for an appointment or interview, judicial or administrative proceeding or genetic test on at least one other occasion within a 30-day day period from the first failure to appear; or
 - ii) evidence, independent of the explanation of valid reason contradicts the caretaker relative's explanation.
 - C) When the Department requests proof of a valid reason, the caretaker relative must provide such proof (for example, physician's statement, dated pharmacy statement, hospital admission statement, statements by witnesses) within ten calendar days of the request. The Department shall allow an additional ten calendar days to provide proof at the request of the caretaker relative. If the caretaker relative does not provide the proof, the Department shall reject the claim of a valid reason.
 - D) The sanction for failure or refusal to appear for an appointment or interview, judicial or administrative proceeding or genetic test shall be

rescinded at any level of the appeal process up through and until the final agency decision and any lost benefits will be restored, if the caretaker relative establishes a valid reason for his or her failure or refusal.

- e) If a caretaker relative, who is subject to the penalty at subsection (b) of this Section because of a failure or refusal to cooperate indicates that he or she is willing to cooperate within the three-month penalty period, he or she will be given the opportunity to cooperate. The caretaker relative will be determined to have cooperated if he or she complies with the requirements that he or she previously failed or refused to meet as follows:
- 1) In the case of a caretaker relative for whom a sanction was imposed for missing an interview or appointment, he or she may demonstrate cooperation by appearing at a new interview or appointment. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a new interview or appointment no later than three weeks from the date of such notification. If the caretaker relative appears at the new interview or appointment, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.
 - 2) In the case of a caretaker relative for whom a sanction was imposed for failure to submit to a genetic test to establish paternity, he or she may demonstrate cooperation by submitting to the genetic test. If the caretaker relative notifies the Department that he or she is willing to cooperate, the Department will schedule a genetic test within three weeks from the date of such notification. If the caretaker relative submits to the genetic test, the Department will authorize assistance as of the date the caretaker relative notified the Department that he or she was willing to cooperate if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.
 - 3) In the case of a caretaker relative for whom a sanction was imposed for not attending a court or administrative appearance, he or she may demonstrate cooperation by attending the next court or administrative appearance or, once in a court or administrative case after 30 days have passed since the missed appearance, by signing a statement that he or she is now willing to cooperate and will attend the next scheduled court or administrative appearance. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.
 - 4) In the case of a caretaker relative for whom a sanction was imposed for failure to attend a court or administrative appearance or other failure to cooperate resulted in the dismissal of the court or administrative case, he or she may demonstrate cooperation by doing what he or she failed to do or, once in a court or

- administrative case after 60 days have passed since the dismissal, by signing a statement that he or she is now willing to cooperate. Assistance for the caretaker relative shall be authorized as of the date he or she demonstrates cooperation by either method if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.
- 5) In the case of a caretaker relative for whom a sanction was imposed for not attesting, he or she may demonstrate cooperation by executing the attestation described in subsection (d)(4) of this Section. Assistance for the caretaker relative shall be authorized as of the date he or she executes the attestation if this is the first penalty, or as of the first day of the fourth month if it is the second or third penalty.
- 6) The Department shall not deny or terminate a pregnant caretaker relative's medical assistance because of the caretaker relative's failure to cooperate with the requirements of subsection (c) of this Section until at least 30 days have elapsed since termination of the pregnancy.
- f) A sanction for failure or refusal to comply with the requirements of subsection (c) of this Section shall be rescinded at any level of the appeal process up through and including the final agency decision and any lost benefits will be restored, if the caretaker relative establishes good cause for failure or refusal.
- g) Sanctions under this Section, employment and training programs and the Responsibility and Services Plan (89 Ill. Adm. Code 112.79), and the School Attendance Initiative (89 Ill. Adm. Code 112.68(c)) shall be considered along one track. After a sanction is taken under one Section, a subsequent sanction under that Section or either of the other two Sections will be at the next sanction level, as described in Section 160.30(b)(1), (2) and (3) of this Section.

(Source: Amended at 22 Ill. Reg. 14895, effective August 1, 1998)

Section 160.35 Good Cause for Failure to Cooperate with Support Enforcement

- a) The Department shall inform the caretaker relative of the right to claim good cause for failing to cooperate.
- b) In order to be exempted from the cooperation requirement as to a particular child, the caretaker relative who claims good cause must either:
 - 1) provide the Department with evidence on which it may base a determination of good cause; or
 - 2) furnish information sufficient to permit the Department to investigate to determine that cooperation is against the best interests of the child (see Section 160.40).
- c) Upon request, the Department shall assist the caretaker relative in obtaining acceptable evidence and shall not deny, delay or discontinue assistance, pending a determination of good cause, if the caretaker relative has complied with the requirement to furnish evidence or information.
- d) A caretaker relative has good cause and is exempt from the requirement of cooperation if:
 - 1) The Department determines that cooperation reasonably may be expected to result in physical or emotional harm to the caretaker relative or the child for whom support is being sought; or
 - 2) The Department determines that because of the existence of one of the following circumstances proceedings to establish paternity or to obtain support would be detrimental to the child:
 - A) The child was conceived as a result of incest or forcible rape;
 - B) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or
 - C) The caretaker relative or parent in the home is currently being counseled by a public or licensed private social agency in order to decide whether to keep the child or to relinquish the child for adoption and the counseling has not lasted more than three months.
- e) An applicant for, or recipient of, TANF who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of good cause circumstance. Such applicant or recipient will be required to:
 - 1) Specify the circumstances, as described in subsection (d) of this Section, that the applicant or recipient believes provide sufficient good cause for not cooperating.
 - 2) Corroborate the good cause circumstances in accordance with Section 160.40.
 - 3) If requested, provide sufficient information (such as the information listed in Section 160.40(b)(1) through (b)(6)). See Section 160.40(f) for when the Department will conduct an investigation.
- f) If the requirements of subsection (e) of this Section are not met, the Department shall

determine that good cause does not exist. If the Department determines that good cause does not exist:

- 1) the applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application, or have the case closed; and
 - 2) continued refusal to cooperate will result in imposition of the sanction provided by Section 160.30(b), or in a case assigned to the experimental treatment group or the non-experimental treatment group in the paternity establishment and continued eligibility program under subsection (c) of Section 160.61, the sanctions provided by Section 160.62.
- g) The Department's final determination that good cause does or does not exist shall be made within 45 days after the date the exemption was claimed, shall be in writing, shall contain its findings and basis for the determination, and shall be filed in the TANF case record. The Department will exceed this time standard only where the case record documents that the Department needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by Section 160.40. Such extension shall not exceed 45 days and shall be granted only under the conditions described in subsection (f) of this Section.
- h) The administrative unit responsible for the Department's support enforcement activities shall have an opportunity to review and comment on proposed determinations of good cause for refusing to cooperate and may participate in any administrative hearing proceeding resulting from actions taken pursuant to a final determination. In accordance with established procedures, the caretaker relative has the right to appeal any action taken by the Department as a result of its final determination.
- i) The Department shall review, during each redetermination of eligibility, all cases in which there has been a determination of good cause based on circumstances subject to change.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

Section 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement

- a) The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the Department determines the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, the Department shall allow a reasonable additional period of time. Such additional periods of time allowed shall not exceed 20 days and shall be granted only under the conditions described in Section 160.40(a).
- b) A good cause claim may be corroborated with the following types of evidence:
 - 1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;
 - 2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;
 - 3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;
 - 4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis that cooperation would be harmful to the emotional health of the caretaker relative or the child for whom support would be sought;
 - 5) A written statement from a public or licensed private social agency (e.g., Department of Children and Family Services or Catholic Charities) that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption; or
 - 6) Sworn notarized statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.
- c) After examining the corroborative evidence submitted by the applicant or recipient, if the Department requests additional corroborative evidence which is needed to permit a good cause determination, the Department will:
 - 1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and
 - 2) Specify the type of document which is needed (i.e. Section 160.40(b) through 160.40(b)(6)).
- d) Upon request of the applicant or recipient, the Department will:
 - 1) Advise the applicant or recipient how to obtain the necessary documents (e.g., instructions on obtaining a police report); and
 - 2) Make a reasonable effort to obtain any specific documents which the applicant or

- recipient is not reasonably able to obtain without assistance (e.g., contacting out-of-state witnesses).
- e) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified in Section 160.35(c), and corroborative evidence is not submitted in support of the claim (e.g., unreported or suspected incidents of incest):
 - 1) The Department will investigate the good cause claim when the agency believes that:
 - A) The claim is credible without corroborative evidence from the client; and
 - B) Corroborative evidence is not available from the client.
 - 2) Good cause will be found if the claimant's statement and the investigation which is conducted satisfies the agency that the applicant or recipient has good cause for refusing to cooperate.
 - 3) A determination that good cause exists will be reviewed and approved or disapproved and the Department's findings will be recorded in the case record.
 - f) The Department will seek further verification of good cause claim if the applicant's or recipient's statement of the claim required by Section 160.35(d)(1), together with the corroborative evidence do not provide sufficient basis for making a determination. When the Department determines that it is necessary, the Department will conduct an investigation of good cause claims to determine that good cause does or does not exist.
 - g) If the Department conducts an investigation of a good cause claim, the Department will:
 - 1) Contact the absent parent or putative father from whom support would be sought if such contact is determined to be necessary to establish the good cause claim; and
 - 2) Prior to making such necessary contact, notify the applicant or recipient to enable the applicant or recipient to:
 - A) present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;
 - B) withdraw the application for assistance or have the case closed; or
 - C) have the good cause claim denied.

(Source: Recodified from 89 Ill. Adm. Code 112.82 at 10 Ill. Reg. 11928)

Section 160.45 Suspension of Child Support Enforcement Upon Finding of Good Cause

- a) Upon receiving notice from the local office that an applicant or recipient has claimed good cause, the Division of Child Support Enforcement will suspend all activities to establish paternity or secure child support until notified of a final determination by the local office.
- b) The Division of Child Support Enforcement shall not undertake to establish paternity or secure child support in any case for which it has received notice that there has been a finding of good cause pursuant to Section 160.35(c).

