



STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

IV-D MEMORANDUM 2010-003

TO: All Friend of the Court (FOC) Staff
All Office of Child Support (OCS) Staff

FROM: Marilyn F. Stephen, Director
Office of Child Support

DATE: April 2, 2010

UPDATE(S):

Manual

Form(s)

SUBJECT: **REVISED:** Repeal of the Child Support Bench Warrant Enforcement Fund (BWEF) and Completion of Requirements Under the BWEF Memorandums of Understanding (MOUs)

RESPONSE DUE: None

POLICY EFFECTIVE DATE: January 8, 2010

PURPOSE:

This IV-D Memorandum provides notification of the repeal of the BWEF, introduces the process for completing the disbursement of the BWEFs that were received by the Department of Human Services (DHS) OCS from collections between October 1, 2009 and January 8, 2010 (the effective date of the repeal) to FOCs with MOUs, and introduces the process for completing the requirements identified in the MOU that are in effect as of January 8, 2010.

This IV-D Memorandum:

- Clarifies the timelines for use of BWEFs disbursed in January 2010;
- Presents the process that OCS will use to disburse the BWEF covering the period October 1, 2009 through January 8, 2010 that are received by OCS;
- Clarifies the timelines for use of funds that will be disbursed from the BWEF covering the period October 1, 2009 through January 8, 2010;
- Explains how BWEF affects program income;
- Explains how to record receipt and expenditures of BWEFs on the *Title IV-D Cooperative Reimbursement Actual Expenditure Report* (DHS-286);
- Clarifies the *Child Support Bench Warrant Enforcement Fund Data Collection – Schedule A* (Ref: Exhibit 2010-003E1);

- Includes *Examples of How the Bench Warrant Enforcement Fund (BWEF) May and May Not Be Used* (Ref: Exhibit 2010-003E2); and
- Replaces and obsoletes Action Transmittal (AT) 2009-016, **REVISED: Child Support Bench Warrant Enforcement Fund (BWEF) and Memorandum of Understanding (MOU)**.

A change bar in the right margin indicates where information has been updated since the last publication of this material.

DISCUSSION:

The BWEF was established under Michigan Compiled Law (MCL) 400.236a. Public Act (PA) 238 of 2009 repealed MCL 400.236a effective January 8, 2010. Although MCL 400.236 was repealed, OCS disbursed BWEF to counties in January 2010 and will disburse additional BWEF amounts in May or June 2010. These funds were collected under MCL 400.236 and must continue to be used in accordance with MCL 400.236.

Under MCL Section 600.2529(4), the courts were required to send \$10 of each final judgment fee to the Michigan Department of Treasury (Treasury) for deposit in the BWEF. PA 239 of 2009 amended MCL Section 600.2529, effective January 8, 2010, eliminating the requirement that \$10 of the final judgment fees be sent to the State Treasurer for the BWEF.¹

The Program Leadership Group (PLG) had determined that it would be most beneficial and cost-effective for OCS to disburse the BWEF collected prior to January 8, 2010 to FOC offices in amounts equal to the amounts collected by each FOC's circuit court.² This disbursement has resulted in each FOC office receiving at a minimum all of the BWEF collected by its circuit court.

Treasury periodically provides OCS financial staff with a Treasury report (*BWEF Pre-Disbursement Report*) indicating the amounts received from each circuit court. OCS financial staff make annual disbursements to FOC offices. The most recent disbursement was in January 2010. The final disbursement of the BWEF for the period October 1, 2009 through January 8, 2010 will be made as soon as OCS financial management receives the final accounting from Treasury.

Note: OCS staff may return more money to FOC offices than the circuit court sent to Treasury. This occurs when a county opted out of the BWEF program or did not utilize the BWEFs. OCS then redistributes these funds among participating counties.

¹ Ref: [IV-D Memorandum 2010-002, REVISED: Final Judgment or Order Fees as Program Income on CRP Billing Statements](#).

² In this memorandum, "circuit court" refers to the circuit court located in the same county as the FOC office.

1. MOU

To ensure that OCS, the Friends,³ and the Chief Judge of the Circuit Court or his/her designee understand and agree to the purpose and use of BWEFs, OCS developed an MOU.

OCS financial management did not and cannot disburse BWEF money to an FOC office unless a signed and active BWEF MOU and a fiscal year 2009 Schedule A are on file. Note that an MOU is considered inactive if none of the prior fiscal year BWEF was used. If OCS does not have a signed and active BWEF MOU on file for an FOC office or the Schedule A covering fiscal year 2009 was not received, OCS staff will prorate that FOC office's share of the BWEF to other participating counties. If an FOC office does not have a signed and active BWEF MOU on file, they cannot reapply to receive any of the BWEF collections covering the period October 1, 2009 through January 8, 2010.

2. *BWEF Pre-Disbursement Report*

OCS financial management will send the FOC a *BWEF Pre-Disbursement Report* for the BWEF collections covering the period October 1, 2009 through January 8, 2010. FOC staff must review the report for accuracy. If the FOC believes the amount for their office is incorrect, they must notify the Supreme Court Finance Office representative listed in the "Contact Persons" section of this memorandum.

