

REGULATIONS

45 CFR 302.65
45 CFR 302.70
45 CFR 302.80
45 CFR 303.71 - 303.72
45 CFR 303.6-303.7
45 CFR 303.100 - 303.105

STATE LAW

MCL 552.501 - 552.535
MCL 552.601 - 552.650

Federal regulations require that states have and use certain statutorily based procedures for the enforcement of support orders. States must have laws providing procedures for wage withholding, state income tax offsets, liens, bonds or other payment guarantees, releasing arrearage information to consumer reporting agencies, and expedited processes. Federal laws and regulations also mandate a process of intercepting unemployment compensation benefits and establish federal enforcement remedies such as federal income tax offsets and garnishments against federal employees.

States must monitor compliance with support obligations, identify delinquencies and enforce support orders within specified timeframes using all appropriate enforcement remedies. On an annual basis, any IV-D case which meets certification criteria must be submitted for tax offset. Income withholding must be implemented in accordance with requirements and timeframes specified at 45 CFR 303.100 and in State law. Other appropriate enforcement actions must be taken within 30 days of the later of identifying a noncompliance with a support order or locating the delinquent payer unless service of process (other than by ordinary mail) is required to take the action. When service of process is necessary, enforcement action must be taken within the later of 60 days of identifying the delinquency or locating the payer. Federal expedited process standards require that enforcement action be completed within 3 months from successful service in at least 90% of cases.

Federal regulations also require that each State establish and use guidelines which define diligent efforts to serve process. Those guidelines must require repeated attempts to serve process in cases in which prior attempts have failed but adequate identifying and location information is available on the absent parent.

State statutes provide Friends of the Court with the authority and responsibility to initiate and carry on proceedings to enforce and modify support orders. Through contractual agreements, Friends of the Court receive funds and have responsibility to provide those service in IV-D cases.

**MONITORING
COMPLIANCE**

Friends of the Court are required to monitor compliance with all aspects of support obligations in IV-D cases. This includes the child or child/spousal support obligation and health care obligations. A delinquency in a child or child/spousal support obligation must be identified on the date the payer fails to make payments in an amount equal to support payable for one month or earlier date as permitted by State law. Refer to Chapter 500 for information concerning required medical support activities.

**REQUIRED
ENFORCEMENT
ACTIVITIES AND
TIMEFRAMES****Income
Withholding**

Income withholding must be utilized in IV-D cases in which a support order has been issued or modified in the state in accordance with withholding requirements and timeframes specified in 45 CFR 303.100 and in State law. Additionally, interstate income withholding must be utilized in appropriate cases in which the support order has been issued or modified in Michigan or in another state.

Refer to Chapters 405 and 420 for policies on intrastate and interstate income withholding. Also see Chapter 450 for information on garnishments against federal employees and Chapter 465 concerning the interception of unemployment compensation benefits.

Tax Offsets

Any IV-D case which meets certification requirements for federal and/or state tax offset must be submitted for offset once each year. Refer to Chapter 430 and the FOC Letter Series for policy and procedures governing tax offset processes and deadlines for submission of offset requests.

**Remedies Other
Than Income
Withholding and
Tax Offsets**

In addition to tax offsets and income withholding, other appropriate enforcement actions must be taken when a delinquency is identified and the location of the payer is known. Location means information concerning the physical whereabouts of the payer, the payer's employer and/or other sources of income or assets which is sufficient and necessary to take the next appropriate action in a case (see Chapter 310).

Federal regulations specifically require that the State have and use statutorily based procedures for:

- Imposition of liens against real or personal property (see Chapter 480)
- Bonds, securities and other guarantees (see Chapter 490)

- Making arrearage information available to consumer credit agencies (see Chapter 470)

Other remedies authorized by state law such as civil contempt proceedings and federal remedies such as involuntary military allotments (see Chapter 460) must also be utilized when appropriate.

Timeframes for enforcement actions, except tax offsets and income withholding, are as follows:

1. Enforcement actions which do not require service of process and those requiring notice by ordinary mail must be taken within the later of 30 days of locating the payer or of identifying the delinquency.
2. When service of process, other than notice by ordinary mail, is necessary to take an enforcement action, the action must be initiated and service completed within the later of 60 days of locating the payer or of identifying the delinquency. If service of process is not completed within the 60-day timeframe, unsuccessful attempts to serve process must be documented.

Enforcement action which requires service of process, including actions which require notice by ordinary mail, must be completed within Federal standards for expedited processes. Those standards require that enforcement action be completed from the time of successful service of process to disposition within three months in at least 90% of cases.

Service of Process Guidelines

Support enforcement methods authorized by State law generally provide for notice to the payer of the planned action by ordinary mail. When service can be accomplished by ordinary mail, enforcement action including notice to the payer must be taken within the later of 30 days of locating the payer or identifying the delinquency.

When an enforcement action requires personal service or service by certified or registered mail, repeated attempts may be needed to complete service. As necessary, at least three attempts to serve the payer are to be made within the later of 60 days of identifying the delinquency or locating the payer. Thereafter, attempts to serve the payer personally or by restricted delivery mail are to continue at a frequency of approximately three times every 30 days. Attempts to serve a payer personally or by restricted delivery mail are to continue until service is completed, use of the selected enforcement remedy is reevaluated and determined inappropriate, location information is determined to be inadequate, or alternative service (e.g., posting or publication) is utilized. (Note: When service cannot be completed due to inadequate location information, activities to relocate the payer must be initiated and completed within the timeframes specified in the 300 series.)

The U.S. Postal Service makes two attempts to deliver certified and registered mail. When service of process is attempted using restricted delivery mail, each attempt made by the U.S. Postal Service to deliver the summons counts toward the required number of attempts.

Also, see Chapters 450 and 460 for information concerning service on agents designated to accept legal process for federal agencies.

**Interstate Referral
Timeframe**

When an interstate referral is necessary in a case, federal regulations require that the referral be transmitted to the responding state's interstate central registry within 20 days of determining that a payer is in another state. For additional information on interstate actions, refer to Chapter 410, RURESA, and Chapter 420, Interstate Income Withholding Act.

Follow-up

When an enforcement action fails in a IV-D case, the reasons for the failure must be examined. Future enforcement action must be planned and executed in accordance with State law and federal regulations. If an enforcement action failed due to inadequate location information, activities to relocate the payer must be initiated and completed within the timeframes specified in the 300 series.

Local Procedures

To fulfill federally mandated requirements, Friends of the Court must develop and utilize written procedures for the enforcement of support obligations in IV-D cases. Procedures must comply with federal IV-D regulations and state statutory requirements.