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

- a) Definitions
 - 1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.
 - 2) "Service" or "Served" means notice given by certified mail, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206].)
 - 3) "Support Statutes" means the following:
 - A) Article X of The Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
 - F) Any other statute in another state which provides for child support.
 - 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.
 - 5) "Child's needs" means the cost of raising a child as detailed by either:
 - A) the custodial parent's statement of the associated costs including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or
 - B) the Department's standard for the costs of raising a child taking into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.
- b) Responsible Relative Contact
 - 1) Timing and Purpose of Contact
 - A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
 - B) The purpose of contact and interview shall be to obtain relevant facts including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

- 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his income and resources to the interview.
- 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

- 1) In cases handled under subsection (d) of this Section, the Family Support Specialist shall determine the amount of child support and enter an administrative support order on the following basis:

<i>Number of Children</i>	<i>Percent of Responsible Relative's Net Income</i>
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
 - i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;

- vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- 2) In de novo hearings provided for in subsection (d)(5)(G) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

<i>Number of Children</i>	<i>Percent of Responsible Relative's Net Income</i>
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

- ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(2)(A) (viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
 - iv) the physical and emotional condition of the child, and his educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].
- 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health/hospitalization insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health/hospitalization insurance coverage is being provided. However, in Title IV-D non-TANF cases where the client is neither an applicant for nor a recipient of Medical Assistance, the Department shall enter or request such support orders only with the client's consent. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

- 5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least \$10.00 per month.
- 6) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section.
- 7) The final order in all cases shall state the support level in dollar amounts.
- 8) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
 - A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons covered under the policy.
- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not

apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

- 11) The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.

A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).

B) In de novo hearings provided for in subsection (d)(5)(G) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

- d) Administrative Process

- 1) Use of Administrative Process

A) Unless otherwise directed by the Department, the FSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

- i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;
- ii) alleged paternity and support is sought from the mother;
- iii) an administrative paternity order entered under Section 160.61

- and support is sought from the man determined to be the child's father, or from the mother, or both;
- iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and
 - v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.
- B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:
- i) that the responsible relative may be required to pay retroactive support as well as current support; and
 - ii) that in its initial determination of child support under subsection (c), the Department will only consider factors listed in subsections (c)(1)(A)(i) through (c)(1)(A)(x) of this Section; and
 - iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (c)(1)(A)(x) of this Section; and
 - iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
 - v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and
 - vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and
 - vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net

income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

- 2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section.
- 3) Failure to Appear
 - A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.
 - B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
 - i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
 - C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
 - D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B)

of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.

- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].
- 5) An administrative support order shall include the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is ordered;
 - C) the beginning date, amount and frequency of support;
 - D) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
 - E) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
 - F) a provision requiring that support payments be made to the State Disbursement Unit;
 - G) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a *de novo* hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III]; and
 - H) except where the order was entered as a result of a decision after a *de novo* hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) of this Section and that in order to have the

Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order.

- 6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
 - 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:
 - A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or an affidavit of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.
 - B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.
 - C) service in the case of registration of the support orders of another state. A copy of such state's orders shall be served with those of the Department.
 - 8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.
- e) Judicial Process
- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), in those wherein the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by

- the Department.
- 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto which pleadings shall include, but not be limited to, petitions to:
 - A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support;
 - F) establish past-due support;
 - G) establish parentage;
 - H) obtain a rule to show cause;
 - I) enforce judicial and administrative support orders: and
 - J) combinations of the above.
 - 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

- a) Definitions
- 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.
 - 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
 - 3) "Service" or "Served" means notice given by personal service, certified mail, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206 of the Civil Practice Law [735 ILCS 5/2-203 and 2-206]).
 - 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.
 - 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.
 - 6) "Presumed father", shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].
- b) Uncontested Administrative Paternity Process
- 1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - A) a non-marital child and support is sought from the alleged father;
 - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
 - C) presumed paternity as set forth in Section 5 (a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5 (a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.
 - 2) Contact with Responsible Relatives
 - A) Following the IV-D client interview, the Department shall contact and interview:
 - i) alleged fathers to establish paternity and support obligations; and
 - ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support

obligation of the alleged father, the mother, or both.

- B) The purpose of contact and interview shall be to obtain relevant facts including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.
- 3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
 - G) that the alleged father may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child.
- 4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;

- G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child.
- 5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
- A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.
- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department shall send a notice to the presumed father which shall contain the following:

- A) the Title IV-D case name and identification number;
 - B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;
 - E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
 - G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
 - H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.
- 8) In cases involving a non-marital child:
- A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.
 - B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or an affidavit of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:
 - i) the alleged father and the child's mother (and any presumed

- father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;
- ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;
 - iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;
 - iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;
 - v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;
 - vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, and the alleged father and the child's mother have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the legal implications of signing such an acknowledgment;
 - vii) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1; or

- viii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.
 - C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.
 - 9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.
 - 10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days of being served with the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection only once in any proceeding to establish paternity.
 - 11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:
 - A) 60 days after the date the acknowledgment of paternity was signed, or
 - B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.
 - 12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).
- c) Contested Paternity Hearing Officers
 - 1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code

- 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.
- 2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.
 - 3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(6) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsection (d) of this Section, except that where notice was served by publication, the notice of default paternity determination shall not include the mother's and father's Social Security numbers, and shall include a statement of the following in lieu of a statement that the order is a final and binding administrative decision:
 - A) that the man determined to be the child's father may bring a petition in the circuit court for relief from the administrative paternity determination on the same grounds provided for relief from judicial judgments under Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401];
 - B) that such a petition must be filed no later than two years after the notice of default paternity determination was published; and
 - C) that allegations made in such a petition without reasonable cause that are found to be untrue by the circuit court may subject the petitioner or his attorney, or both, to the payment of reasonable costs and attorney's fees incurred by the Department in defending against the petition.
 - 4) The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from

- cooperating as set forth in Section 160.35.
- 5) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.
- d) An administrative paternity order, whether entered under subsection (b) or subsection (c) of this Section, shall include the following:
- 1) the Title IV-D case name and identification number;
 - 2) the name and birthrate of the child for whom paternity is determined;
 - 3) the alleged father's name and his Social Security number, if known;
 - 4) the mother's name and her Social Security number, if known;
 - 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
 - 6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days from the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
 - 7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section; and
 - 8) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].
- e) Petitions For Release - Extraordinary Remedies
- 1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.
 - 2) Petitions under this subsection (e) must:

- A) Cite a meritorious defense to entry of the order.
 - B) Cite the exercise of due diligence in presenting that defense to the Department.
 - C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress; and
 - iii) time during which the ground for relief is concealed from the person seeking relief.
 - D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.
- f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.
 - g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.
 - h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.
 - i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:
 - 1) the Department enters a final administrative determination of paternity; or
 - 2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or
 - 3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].
 - j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal

Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;
- 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
- 3) where the court has acquired jurisdiction previously; or
- 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

(Source: Amended at 23 Ill. Reg. 2313, effective January 22, 1999)

Section 160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration
Program (Repealed)

(Source: Repealed at 23 Ill. Reg. 14560, effective December 1, 1999)

Section 160.65 Modification of Support Obligations

- a) Definitions
 - 1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.
 - 2) "Income Withholding Notice" means the notice served on a payor, pursuant to entry of a court or administrative order for support, that directs the payor to withhold a part of a responsible relative's income for payment of child support.
 - 3) "Assignment of support" has the meaning set forth in Section 160.5.
 - 4) "Assignment of medical support" has the meaning set forth in Section 160.5.
 - 5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.
 - 6) "Review" means the FSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) below.
 - 7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20 percent above or below the existing order for support and the change is an amount equal to at least \$10 a month.
- b) Review and Modification of Support Orders
 - 1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:
 - A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) below, that a review would not be in the best interests of the child and neither parent has requested a review; or
 - B) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or
 - C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review.
 - 2) Prior to the expiration of the 36 month period:
 - A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order if:
 - i) an order for withholding has been served on the responsible relative's payor, and payments have been received by the Department within the 90 days prior to selection for review; and
 - ii) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and

- iii) the Department has not determined that a review would not be in the best interests of the child.
 - B) The Department, in a case in which there is no assignment of support or assignment of medical support, shall review orders as set forth in subsection (b)(2)(A), but only with the consent of the client.
 - C) The Department may review any order for support, unless it has determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.
 - 3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.
- c) Notice of the Right to Request a Review
 - 1) In each Title IV-D case the Department shall provide notice not less than once every three years to each parent subject to an order for support in the case. The notice may be included in the order and shall inform the parent of the right to request a review of the order, where to request a review and the information which must accompany a request.
 - 2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.
- d) Notice of Review
 - 1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.
 - 2) The notice of review shall:
 - A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and
 - B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).

- e) Information Gathering and Employer Contact
 - 1) The Department shall capture all available responsible relative financial information from existing federal and State sources (for example, Illinois Department of Employment Security) through electronic data searches on all IV-D cases.
 - 2) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after the relative receives the notice of review, the Department shall send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code (305 ILCS 5/10-3.1). The notice shall:
 - A) require the disclosure of responsible relative employment information, including but not limited to:
 - i) the period of employment;
 - ii) the frequency of wage payments;
 - iii) gross wages, net pay and all deductions taken in reaching net pay;
 - iv) the number of dependent exemptions claimed by the responsible relative; and
 - v) health insurance coverage available to the responsible relative through the employer.
 - B) require employer compliance within 15 calendar days after the employer's receipt of the notice.
 - 3) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department shall use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.
- f) Review of the Order for Support
 - 1) The FSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the FSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.
 - 2) The FSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).
 - 3) The FSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.
 - 4) The FSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the FSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.
- g) Notice of Review Results

The Department shall inform the client and responsible relative of the results of the review and provide a copy of the FSS calculation comparing the responsible relative's current financial ability to the amount of the existing order within 14 days after the review results are determined. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.

- 1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:
 - A) The Department will not take action to modify the order for support; or
 - B) The Department will only take action to modify the order to require health insurance for the child covered by the order.
 - C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:
 - i) signing and returning the request for a redetermination to the Department; and
 - ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request.
- 2) When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:
 - A) The Department will take action to modify the existing order for support in accordance with the review results.
 - B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.
 - C) In cases where an administrative order for support is entered in accordance with subsection (h) below:
 - i) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.
 - ii) Where both the client and the responsible relative request a hearing, the two requests shall be merged and shall be disposed

- of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.
- iii) Where the responsible relative requests a hearing and the client does not the client shall again be advised of the right to present evidence at the hearing.
 - iv) Where the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.
- 3) For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.
- h) Further Actions Taken by the Department
- 1) The Department shall take the following action when the FSS has determined in accordance with subsection (f) above that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:
 - A) In a case involving an order for support entered by the court, the FSS shall:
 - i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
 - ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/510); and
 - iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) above.
 - B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this rule, the FSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).
 - i) The FSS shall effect income withholding in accordance with

Section 160.60(d)(6).