3. Use of Funds

The BWEF money collected in fiscal year 2009 and for the period October 1, 2009 through January 8, 2010 must be used to fund bench warrant activities in fiscal year 2010. See the following examples:

Example 1:

Treasury reported collections of BWEF money for County A during fiscal year 2009 (October 1, 2008 to September 30, 2009). County A receives the funds from OCS in January 2010 (fiscal year⁴ 2010). County A must use the funds by September 30, 2010 (fiscal year 2010).

Example 2:

Treasury reported collections of BWEF money for County A during fiscal year 2010 (October 1, 2009 to January 8, 2010). County A receives the funds from OCS approximately May or June 2010 (fiscal year 2010). County A must use the funds by September 30, 2010 (fiscal year 2010).

³ In this memorandum, "Friend" refers to the Friend of the Court or the Authorized Representative of the Friend, not FOC staff.

⁴ Some counties may have a fiscal year that mirrors the calendar year. In this memorandum, "fiscal year" means October 1 to September 30.

3.1 Arrest Activity

All BWEF received from OCS in fiscal year 2010 must be used to enforce child support bench warrants. FOC offices may use the funds for such things as:

- Salary for additional arresting officers through a purchase of service agreement;
- Overtime pay for FOC bench warrant officers; or
- Transferring of arrested individuals between counties.

For more examples on using BWEF money, refer to Exhibit 2010-003E2.

Federal policy⁵ restricts the expenditures of IV-D funds spent for “arrest activity.” Further guidelines regarding federal approval of purchase of service agreements and fees for service agreements for arrest activities may be found in OCSE-AT-79-3, and by referring to OCSE Policy Interpretation Question (PIQ)-81-02, *Fee for Service in Sheriff’s Agreements* (Ref: Exhibit 2010-003E3) and PIQ-81-13, *Eligibility for FFP – Inclusion of Deputy Sheriff in the Unit Cost Rate Computation in South Carolina* (Ref: Exhibit 2010-003E4).

Regardless of whether OCSE approval is needed, all Cooperative Reimbursement Program (CRP) subcontracts require prior written approval from OCS staff and must meet other requirements as outlined in the CRP. FOC staff can subcontract with the sheriff for full-time or part-time services. In both instances, FOC staff must submit a copy of the agreement with the CRP application. In a part-time agreement, the officer must provide the court with a time sheet (per pay period) that shows the hours spent on IV-D activity and the hours spent on sheriff department activity. If the bench warrant officer reports to the FOC (is directly supervised by FOC staff), then no subagreement is necessary.

BWEFs must not be used for:

- Arraignment costs;
- Incarceration costs;
- Police uniforms, vehicles, personal protection equipment, or training;
- Bonding and processing fees; and
- Non-IV-D activities.

Also, no more than 10 percent of BWEFs may be used for administrative costs.

⁵ Ref: [federal Office of Child Support Enforcement \(OCSE\)-AT-79-3, Availability of Federal Financial Participation \(FFP\) for Making Arrests Pursuant to Appropriate State Process](#), and [OCSE-AT-87-9, Child Support Enforcement Program; Prohibition of Federal Funding of Costs of Incarceration and Counsel for Indigent Absent Parents](#).

State and local governments are statutorily required to pay for these types of law enforcement costs. FOC staff must address all questions related to how funds may be spent and send their responses to their assigned OCS CRP Contract Manager.

3.2 Program Income and Program Expenditures

The funds the FOC office receives from the BWEF must be reported through the CRP as program income. The total funds received from the BWEF cannot be used as the 34 percent match and therefore cannot be used to receive additional federal funds. The fact that the funds are program income does not reduce any other billable expense under the CRP contract. When the expenses for BWEF initiatives exactly equal the BWEF program income, the net effect on the CRP billing will be \$0.

3.3 Repayment of Funds Not Used for Arrest Activity

To make program expenditures exactly equal program income, FOC staff must use the funds for BWEF activities as described in Subsection 3 of this IV-D Memorandum. **FOC staff must repay or return BWEFs to OCS when:**

- BWEFs are not spent as described in Subsection 3; or
- Funds, determined by audit, have been spent for purposes other than appropriate BWEF activities.

3.3.1 To repay or return BWEFs to OCS, FOC staff will:

A. Write the amount of the unused BWEF or BWEF money spent on non-BWEF activities on the "Unspent BWEF or BWEFs spent on non-BWEF activities:" line of the *Child Support Bench Warrant Enforcement Fund Data Collection – Schedule A* ("Schedule A").