- ii) The FSS shall provide to the client and responsible relative copies of the administrative order for support together with the notice described in subsection (g)(2)(C) above.
- 2) In IV-D cases where the client is neither an applicant for nor a recipient of medical assistance, the Department, with the client's consent, shall enter or request the court to enter an order for support requiring the responsible relative to provide health insurance.
 - 3) Upon receipt of a petition for a release from or modification of an administrative order for support as described in subsection (g)(2)(C)(ii) within 30 calendar days after the date of mailing of such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.
 - 4) Upon receipt of a request for a redetermination as set forth in subsections (g)(1)(C) and (g)(2)(C)(i) within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) above.
- i) Timeframes for Review and Modification
 - 1) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine within 15 calendar days of October 13, 1993, or the date the order is 36 months old, whichever is later, whether a review should be conducted as provided in subsection (b)(1) above.
 - 2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of medical support shall be made by the Department in accordance with subsection (b)(1) above, at 36 month intervals based upon:
 - A) the date the order for support was modified; or
 - B) the date an order was entered determining that the order for support would not be modified; or
 - C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.
 - 3) Within 15 calendar days after receipt of a request for a review, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) above.
 - 4) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:
 - A) send the notice of review in accordance with subsection (d) above;
 - B) conduct a review of the order in accordance with subsection (f) above;

- C) send the notice of review results in accordance with subsection (g) above; and
 - D) conclude any action to modify the order for support.
- j) Interstate Review and Modification
- 1) Initiating Cases
 - A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days of October 13, 1993, or the date the order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another state.
 - B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) above, at 36 month intervals based upon:
 - i) the date the order for support was modified; or
 - ii) the date an order was entered determining that the order for support would not be modified; or
 - iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.
 - C) Within 15 calendar days of receipt of a request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) above, and whether the review should be conducted by the Department or another state.
 - D) Prior to the expiration of the 36 month period the Department:
 - i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) above; and
 - ii) may review or request another state to review an order for support as provided in subsection (b)(2)(C).
 - E) The Department shall determine in which state a review should be conducted after considering all relevant factors, including but not limited to:
 - i) the location of existing order(s);
 - ii) the present residence of each party; and
 - iii) whether a particular state has jurisdiction over the parties.
 - F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) above, in which the Department has determined to request a review of an order for support in another state, the Department shall:
 - i) send a request for review to that state within 20 calendar days of

- receipt of sufficient information to conduct the review and provide that state with sufficient information on the requestor of review to act on the request; and
- ii) send to the parent in Illinois, a copy of any notice issued by the responding state in connection with the review and modification of the order, within five working days of receipt of such notice by the Department.
- 2) Responding Cases
- A) Within 15 calendar days after receipt of a request for a review of an order for support in Illinois as the responding state, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1).
 - B) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) above.

(Source: Amended at 23 Ill. Reg. 2313, effective January 22, 1999)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

- a) Definitions
The definitions contained in Section 160.60(a) are incorporated herein by reference.
- b) Income Withholding
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- c) Federal and State Income Tax Refunds and Other Payments
 - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.
 - 2) The Department shall submit past-due support amounts to:
 - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
 - i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150 which has been in arrears for three months or longer; and
 - ii) in IV-D non-TANF cases, past-due support owed to or for a minor child in an amount not less than \$500.
 - B) the Comptroller to intercept State income tax refunds and other State payments as follows:
 - i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$150, whichever is less;
 - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
 - iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of

- employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for intercept;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department or, after such redetermination,
 - ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.
 - 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
 - 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
 - A) a hearing by the Department within 30 days from the date of mailing of the notice; or
 - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
 - 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days of the responsible relative's request. The Department shall be bound by the decision of the state with the order.

- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 8) The Department shall notify:
 - A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
 - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
 - C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
 - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
 - A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
 - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) above and shall promptly apply:
 - A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and
 - B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
 - A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;
 - B) any payment received by the IV-D non-TANF individual as a result of

federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

- d) Unemployment Insurance Benefits
 - 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.
 - 2) The Department shall take the following action:
 - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
 - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
 - C) establish the amount to be deducted by data entry to DES's computer file, which amount shall be the lesser of:
 - i) the amount of the income withholding order; or
 - ii) fifty percent of the Unemployment Insurance Benefit.
 - D) receive amounts deducted direct from DES.
 - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
 - F) post each collection to the Department's payment record.
 - G) apply each collection to the current support obligation, then to past-due obligations.
 - H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
 - 3) The Department of Employment Security shall take the following action:
 - A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
 - B) pay all amounts deducted direct to the Department.
- e) Contempt of Court and Other Legal Proceedings
 - 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal

to not less than a one month support obligation, except as set forth in subsection (e)(2) below.

- 2) Contempt proceedings shall not be used in the following instances:
 - A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;
 - iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated making such action unproductive.
 - B) other legal or administrative remedies are more appropriate under the circumstances.
- 3) Contempt and other legal proceedings shall be used to:
 - A) establish the amount of past-due support;
 - B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;
 - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
 - D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
 - E) obtain full or partial payment of past due support through incarceration;
 - F) ascertain the responsible relative's source and amount of income or location and value of assets;
 - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
 - H) secure other enforcement relief; and
 - I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the

- Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least \$10,000; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
 - 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).
 - 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than \$10,000 in excess of any statutory exemption.
- g) Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support
- 1) Liens against real estate
 - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
 - i) the amount of past-due support is at least \$10,000; and
 - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
 - B) The Department shall prepare a Notice of Lien or Levy that shall be

provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:

- i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.
- C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
- D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$10,000 in excess of any statutory exemption.
- 2) Liens against personal property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
- i) the amount of past-due support is at least \$1,000;
 - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
 - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least \$300.
- B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the

Department has knowledge and location information, and either the financial institution in which the account of the responsible relative is located or the sheriff of the county in which the personal property of the responsible relative is located. The notice shall inform the responsible relative, joint owner if applicable, and the financial institution or the sheriff of the following:

- i) the name and address of the responsible relative;
 - ii) a description of the account or personal property to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
 - v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
 - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the Department within 45 days after the date of levy of the account or other personal property.
- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:
- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];
 - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days of being served with a Notice to Surrender Assets by the Department;

- iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and
 - iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
- i) the amount of assets in the responsible relative's account;
 - ii) the amount of the fee to be deducted from the account;
 - iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
 - iv) the name and address of any joint owners of the account; and
 - v) the amount of assets surrendered and remitted to the Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (g).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations.

Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

- h) Security, Bond or Other Guarantee of Payment
- 1) Except as provided in subsections (h)(2) and (3) below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
 - 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
 - 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.
- i) Past-Due Support Information to Consumer Reporting Agencies
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support which has accumulated under the order for support.
 - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be reported;
 - C) the date past-due support will be reported; and

- D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
 - A) a request for
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- j) High-Volume Automated Administrative Enforcement in Interstate Cases
 - 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
 - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.
 - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
 - A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of the state.
 - B) Constitute a certification by the Department of the amount of support

- owed and that the Department has complied with all procedural due process requirements applicable to each case.
- 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.
 - 5) The Department shall maintain records of:
 - A) The number of such requests for assistance received by the Department.
 - B) The number of cases for the which the Department collected support in response to such a request and the actual amount(s) of such support collected.
- k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
- 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.
 - 2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
 - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
 - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
 - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
 - D) the responsible relative is not deceased.
 - 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for collection;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
 - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
 - A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due amount;
 - C) the amount of current child support obligations; and
 - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
 - A) name;
 - B) social security number;
 - C) IV-D identification number; and
 - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- 8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
 - A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
 - B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

- l) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$5,000:
 - A) the name, last known address and Social Security Number of the responsible relative; and
 - B) the terms and amount of past-due support which has accumulated under the order for support.
 - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be certified;
 - C) the date past-due support will be certified; and
 - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
 - 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
 - 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
 - 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
 - A) a request for
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - B) payment in full of the amount of the past-due support stated in the
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
 - 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- m) Other Remedies
- The Department shall pursue any other remedies provided for by law to enforce and

collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 24 Ill. Reg. 2380, effective January 27, 2000)

Section 160.71 Credit for Payments Made Directly to the Title IV-D Client

Where the operative court or administrative order for support requires child support payments to be made to the Department or the Clerk of the Circuit Court, the Department will credit its child support accounts receivable for payments made directly to the Title IV-D client when:

- a) a court of competent jurisdiction enters an order requiring credit; or
- b) the following circumstances exist:
 - 1) the case is an intrastate case; and
 - 2) no payments are owed to the State of Illinois under assignment of support rights; and
 - 3) there has been no other instance, after the effective date of this Section, in which the Department credited its child support accounts receivable for payments made by the responsible relative directly to the Title IV-D client; and
 - 4) either:
 - A) the Title IV-D client signs a statement specifying the payments that the client is requesting be credited to the accounts receivable; or
 - B) the responsible relative provides the Department with documentation (such as copies of canceled checks or money order receipts) showing that the payments for which the relative is requesting credit were made and the Title IV-D client signs a statement acknowledging receipt of the payments as child support.

(Source: Added at 21 Ill. Reg. 12197, effective August 22, 1997)

Section 160.75 Withholding of Income to Secure Payment of Support

- a) Definitions
The definitions contained in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], are incorporated herein by reference.
- b) Entry of Order for Support Containing Income Withholding Provisions; Income Withholding Notice
 - 1) The Department, through its legal representative, shall request that when entering an order for support the court include in the order the following income withholding provisions, as required by law:
 - A) that an income withholding notice be prepared by the Department and served immediately upon any payor of the obligor, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the Department, through its legal representative, shall request that the order for support provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and
 - B) a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support; the dollar amount not to be less than 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and
 - C) the obligor's Social Security Number disclosed to the court as required by law; and
 - D) if the obligor is not a United States citizen, the obligor's alien registration number, passport number, and home country's social security or national health number disclosed to the court as required by law.
 - 2) The income withholding notice prepared by the Department shall:
 - A) be in the standard format prescribed by the federal Department of Health and Human Services; and
 - B) state the date of entry of the order for support upon which the income withholding notice is based; and
 - C) direct any payor to withhold the dollar amount required for current support under the order for support; and
 - D) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and
 - E) direct any payor or labor union or trade union to enroll a child as a

- beneficiary of a health insurance plan and withhold or cause to be withheld, if applicable, any required premium; and
- F) state the amount of the payor income withholding fee as provided by law; and
 - G) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor's withholding fee, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and
 - H) state the duties of the payor and the fines and penalties provided by law for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income; and
 - I) state the rights, remedies, and duties of the obligor, as provided by law; and
 - J) include the Social Security Numbers of the obligor, the obligee, and the child or children included in the order for support; and
 - K) include the date withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and
 - L) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and
 - M) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.
- 3) Notwithstanding the exception to immediate income withholding referred to in subsection (b)(1)(A) above, if the court finds at the time of any hearing that an arrearage has accrued, the Department, through its legal representative, shall request that the court order immediate service of an income withholding notice upon the payor, as required by law.
- c) Service of Income Withholding Notice
- 1) If the order for support requires immediate service of an income withholding notice, the Department shall serve the notice on the payor within two business days after the date the order is received if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the Department receives the payor's address from the Illinois Directory of New Hires, as established under Section 1801.1 of the Unemployment Insurance Act [820 ILCS 405/1801.1], the Department shall

- serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.
- 2) The Department may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail, return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the Department shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed by the Department with the Clerk of the Circuit Court.
 - 3) Notwithstanding the fact that the order for support, under the exception to immediate withholding referred to in subsection (b)(1)(A) above, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the Department shall serve an income withholding notice on the payor prior to accrual of a delinquency if the obligor executes a written waiver of that condition and requests immediate service on the payor.
 - 4) At any time after the initial service of an income withholding notice, the Department may serve any other payor of the obligor with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.
- d) Income Withholding After Accrual of Delinquency
- 1) The Department shall prepare and serve an income withholding notice within two business days after the date the obligor accrues a delinquency if the payor's address is known on that date, or, if the address is unknown on that date, within two business days after locating the payor's address. If the payor's address is unknown on the date the obligor accrues a delinquency, and the Department receives the payor's address from the Illinois Directory of New Hires, the Department shall serve an income withholding notice on the payor within two business days after the date information regarding the obligor and payor is entered into the Illinois Directory of New Hires.
 - 2) An income withholding notice prepared by the Department under subsection (d)(1) above shall:
 - A) contain the information required under subsection (b)(2) above; and
 - B) contain the total amount of the delinquency as of the date of the notice; and

- C) direct the payor to withhold the dollar amount required to be withheld periodically under the order for support for payment of the delinquency; and
 - D) be served on the payor and the obligor in the manner provided in subsection (c)(2) above.
 - 3) The obligor may contest withholding commenced under this subsection (d) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to:
 - A) a dispute concerning the existence or amount of the delinquency; or
 - B) the identity of the obligor.
 - 4) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding referred to in subsection (b)(1)(A) above, shall apply only to the initial service of an income withholding notice on a payor of the obligor.
- e) Initiated Withholding
 - 1) Notwithstanding any other provision of this Section , if the court has not required that income withholding take effect immediately, the Department, pursuant to this subsection (e), may initiate withholding regardless of whether a delinquency has accrued, by preparing and serving an income withholding notice on the payor that contains the information required under subsection (b)(2) above and states that the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) above no longer ensures payment of support, and the reason or reasons why it does not.
 - 2) The income withholding notice and the obligor's copy of the income withholding notice shall be served as provided in subsection (c)(2) above.
 - 3) The obligor may contest withholding commenced under this subsection (e) by filing a petition to contest withholding with the Clerk of the Circuit Court within 20 days after service of a copy of the income withholding notice on the obligor. However, as required by law, the grounds for the petition to contest withholding shall be limited to a dispute concerning the conditions in subsections (e)(3)(A) and (B) below (it shall not be grounds for filing a petition that the obligor has made all payments due by the date of the petition):
 - A) whether the parties' written agreement providing an alternative arrangement to immediate withholding under subsection (b)(1)(A) above continues to ensure payment of support; or
 - B) the identity of the obligor.
- f) Petitions to Modify, Suspend or Terminate an Order for Withholding

- 1) At any time the Department, through its legal representative, may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension, or termination of the underlying order for support;
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
 - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery.
 - 2) The Department shall serve on the payor, in the manner provided for service of income withholding notices in subsection (c)(2) above, a copy of any order entered pursuant to this subsection (f) that affects the duties of the payor.
 - 3) The Department may serve a notice on the payor to:
 - A) cease withholding of income for payment of current support for a child when the support obligation for that child has automatically ceased under the order for support through emancipation or otherwise; or
 - B) cease withholding of income for payment of delinquency or arrearage when the delinquency or arrearage has been paid in full.
 - 4) The notice provided for under subsection (f)(3) above shall be served on the payor in the manner provided for service of income withholding notices in subsection (c)(2) above, and a copy shall be provided to the obligor and the obligee.
- g) **Additional Duties**
The Department shall provide notice to the payor and Clerk of the Circuit Court of any other support payment made, including but not limited to:
- 1) an offset under federal or State law; or
 - 2) partial payment of the delinquency or arrearage or both.
- h) **Alternative Procedures for Service of an Income Withholding Notice**
- 1) The procedures of this subsection (h) shall be used by the Department in any matter to serve an income withholding notice on a payor if:
 - A) For any reason the most recent order for support entered does not contain the income withholding provisions stated in subsection (b) above, irrespective of whether a separate order for withholding was entered prior to July 1, 1997; and
 - B) The obligor has accrued a delinquency after entry of the most recent order for support.
 - 2) The Department shall prepare and serve the income withholding notice in accordance with the provisions of subsection (d) above, except that the notice

shall contain a periodic amount for payment of the delinquency equal to 20 percent of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the most recent order for support.

- 3) If the obligor requests in writing that income withholding become effective prior to the obligor accruing a delinquency under the most recent order for support, the Department shall prepare and serve an income withholding notice on the payor as provided in subsections (b) and (c) above. In addition to filing proofs of service of the income withholding notice on the payor and the obligor, the Department shall file a copy of the obligor's written request for income withholding with the Clerk of the Circuit Court.

i) Notice to Payor

Whenever the Department serves an income withholding notice on a payor, notice of the following shall be included in or with the income withholding notice:

- 1) that the payor must begin deducting no later than the next payment of income which is payable or creditable to the obligor that occurs 14 days following the date the income withholding notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the payor;
- 2) that the payor must pay the amount withheld to the State Disbursement Unit within seven business days after the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 3) that if the payor knowingly fails to pay any amounts withheld to the State Disbursement Unit within seven business days after the date the amount would have been paid or credited to the obligor, the payor is subject to a penalty of \$100 for each day that the withheld amount is not paid to the State Disbursement Unit after the period of seven business days has expired;
- 4) that the payor may combine all amounts withheld for the benefit of an obligee or public office into a single payment and transmit the payment with a listing of obligors from whom withholding has been effected;
- 5) that for each deduction the payor must provide the State Disbursement Unit at the time of transmittal, with the date the amount would (but for the duty to withhold income) have been paid or credited to the obligor;
- 6) that upon receipt of an income withholding notice requiring that a minor child be named as a beneficiary of a health insurance plan available through an employer, labor union or trade union, that the employer or labor union or trade union must:
 - A) immediately enroll the minor child as a beneficiary in the health insurance plan designated by the income withholding notice;
 - B) withhold or cause to be withheld, if applicable, any required premium and pay over any amounts so withheld to the insurance carrier in a timely manner;

- C) mail to the obligee, within 15 days after enrollment or upon request, notice of the date of coverage, information on the dependent coverage plan, and all forms necessary to obtain reimbursement for covered health expenses, such as would be made available to a new employee;
 - D) when an order for dependent coverage is in effect and the insurance coverage is terminated or changed for any reason, the employer or labor union or trade union shall notify the obligee within ten days after the termination or change date along with notice of conversion privileges;
 - 7) that for withholding of income, the payor is entitled to a fee not to exceed \$5 per month to be taken from the income to be paid to the obligor;
 - 8) that the amount actually withheld for support, the child's health insurance premium and payor withholding fee shall not exceed the maximum amount permitted under the federal Consumer Credit Protection Act;
 - 9) require that whenever the obligor is no longer receiving income from the payor, the payor must return a copy of the income withholding notice to the Department and provide the obligor's last known address and the name and address of the obligor's new payor, if known;
 - 10) that withholding of income under the income withholding notice must be made without regard to any prior or subsequent garnishments, attachments, wage assignments, or any other claims of creditors;
 - 11) that the income withholding notice is binding upon the payor until service of an order of the court or a notice from the Department or Clerk of the Circuit Court;
 - 12) that the payor is subject to a fine of up to \$200 for discharging, disciplining or otherwise penalizing an obligor because of the duty to withhold income;
 - 13) that if the payor willfully fails to withhold or pay over income pursuant to a properly served income withholding notice that the payor is liable for the total amount that the payor willfully failed to withhold or pay over;
 - 14) that if the payor has been served with more than one income withholding notice pertaining to the same obligor, the payor shall allocate income available on a proportionate share basis, giving priority to current support payments, and that if there is any income available for withholding after withholding for all current support obligations, the payor shall allocate the income to past due support payments ordered in non-TANF matters and then to past due support payments ordered in TANF matters, both on a proportionate share basis; and
 - 15) that a payor who complies with an income withholding notice that is regular on its face is not subject to civil liability with respect to any individual, any agency, or any creditor of the obligor for conduct in compliance with the notice.
- j) Notice to Obligor
When the Department serves a copy of the income withholding notice on the obligor as

required under this Section, notice of the following shall be included in or with the obligor's copy of the income withholding notice:

- 1) that income withholding has commenced;
- 2) the information provided to the payor under subsection (I) above;
- 3) the procedures and the permissible grounds for contesting withholding commenced under subsection (d), (e) or (h) above, as applicable;
- 4) that at any time the obligor may petition the court to:
 - A) modify, suspend or terminate the income withholding notice because of a modification, suspension or termination of the underlying order for support; or
 - B) modify the amount of income to be withheld to reflect payment in full or in part of the delinquency or arrearage by income withholding or otherwise; or
 - C) suspend the income withholding notice because of inability to deliver income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery; or
 - D) correct a term contained in an income withholding notice to conform to that stated in the underlying order for support for:
 - i) the amount of current support;
 - ii) the amount of the arrearage;
 - iii) the periodic amount for payment of the arrearage; or
 - iv) the periodic amount for payment of the delinquency;
- 5) that the obligor is required by law to notify the obligee, the Department, and the Clerk of the Circuit Court of any new address or payor within seven days after the change; and
- 6) that where a payor willfully discharges, disciplines, refuses to hire or otherwise penalizes an obligor because of the duty to withhold income, the obligor may file a complaint with the court against the payor, and that the court may order employment or reinstatement of or restitution to the obligor, or may impose a fine upon the payor not to exceed \$200.

k) Penalties

In cases where a payor willfully fails to withhold or pay over income, pursuant to a properly served income withholding notice, or otherwise fails to comply with any income withholding duties imposed by law, the Department, through its legal representatives, may request that the court:

- 1) enter judgment and direct the enforcement thereof for the total amount that the payor willfully failed to withhold or pay over;
- 2) impose a penalty or fine upon the payor or invoke any other remedy allowed by law.

- l) **Interstate Income Withholding**
Within the timeframes specified in subsections (c)(1) and (d)(1) of this Section, and pursuant to the provisions of the Uniform Interstate Family Support Act [750 ILCS 22], the Department shall engage income withholding in cases in which the obligor is receiving income from a payor located in another state.
- m) **Refund of Improperly Withheld Amounts**
The Department shall promptly refund to the obligor amounts found to have been improperly withheld from the obligor's income.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies

- a) Pursuant to routine data sharing agreements, the Department may receive from State licensing agencies information relating to license applications and renewals for purposes of identifying responsible relatives who are delinquent in complying with a support order or who have failed to comply with a subpoena or warrant in a paternity or child support hearing and have or are applying for a license or renewal of a license.
- b) The Department shall certify to State licensing agencies past-due support owed by a responsible relative under a support order entered by a court or administrative body of this or any other state or failure to comply with a subpoena or warrant when the responsible relative has or is applying for a license.
- c) The Department and the State licensing agency shall provide the responsible relative with a joint notice of intended action prior to the Department certifying the past-due support information or failure to comply with a subpoena or warrant to the agency. The notice and any hearing shall be governed by 89 Ill. Adm. Code 104.200.
- d) The Department shall be stayed from certifying information to a State licensing agency until a final administrative decision has been made by the Department.
- e) The responsible relative can prevent certification and disciplinary action by payment in full of the past-due support amount or by entering into a payment plan acceptable to the Department. Factors for an acceptable payment plan will include, but are not limited to:
 - 1) the amount of past-due child support owed;
 - 2) the amount of current child support obligations being paid; and
 - 3) the individual's ability to pay.
- f) The responsible relative can prevent certification and disciplinary action by complying with the subpoena or warrant in the paternity or child support proceeding.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

Section 160.80 Amnesty - 20% Charge

- a) The definitions of "responsible relatives", "IV-D cases" and "support statutes" contained in 89 Ill. Adm. Code 103.10, 160.10(a) and 160.60(a), respectively, are incorporated herein by reference.
- b) The Department, in accordance with the support statutes, shall impose a one-time charge of 20% of the amount of past-due child support owed on July 1, 1988, by responsible relatives in active IV-D cases, which has accrued under a support order entered by a court or administrative body of this or any other state, on behalf of resident or non-resident persons. The one-time charge shall be imposed for the purpose of restoring lost purchasing power (reduced capacity to buy) and shall be deemed to be interest.
- c) The Department shall send each responsible relative in each IV-D case, which is active and has a past-due account receivable balance between January 1 and July 1, 1988, a notice that a 20% charge shall be imposed upon any amount past-due as of July 1, 1988.
- d) The Department shall provide the responsible relative with a notice at least 30 days prior to imposing the charge, which advance notice shall inform the relative of the following:
 - 1) the IV-D case name and identification number;
 - 2) the past-due child support owed on July 1, 1988 before any charges for the month of July are added thereto;
 - 3) the amount of the charge that will be imposed;
 - 4) the date the charge will be imposed; and
 - 5) the right, prior to the stated date of imposition:
 - A) to prevent imposition of the charge by payment of the past-due child support owed in full; or
 - B) to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- e) The Department shall provide the responsible relative with notice of the results of the redetermination and of the right to contest the results of the redetermination by requesting a hearing within 30 days from the date of mailing of the notice.
- f) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- g) The Department shall be stayed from imposing the charge when either of the following occur before the date for imposition stated in the advance notice described in subsection (d) above:
 - 1) a request for a redetermination; or
 - 2) payment in full of the amount of the past-due support stated in the advance notice.
- h) The amount subject to the charge shall be that amount past-due as of July 1, 1988, that remains past-due as of the date for imposition of the charge stated in the advance notice described in subsection (d) above, shall include unpaid portions of judgments and shall

exclude any amounts not yet due under a payment plan established by court or administrative order prior to the date of the advance notice.

- i) The Department shall impose the charge when the responsible relative has failed to request a redetermination and has failed to make payment of the past-due amount in full as described in subsection (g) or when notice is given of the results of the redetermination as described in subsection (e).
- j) The Department shall apply all payments first to current, then to past-due and finally to future support obligations. Any amount applied toward the responsible relative's future support obligations at the time the family ceases to receive IV-D services shall be applied to the 20% charge.
- k) The Department shall distribute the proceeds of the charge collected in each case to the family.
- l) The Department shall seek court enforcement of unpaid charges under the support statutes only in connection with other action to enforce an unmet support obligation.
- m) The Department shall publicize the Amnesty program through public service announcements and by other means in a manner calculated to inform as many obligees and obligors as possible of the existence of the program for the purpose of collecting maximum support for children.

(Source: Amended at 12 Ill. Reg. 18185, effective November 4, 1988)

Section 160.85 Diligent Efforts to Serve Process

The Department shall make diligent efforts to serve process upon a responsible relative when necessary to establish, modify or enforce support under Sections 160.60, 160.65 and 160.70, as follows:

- a) The Department shall obtain information concerning:
 - 1) the responsible relative's whereabouts, including without limitation:
 - A) the relative's home address;
 - B) the address of the relative's employer;
 - C) the addresses of family and friends who might know of the relative's whereabouts; or
 - D) places frequented by the relative; and
 - 2) the responsible relative's identification, including without limitation:
 - A) the relative's Social Security Number; or
 - B) the relative's physical description;
- b) The Department shall furnish such information to the Sheriff or other process server; and
- c) When sufficient whereabouts and identification information for service continue to exist, the Department shall cause an alias summons to issue:
 - 1) as soon as practicable after the first "not found" return; and
 - 2) anytime new information is obtained; and
 - 3) six months after each "not found" return, until service is effected.

(Source: Added at 17 Ill. Reg. 2272, effective February 11, 1993)

- 25.5].
- d) When an order for support is entered or modified by the circuit court for all cases described in subsection (a) of this Section, the Department shall obtain the data identified in subsection (b) of this Section and the name of the county where the order was entered from the circuit clerk within five business days after entry of the order.
 - e) When an order for support is entered or modified by the circuit court in a IV-D case, the Department shall obtain the data identified in subsection (b) of this Section and the following data from the circuit clerk within five business days after entry of the order:
 - 1) the amount of monthly or other periodic support owed under the order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue, under the order;
 - 2) any amounts described in subsection (e)(1) of this Section that have been received by the clerk; and
 - 3) the distribution of the amounts received by the circuit clerk.
 - f) When the Department enters or modifies an administrative order for support in a IV-D case under Section 10-8.1 or Section 10-11 of the Illinois Public Aid Code [305 ILCS 5/10-8.1 and 10-11], it shall obtain from the custodial parent and the non-custodial parent the information identified in subsections (b) and (c) of this Section for inclusion in the Registry.
 - g) The Department shall establish, update, maintain and monitor IV-D case records in the Registry on the bases of:
 - 1) information on administrative actions, administrative and judicial proceedings and orders relating to paternity and support;
 - 2) information obtained from comparison with federal, state, and local sources of information;
 - 3) information on support collections and distribution; and
 - 4) any other relevant information.
 - h) Information contained in the Registry shall be subject to all federal and State confidentiality laws and regulations pursuant to 42 USC 654(26); 45 CFR 205.50 and 303.21; 42 CFR 431, Subpart F; 305 ILCS 5/11-9, 11-10, and 11-12; and Illinois Rules of Court.
 - i) The Department shall exchange data with other federal, state, and local agencies and other sources of information as necessary to maintain the Registry and with the agencies that administer Section IV, Part A, and Title XIX of the Social Security Act, and any other agency as may be required under Section IV, Part D of the Social Security Act, or regulations promulgated thereunder.
 - j) The Department shall provide to the Federal Case Registry the case information required by the Department of Health and Human Services.

(Source: Added at 23 Ill. Reg. 2313, effective January 22, 1999)

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section 160.90 Earmarking Child Support Payments

- a) Child support payments may be earmarked for the needs of a specific child or set of children. "Earmarking" refers to:
 - 1) the restriction of the use of all or a portion of the child support payments for:
 - A) children receiving Supplemental Security Income (SSI); and
 - B) children not eligible to receive TANF for reasons other than sanctions.
 - 2) the caretaker relative's (see 89 Ill. Adm. Code 101.20) election to exclude children who are not siblings of other children receiving TANF from the TANF assistance unit and restrict the use of a portion of the child support payments for the use of those children. "Siblings" means children born to or adopted by the same parents or having one parent in common (i.e., brother/sister, half-brother/half-sister, but not including step-brothers or step-sisters).
- b) **Optional Earmarking Assistance Units**

In an optional earmarking assistance unit, a caretaker relative may request that child support payments be earmarked for the needs of a specific child or set of children not required to be included in the standard filing unit (see 89 Ill. Adm. Code 112.300 (b)).

 - 1) An optional earmarking assistance unit consists of a TANF assistance unit:
 - A) in which a child support order has been entered for one or more children in the assistance unit;
 - B) the children included in the child support order are not blood-related siblings to the other children receiving TANF; and
 - C) the caretaker relative elects to earmark support for the children.
 - 2) Department staff must advise TANF caretaker relatives of the Department's optional earmarking policy:
 - A) during the TANF application process;
 - B) when redetermining eligibility for the TANF assistance unit; or
 - C) when the caretaker relative contacts the caseworker to discuss earmarking child support payments.
 - 3) Whenever a caretaker relative contacts a caseworker about optional earmarking, the caseworker will schedule an appointment for the caretaker relative within seven business days of the contact. At the appointment, the caseworker will:
 - A) explain the advantages and disadvantages of earmarking child support payments;
 - B) inform the caretaker relative of the time standards for effecting redirection of the child support payments as well as the time lags involved in reapplication for TANF;

- C) provide the caretaker relative with a handout containing information on earmarking child support payments; and
 - D) give the caretaker relative the form that he/she must use to request earmarking, if the caseworker determines that the caretaker relative is eligible for optional earmarking. Additionally, the caseworker will inform the caretaker relative that she may sign and submit the form immediately or at any time.
- 4) If a caretaker relative elects to earmark child support for one or more children in the household, the earmarked child(ren) will be deleted from the grant in the second fiscal month after the date the caretaker relative submits the written request. (Note: "Fiscal month" refers to a month that starts with a given day in one calendar month and ends the day before the same given day in the next calendar month, e.g., July 8 through August 7. In this case, the "given day" is the day the caretaker relative submits the written request to the Department). The caretaker relative is entitled to the earmarked support received by the Department beginning the first day of the calendar month the deletion is effective. The earmarked child support will be forwarded to the caretaker relative within 21 days after the Department's receipt of the earmarked support. The excluded child's share of the support payment will not be considered available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.
- 5) If the caretaker relative requests to add an earmarked child back to the TANF grant, the Department shall render a decision on the eligibility of the child being added within 45 days after the date of the written request. However, if the child is determined eligible for TANF, benefits will be authorized from the date the written request was received by the Department or the date of initial eligibility after the date of the written request.
- 6) A caretaker relative shall not exercise an earmarking option more than once in a 12 month period for any child or set of children (i.e., until 12 months have passed from the effective month of deletion).
- c) Allocation Assistance Unit
- In an allocation assistance unit, a caretaker relative may request that child support payments be earmarked for the needs of a specific child or set of children who are 18 years of age or older or otherwise ineligible for TANF cash assistance for reasons other than receipt of SSI or sanctions.
- 1) An allocation assistance unit consists of a TANF assistance unit:
 - A) where the child support order applies only to an ineligible child; or
 - B) in which:
 - i) a child support order has been entered for two or more children;

- and
 - ii) at least one of the children included in the child support order is receiving TANF; and
 - iii) at least one of the children included in the child support order is ineligible for TANF for reasons other than sanctions or receipt of SSI (e.g., children in the child support order who are not living with the TANF unit, or children 18 or older in the home who are not eligible for TANF cash assistance).
- 2) Where the child support order also applies to other children in the household who are receiving TANF benefits, and the order explicitly allocates the child support payment between or among the children, the Department will forward to the ineligible child's current adult caretaker, or to the child if emancipated, that portion of the child support payment allocated to the child who is not in the grant, and will not consider the support paid to the ineligible child available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.
- 3) Where the child support order applies to other children in the household who are receiving TANF benefits, and the order does not allocate the amounts to be paid to each child, the Department will allocate the child support order between or among the children on a pro-rata basis (if the case is being referred for judicial action, will instruct IV-D attorneys to seek such pro-rata allocation from the court) and forward the ineligible child's support payment to the child's current adult caretaker, or to the child if emancipated.
 - A) Department staff must advise TANF caretaker relatives of the Department's policy for allocation assistance units and that the caretaker relative may earmark support for the ineligible children:
 - i) during the TANF application process;
 - ii) when redetermining eligibility for the TANF assistance unit; or
 - iii) when the caretaker relative contacts the caseworker to discuss earmarking child support payments.
 - B) Department staff will advise the caretaker relative of the following:
 - i) of the pro-rata allocation policy;
 - ii) of how the caretaker relative may request such allocation; and
 - iii) that the caretaker relative may obtain his/her own counsel and seek a different allocation of the child support order.
 - C) Additionally, Department staff will:
 - i) provide the caretaker relative with a handout containing information on earmarking child support payments; and
 - ii) give the caretaker relative the form that he/she must use to request

earmarking. Additionally, the caseworker will inform the caretaker relative that she may sign and submit the form immediately or at anytime.

- 4) The Department will pro-rate the child support order unless or until an allocated order is entered. The caretaker relative is entitled to the earmarked support beginning the calendar month the child is removed from the grant, if currently receiving TANF, or, if the child is not currently receiving TANF, for the calendar month following the month the request for earmarking is made. The earmarked child support will be forwarded to the caretaker relative within 21 days of the Department's receipt of the earmarked support.
 - 5) When the ineligible child is not living with the TANF assistance unit, the caretaker relative must provide the Department with the child's current address, and must authorize payment to the custodial adult with whom the child is living, or to the child if living independently.
- d) SSI Children
- 1) Earmarking child support payments for an SSI child is mandatory when there is a TANF assistance unit:
 - A) in which a child support order has been entered for two or more children;
 - B) at least one of the children included in the child support order is receiving SSI; and
 - C) at least one of the children included in the child support order is receiving TANF.
 - 2) If the child support order only applies to the SSI child, the Department will not consider the support paid for the SSI child available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.
 - 3) Department staff will review TANF cases at the following times to identify SSI children to determine if the case is eligible for earmarking:
 - A) during the TANF application process;
 - B) when redetermining eligibility for the TANF assistance unit;
 - C) when deleting a child from the assistance unit because of receipt of SSI; or
 - D) whenever the caseworker discovers there is a SSI child for whom earmarking is mandatory.
 - 4) Informing Caretaker Relatives
 - A) Whenever an SSI household contacts the Department or is identified by the Department (see Section 160.90(b)(2) above), the Department will immediately inform the caretaker relative:
 - i) of the pro-rata allocation policy for SSI children; and

- ii) that the Department will pro-rate the terms of the support order unless the caretaker relative chooses to obtain his/her own counsel and seek an allocation providing a greater share of the child support order for the SSI child.
 - B) Additionally, Department staff will provide the caretaker relative with a handout containing information on earmarking child support.
- 5) The caretaker relative is not required to make a request or submit any authorization to earmark support for an SSI child.
- e) Any TANF household aggrieved by the Department's action or inaction with regard to the policy set forth in this Section can file a notice of appeal in accordance with 89 Ill. Adm. Code 102.70, 102.80, 102.82 and 104:Subpart A.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section 160.95 State Disbursement Unit

- a) The Department shall establish a State Disbursement Unit in accordance with the provisions of Section 10-26 of the Illinois Public Aid Code [305 ILCS 5/10-26] and Section 454B, Title IV-D of the Social Security Act (42 USC 654b). The purpose of the State Disbursement Unit shall be to collect and disburse support payments made under court and administrative support orders:
 - 1) in IV-D cases; and
 - 2) in non-IV-D cases in which support payments are made under the provisions of the Income Withholding for Support Act [750 ILCS 28].
- b) In accordance with Public Act 91-0677, the Department shall provide notice to the clerk of the court (if the order for support was entered by the court), the obligor and, where applicable, to the obligor's payor of income to make support payments to the State Disbursement Unit if:
 - 1) the order for support in a IV-D case was entered before October 1, 1999; or
 - 2) the order for support in a non-IV-D case does not provide that income withholding payments are to be made to the State Disbursement Unit.
- c) The notice (see subsection (b) of this Section) may be sent by ordinary mail, certified mail, return receipt requested, facsimile transmission, or other electronic process, or may be served upon the obligor or payor using any method provided by law for service of a summons. The Department shall provide a copy of the notice to the obligee and, where the order for support was entered by the court, to the clerk of the court.
- d) If the State Disbursement Unit receives a support payment that was not appropriately made to the Unit, the State Disbursement Unit shall return the payment to the sender within two business days after receipt, including, if possible, instructions detailing where to send the support payments.
- iv Support payments that are appropriately made to the State Disbursement Unit shall be disbursed in accordance with the provisions on distribution of support collections in this Subpart F.

(Source: Added at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.100 Distribution of Child Support for TANF Recipients

- a) For the purposes of distribution under this Section, amounts collected shall be treated first as payment on the required support obligation for the month in which the child support was collected and if any amounts are collected which are in excess of such amount, these excess amounts shall be treated as amounts which represent payment on the required support obligation for previous months. Date of collection" shall be as defined in Section 160.5.
- b) Child support payments which are received for a month in which a client is a TANF recipient shall be distributed as follows:
 - 1) Pass Through: Of any amount that is collected in a month which represents payment on the required support obligation for that month, the first \$50 of such amount shall be paid to the family. One payment will be forwarded to the family within two business days after the date of initial receipt in the State (see Section 160.5) of the first \$50 of support collected in a month, or, if less than \$50 is collected in a month, within two business days after the end of the month in which the support is collected. This payment will be disregarded when determining eligibility for TANF and the amount of the TANF grant. However, when there is a served income withholding notice and the payor of income transmits multiple months of support in a lump sum, the family shall receive the first \$50 of each month of support withheld. If the amount collected includes payment on the required support obligation for a previous month or months, the family shall only receive the first \$50 of the amount which represents the required support obligation for the month in which the support was collected. If amounts are collected for a single filing unit (see 89 Ill. Adm. Code 112.300(b)) which represent support payments from two or more responsible relatives, only the first \$50 of the amount collected which represents the total required support obligation for the month in which the support was collected shall be paid to the family under this subsection. No payment shall be made to a family under this subsection for a month in which there is no child support collection.
 - 2) Reimbursement of Current TANF: If the amount of child support collected in a month on behalf of a TANF recipient exceeds the amount to be paid to the family pursuant to subsection (b)(1), the excess shall be retained by the Department to reimburse the Department for the assistance payment for the month in which the support was collected or the next month.
 - 3) Current Excess: If the amount of child support collected in a month on behalf of a TANF recipient exceeds the amount to be distributed pursuant to subsections (b)(1) and (b)(2) above, the family shall be paid such excess up to the difference between the TANF grant for the month in which the amount of the collection was

used to redetermine eligibility for TANF and the amount ordered for that month. If such court ordered amount is less than the TANF grant, no amount shall be paid to the family under this subsection. In those cases where there is no court order, the family shall not be paid any amount under this subsection.

- 4) Reimbursement of Past AFDC or TANF: If the amount of child support collected in a month on behalf of a TANF recipient is in excess of the amount required to be distributed pursuant to subsections (b)(1) through (b)(3) above, any such excess shall be retained by the Department as reimbursement for past assistance payments made to the family for which the Department has not been reimbursed. The Department will apply the amount retained to any sequence of months for which the Department has not yet been reimbursed. If past assistance payments made to the family are greater than the unpaid support obligation, the maximum amount the Department can retain as reimbursement for such assistance payments is the amount of such obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance, in which case such amounts can be retained by the Department to reimburse the difference between such support obligation and such assistance payments.
- 5) Past Excess: If the amount of child support collected in a month on behalf of a TANF recipient is in excess of the amount required to be distributed pursuant to subsections (b)(1) through (b)(4) above, such excess shall be paid to the family.
- c) If an amount collected as support represents payment on the required support obligation for future months, the amount collected shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned for the current month and all past months.
- d) Identification of Child Support Payment: Any support payment issued to the family under subsection (b)(3) or (b)(5) above shall be identified on its face as being for child support.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who
Continue to Receive Child Support Enforcement Services

Child support payments which are received on behalf of a former AFDC or TANF recipient who continues to receive child support enforcement services, shall be distributed in accordance with the provisions of subsections (a) through (g) of this Section.

- a) Current Support: Upon cancellation of TANF or AFDC, a client's assignment of support ceases (see Section 160.20), except with respect to the amount of any unpaid support obligation that has accrued under such assignment. For any month in which a client is not a TANF recipient, regardless of whether such client continues to receive child support enforcement services, the client is entitled to the amount of current support paid for that month, up to the amount of the monthly support obligation for that month. Current support payments to former AFDC or TANF recipients who do receive child support enforcement services from the Department shall be issued within two business days after initial receipt in the State.
- b) Unpaid Current Support Accrued Following Cancellation: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who receives child support enforcement services exceeds the amount of current support distributed pursuant to subsection (a) above, the client shall be paid any such amount, up to the unpaid current support obligation which has accrued for any month following cancellation of the client's AFDC or TANF case in which the client received child support enforcement services. Such payments to former AFDC or TANF recipients shall be issued within two business days after initial receipt in the State.
- c) Unpaid Current Support Accrued Prior to the Family Receiving Assistance (only in cases where the assignment of support rights under Section 160.20 of this Part was entered into on or after October 1, 1998): If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who receives child support enforcement services exceeds the amount of support distributed pursuant to subsections (a) and (b) of this Section, the client shall be paid any such amount, up to the unpaid current support obligation that has accrued for any month prior to the family having first received assistance, but only if such first month commenced on or after October 1, 1998, and only if such amount was not collected by use of federal income tax refund offset. Such payments to former TANF recipients shall be issued within two business days after initial receipt in the State.
- d) Unreimbursed AFDC or TANF: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient exceeds the amount to be distributed pursuant to subsections (a) and (b) of this Section and, where applicable, subsection (c) of this Section, the excess shall be retained by the Department to reimburse it for past unreimbursed AFDC or TANF. If the unpaid support obligation is greater than the past

unreimbursed AFDC or TANF, then the maximum reimbursement amount is the amount of unreimbursed AFDC or TANF the Department has provided. If the past unreimbursed AFDC or TANF is greater than the unpaid support obligation, then the maximum reimbursement amount is the amount of the unpaid support obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the former AFDC or TANF recipient received AFDC or TANF, and that first month of receipt of AFDC or TANF occurred prior to October 1, 1998, or the amounts are collected by use of offset of federal income tax refunds, in which case such amounts will be retained by the Department to reimburse the difference between such support obligation and such past unreimbursed AFDC or TANF.

- e) Past Excess: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient exceeds the amount to be distributed pursuant to subsections (a), (b), (c), and (d) of this Section, the excess, up to the amount of the unpaid support obligation, including the unpaid obligation for months prior to the first month in which the former AFDC or TANF recipient received AFDC or TANF, shall be paid to the client. Such payments to former AFDC or TANF recipients shall be issued within two business days after initial receipt in the State.
- f) Amounts In Excess of the Child Support Obligation: If the amount of child support collected in a month on behalf of a former AFDC or TANF recipient who continues to receive child support enforcement services exceeds the amount to be distributed pursuant to subsections (a), (b), (c), (d), and (e) of this Section, the excess shall be refunded to the responsible relative.
- g) Identification of Child Support Payment: Any support payment issued to a former AFDC or TANF recipient under this Section shall be identified on its face as being a child support payment.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled

Child support payments which are received in a month in which a client is a current AFDC or TANF recipient, but which have not been distributed when the client's AFDC or TANF case is cancelled shall be distributed in accordance with Section 160.100. Any amounts owed to former AFDC or TANF recipients pursuant to such distribution shall be disbursed by the State Disbursement Unit in accordance with the following timeframes:

- a) Child support to which a former AFDC or TANF recipient is entitled pursuant to Section 160.100(b)(1) ("Pass Through") shall be issued in accordance with that Section.
- b) Child support to which a former AFDC or TANF recipient is entitled pursuant to Section 160.100(b)(3) ("current excess") shall be issued within two business days after the date of initial receipt in the State of a collection for the first month of ineligibility.
- c) Child support to which a former AFDC or TANF recipient is entitled pursuant to Section 160.100(b)(5) ("past excess") shall be issued within two business days after the date of the initial receipt in the State of a collection for the first month of ineligibility.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.130 Distribution of Intercepted Federal Income Tax Refunds

The Department shall as promptly as possible apply collections it receives as a result of intercept of federal income tax refunds only against the past-due support amount specified in the advance notice provided the responsible relative (see Section 160.70(c)(3)).

- a) Federal income tax refunds shall be applied first to satisfy any IV-D AFDC, IV-D TANF or IV-E foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support.
- b) The Department shall send payments made to a IV-D client or DCFS as a result of the intercept of federal or State income tax refunds and other State payments within 30 calendar days after initial receipt by the Department, except as described in subsections (c) and (d) of this Section.
- c) When a responsible relative initiates the review process under Section 160.70(c)(3)(C) between the date of the tax refund intercept and the date the Department disburses the intercepted funds or the 30th calendar day after the Department's initial receipt of such funds, whichever first occurs, the State Disbursement Unit shall send any funds determined to be due the IV-D client or DCFS within 15 calendar days after the review process concludes.
- d) If the Department is notified by the federal Office of Child Support Enforcement that an intercept to satisfy IV-D non-TANF past-due support is being made from a refund based on a joint return, the Department may delay distribution of the federal tax refund intercept until it is notified that the unobligated spouse's proper share of the refund has been paid or for a period not to exceed six months from notification of the intercept, whichever first occurs.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.132 Distribution of Child Support for Non-TANF Clients

Child support payments which are received on behalf of a client who has never been an AFDC or TANF recipient shall be distributed in accordance with the timeframes and provisions of subsections (a) through (c) below.

- a) Current support: The Non-Assistance client is entitled to receive an amount of money equal to the monthly support obligation amount that is collected for current support. The entire amount of the current support collected shall be sent to the client within two business days after the date of initial receipt in the State.
- b) Past support: Any amount in excess of the current support obligation is applied to past support owed the non-TANF client and shall be sent to the client within two business days after the date of initial receipt in the State.
- c) Future support: If an amount collected as support represents payment on the required support obligation for future months, the amount collected shall be applied to future months and shall be sent to the client within two business days after the date of the initial receipt in the State.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.134 Distribution of Child Support For Interstate Cases

Child support payments which are received on behalf of an initiating state shall be forwarded to the initiating state within two business days after the date of initial receipt in this State.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases

- a) For purposes of distribution under this Section, amounts collected in IV-E foster care maintenance cases shall be treated in accordance with the provision of Section 160.100(a).
- b) The amounts collected as support on behalf of children for whom the State is making IV-E foster care maintenance payments and for whom an assignment is effective shall be distributed as follows:
 - 1) Reimbursement of current IV-E foster care maintenance: The amount of child support that is collected in a month which represents payment on the required support obligation for that month shall be forwarded to DCFS and retained by DCFS to reimburse itself for IV-E foster care maintenance payments.
 - 2) Current excess: If the amount of child support collected in a month on behalf of a foster care dependent is in excess of the monthly amount of the IV-E foster care maintenance payment but not more than the monthly support obligation, the State Disbursement Unit shall pay within 15 business days after the end of the month in which the support was initially received in the State the excess to DCFS which will use the money in the best interests of the child.
 - 3) Reimbursement of past IV-E foster care maintenance: If the amount of child support collected in a month on behalf of a foster care dependent exceeds the amount required to be distributed under subsections (b)(1) and (2) above, but not the total unreimbursed IV-E foster care maintenance payments or unreimbursed AFDC or TANF provided, the Department and DCFS shall retain any such excess as reimbursement for these payments. If past assistance or IV-E foster care maintenance payments are greater than the total support obligation owed, the maximum amount the Department or DCFS may retain as reimbursement for such payments is the amount of such obligation. If amounts are collected which represent the required support obligation for periods prior to the first month in which the family received AFDC, TANF or IV-E foster care maintenance payments, such amounts may be retained by the Department and DCFS to reimburse the difference between such support obligation and such payments.
 - 4) Past excess: If the amount of child support collected in a month on behalf of a foster care dependent is in excess of the amount required to be distributed pursuant to subsections (b)(1) through (3), such excess shall be paid by the State Disbursement Unit within 15 business days after the end of the month in which the support was initially received in the State to DCFS and used in the best interests of the child.
 - 5) Future support: If an amount collected as support represents payment on the required support obligation for future months, the amount shall be applied to those future months. However no amounts shall be applied to future months unless

amounts have been collected which fully satisfy the support obligation assigned for the current and all past months.

- c) When DCFS ceases making IV-E foster care maintenance payments, the assignment of support rights terminates except for the amount of any unpaid support that has accrued under the assignment. The Department shall attempt to collect such unpaid support. Any collection made by the Department under this subsection shall be distributed in accordance with subsection (b)(3) of this Section.

(Source: Amended at 24 Ill. Reg. 3808, effective February 25, 2000)

Section 160.138 Distribution of Child Support for Medical Assistance No Grant Cases

For purposes of distribution under this Section, child support amounts collected in Medical Assistance No Grant Cases, in which the caretaker relative has never received AFDC or TANF payments, shall be treated in accordance with the provisions of Section 160.132. For Medical Assistance No Grant Cases in which the caretaker relative received AFDC or TANF payments, distribution shall be treated in accordance with the provisions of Section 160.110.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section 160.140 Statement of Child Support Account Activity

The Department will send to each TANF recipient and each former AFDC or TANF recipient a "Statement of Child Support Account Activity ("Notice")", in accordance with the provisions of subsections (a) through (c) below.

- a) Notice Sent Monthly to TANF Recipients
 - 1) The Department will send a notice monthly to each TANF recipient for whom a IV-D accounts receivable has been established. This notice will include the following information for the third previous month:
 - A) the terms of each support order, the support order number, and beginning date of each support order;
 - B) the account balance of each support order for the reporting month;
 - C) total amount paid in the reporting month under each support order;
 - D) identification of the reporting month;
 - E) total payments received for all support orders for the reporting month;
 - F) the amount of unreimbursed assistance;
 - G) the distribution of support payments for the 11 month period for which distribution is complete, including:
 - i) the amount of support received;
 - ii) TANF grant amount;
 - iii) amount of support paid to the client as current, Pass Through and excess;
 - iv) the amount of support retained to reimburse the Department;
 - v) the amount of support applied to future obligations; and
 - H) the means by which a TANF recipient can obtain additional information concerning her child support account and/or can appeal the Department's determination.
 - 2) The notice will also contain an insert setting forth the Department's policy on earmarking income pursuant to Section 160.90.
- b) Notice Sent to Former AFDC or TANF Recipients in the First and Second Month Following Case Cancellation

For two consecutive months following the month of AFDC or TANF cancellation, the Department will send to each former AFDC or TANF recipient for whom a IV-D accounts receivable has been established, a notice which includes the following information for her case:

 - 1) the effective month and year of AFDC or TANF cancellation;
 - 2) the terms of each support order, the support order number, and beginning date of

- each support order;
- 3) total amount paid in the reporting month under each support order;
 - 4) the total amount of support due at AFDC or TANF cancellation which remains unpaid under each support order;
 - 5) the total amount of current support due after AFDC or TANF cancellation which remains unpaid under each support order;
 - 6) identification of the reported month;
 - 7) the remaining amount of unreimbursed assistance accrued prior to the AFDC or TANF cancellation;
 - 8) the distribution of support payments for the five month period for which distribution is complete, including:
 - A) the amount of support received;
 - B) AFDC or TANF grant amount;
 - C) amount of support paid to the client as current, Pass Through and excess;
 - D) the amount of support retained to reimburse the Department;
 - E) the amount of support applied to future obligations;
 - 9) the total amount of child support collected in the prior month and the source of collection;
 - 10) the total amount of support paid to the client (i.e., current, excess and past due) for the prior month;
 - 11) the amount of support retained to reimburse the Department; and
 - 12) the means by which a former AFDC or TANF recipient can obtain additional information concerning her child support account and/or can dispute the distribution of support by requesting an account review.
- c) Notice Sent to Former AFDC or TANF Recipients in the Third Month Following Case Cancellation and for Any Subsequent Month for Which the Department Receives a Child Support Payment

The Department will send to each former AFDC or TANF recipient (for whom a IV-D accounts receivable has been established) beginning with the third month following the month of AFDC or TANF cancellation and for any subsequent month for which the Department receives a child support payment, a notice which includes the following information:

- 1) the effective month and year of AFDC or TANF cancellation;
- 2) the terms of each support order, the support order number, and beginning dates of each support order;
- 3) total amount paid in the prior month under each support order;
- 4) the total amount of support due at AFDC or TANF cancellation which remains unpaid under each support order;
- 5) the total amount of current support due after AFDC or TANF cancellation which

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- remains unpaid under each support order;
 - 6) identification of the prior month;
 - 7) the remaining amount of unreimbursed assistance accrued prior to the AFDC or TANF cancellation;
 - 8) the total amount of support paid to the client (i.e., current and past due) for the prior month;
 - 9) the total amount of child support collected in the prior month and the source of collection;
 - 10) the amount of support retained to reimburse the Department; and
 - 11) the means by which a former AFDC or TANF recipient can obtain additional information concerning her child support account and/or can dispute the distribution of support by requesting an account review.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section 160.150 Department Review of Distribution of Child Support for TANF Recipients

Any TANF recipient who disagrees with the Department's distribution of child support relating to her Title IV-D account (see Sections 160.100 and 160.130(b)) can appeal in accordance with 89 Ill. Adm. Code 102.80, 102.83 and 102.84 and 104:Subpart A.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)

Section 160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

- a) A former AFDC or TANF recipient may request an account review at any time and a prior account review decision or reconsidered account review decision shall not act as a bar to review.
- b) A written request for account review shall be filed with the Department. For mailed requests, the date of filing is the date the request is received by the Department, not the postmark date.
- c) The Department shall require former AFDC or TANF recipients to provide the following information to request an account review:
 - 1) the name and address of the former AFDC or TANF recipient,
 - 2) the name(s) of her child(ren),
 - 3) the name(s) of the responsible relative(s) obligated to pay support, and
 - 4) the period for which review is sought.
- d) Request for Additional Information
 - 1) The Department may request former AFDC or TANF recipients to provide the following additional information to request an account review, but may not require such information:
 - A) support order number,
 - B) the responsible relative's Social Security number,
 - C) the former recipient's Social Security number, and
 - D) the AFDC or TANF case number.
 - 2) If the Department is unable to identify the former AFDC or TANF recipient's IV-D account because the former AFDC or TANF recipient has not provided sufficient information, the Department shall be relieved of having to complete the account review within the timeframes specified in subsections (e) and (f) below.
- e) In the event the request for account review seeks review as to current support due and not received during the month of the request and/or the prior month, the Department shall issue an account review decision no later than 30 calendar days after the date of the Department's receipt of the request.
- f) If the request for account review seeks review as to support due and not received for a period more than one month prior to the request, the Department shall issue an account review decision no later than 75 calendar days after the date of the Department's receipt of the request.
- g) Request for documents
 - 1) At any time after requesting an account review, a former AFDC or TANF recipient may request any document possessed by the Department's Division of Child Support Enforcement (DCSE). Such documents include but are not limited

- to:
- A) support orders,
 - B) all FSIS screens, or
 - C) other computer records.
- 2) DCSE shall furnish such documents, except as prohibited by federal law and regulation, within 30 calendar days after its receipt of the request.
- h) The Department shall afford former AFDC or TANF recipients who request account reviews the opportunity to submit additional documentary evidence prior to the issuance of the account review decision.
- i) An account review decision shall contain the following:
- 1) the names of the person requesting review, the children, and the responsible relative(s);
 - 2) calculations made by the Department;
 - 3) appropriate citations to Department policy regarding collection and/or distribution of support;
 - 4) a statement as to whether the former AFDC or TANF recipient is entitled to support funds received by the Department, and if so, the amount of such funds and the date by which funds will be issued to the former AFDC or TANF recipient;
 - 5) the name and office address of the account reviewer;
 - 6) a statement advising that the account review decision is the Department's final decision which is reviewable in state court pursuant to writ of certiorari, unless reconsideration of the account review decision is requested in writing within 30 calendar days by the former AFDC or TANF recipient; and
 - 7) a statement that the former AFDC or TANF recipient may request an explanation of the decision by telephonic inquiry to a toll-free telephone number or in-person at a local office arranged by appointment through the toll-free number.
- j) After a former AFDC or TANF recipient receives an account review decision, the former AFDC or TANF recipient may request an explanation of the decision by telephonic inquiry to a toll-free telephone number so that the former AFDC or TANF recipient may receive an explanation of her account review decision by her account reviewer. If the former AFDC or TANF recipient's account reviewer is unavailable, a former AFDC or TANF recipient will be offered assistance by another account reviewer.
- k) After a former AFDC or TANF recipient receives an account review decision, she may request an explanation of the decision by an in-person meeting at her local office with a designated staff member who will be available to explain the account review decision.
- l) A former AFDC or TANF recipient has a right to reconsideration of the account review decision. Reconsideration must be requested by the former AFDC or TANF recipient within 30 calendar days after the date of the account review decision. Former AFDC or TANF recipients will be advised by the account review decision that they have a right to

- reconsideration of the account review decision and that they must file a written request for reconsideration.
- m) A request for reconsideration must include the former AFDC or TANF recipient's name, case number, date of account review decision, and the reason why the former AFDC or TANF recipient believes that the account review decision is incorrect. The former AFDC or TANF recipient shall also provide copies of any documentation that she believes that the account reviewer failed to consider in reaching the account review decision.
 - n) The Department shall issue a reconsideration decision no later than 15 calendar days after the date of the Department's receipt of the request.
 - o) The reconsideration decision shall include the following:
 - 1) the names of the person requesting the reconsideration, the children, and the responsible relative(s);
 - 2) a statement that the account reviewer has reviewed the prior documents and decision and has considered any new documentation or statements that have been submitted by the former AFDC or TANF recipient;
 - 3) calculations made by the Department in making the reconsideration and citations to appropriate Department policy if different than policy cited in the original decision;
 - 4) a statement as to whether the original account review decision was correct or incorrect and whether the former AFDC or TANF recipient is entitled to support funds received by the Department, and if so, the amount of such funds and the date by which funds will be issued to the former AFDC or TANF recipient;
 - 5) the name and office address of the account reviewer;
 - 6) a statement advising that the reconsideration decision is the Department's final decision which is reviewable in state court pursuant to writ of certiorari; and
 - 7) a reference to an attached copy of the original account review decision which will be enclosed with the reconsideration decision.
 - p) Any funds to which a former AFDC or TANF recipient is determined to be entitled as the result of an account review decision or reconsideration of that decision shall be issued within 30 calendar days after the date of the account review decision or reconsideration of that decision.
 - q) A former AFDC or TANF recipient is entitled to seek review by writ of certiorari of any account review decision and is not required to request reconsideration of such decision prior to filing an action in state court.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)