B. Send Schedule A to their CRP Contract Manager at:

Michigan Department of Human Services
Office of Child Support
Grand Tower Suite 1215
P.O. Box 30478
Lansing, MI 48909

C. Send the payment to DHS at:

Michigan Department of Human Services
Cashier's Office
Grand Tower Suite 1100

P.O. Box 30037
Lansing, MI 48909

3.3.2 The following information must be written on the payment check stub:

Index: 50300
PCA: 83108
AOC: 2588
Appn: 83100
PGM: 7504

3.3.3 Any funds returned will be used to cover OCS administrative expenses related to the BWEF.

4. Reporting Requirements

4.1 Legislative Reporting

FOC staff are required to report to their OCS CRP Contract Manager the following information:

- A description of what additional enforcement was implemented with the BWEF money;
- The number of unserved pending warrants as of the start date of the MOU; and
- The number of bench warrants served by personnel funded by the agreement during the fiscal year.

OCS will use this information to provide an annual report summarizing BWEF activities for fiscal year 2010 to the Michigan Legislature by November 30, 2010. The MOU reporting requirements in this IV-D Memorandum will remain in effect until a final Schedule A is received by November 30, 2010. The final Schedule A will report on all BWEFs received from OCS in fiscal year 2010.

4.2 Accounting

FOC staff will report all BWEFs received from DHS as program income and all BWEF expenditures on the MOU's Schedule A and the DHS-286.

For the DHS-286, in the month the BWEFs are received, FOC staff will multiply the amount received by the IV-D full-time employee (FTE) percentage and put the result in column II and put the remainder in column III.

Example 3:

County A received \$2,000 in BWEF monies in January 2010, and the FTE percentage was 90 percent. The monies would be reported on the January 2010 DHS-286 as follows (Note: **No** BWEF monies should be allocated to the parenting time and custody column):

	Column II	Column III	Column IV	Column V
Personnel	\$0	\$0	\$0	\$0
Data Processing	\$0	\$0	\$0	\$0
Other Direct	\$0	\$0	\$0	\$0
Central Services	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0
Service Fees	\$0	\$0	\$0	\$0
Judgment Fees	\$0	\$0	\$0	\$0
Other Income	(\$1,800)	(\$200)	\$0	(\$2,000)
Net	(\$1,800)	(\$200)	\$0	(\$2,000)
State Share	(\$1,188)			
County Share	(\$612)			

Note: Since the above amount (\$2,000) is program income, it would reduce the amount of CRP reimbursement received from OCS by \$1,188 (66 percent of \$1,800).

When expenditures are made using the BWEF, they should be treated as part of the regular CRP expense that appears in column II and column III. No special computations are necessary on the DHS-286. The expenses are reported as CRP expenses as if they had no connection to the BWEF.

Continuation of Example 3:

County A then spent \$2,000 of BWEFs in Other Direct (or Personnel) in February 2010, and the IV-D percentage of total FTEs was 90 percent. The DHS-286 would look as follows:

	Column II	Column III	Column IV	Column V
Personnel	\$0	\$0	\$0	\$0
Data Processing	\$0	\$0	\$0	\$0
Other Direct	\$1,800	\$200	\$0	\$2,000
Central Services	\$0	\$0	\$0	\$0
Total	\$1,800	\$200	\$0	\$2,000
Service Fees	\$0	\$0	\$0	\$0
Judgment Fees	\$0	\$0	\$0	\$0
Other Income	\$1,800	\$200	\$0	\$2,000
Net	\$1,800	\$200	\$0	\$0
State Share	\$1,188			
County Share	\$612			

As shown above over the two-month period, the reimbursement reduction from December was exactly offset by the February expense paid with BWEFs. The net effect is \$0 over the two-month period.

In most cases, the BWEF monies will be received in one month, but the expenditures will be paid in another month (or a number of months). In these circumstances, the income will reduce the state share the county will receive in the month received, but that will be offset in a subsequent month(s) when the expenditures are paid.

The net effect over time will be \$0 or very close to \$0. The net effect may **not** be \$0 **if** the IV-D FTE percentage for the month the money is received is slightly different than for the month when the expenditures are paid.

This timing difference could result in a small benefit to the county, or it may result in a small detriment. However, the amounts would be insignificant in either situation because the IV-D FTE percentage is usually relatively consistent and the BWEF monies themselves are not significant.

5. MOU

The MOU will automatically end at the submission of the final Schedule A report.

NECESSARY ACTION:

This IV-D Memorandum replaces AT 2009-016, **REVISED:** *Child Support Bench Warrant Enforcement Fund (BWEF) and Memorandum of Understanding (MOU)*. Retain this IV-D Memorandum until further notice.

REVIEW PARTICIPANTS:

PLG

CONTACT PERSONS:

Duane Noworyta
OCS Financial Management
noworytad@michigan.gov
(517) 241-7728

For questions regarding the amounts sent to Treasury by the circuit court:

Rebecca Mack
Financial Analyst
Supreme Court Finance Office
mackb@courts.mi.gov
(517) 373-2342

CC:

All Prosecuting Attorney staff
Rebecca Mack, Supreme Court Finance Office

SUPPORTING REFERENCES:

Federal
45 Code of Federal Regulations (CFR) 304.21
45 CFR 304.20(b)(3)(iv)

OCSE-AT-79-3, *Availability of Federal Financial Participation (FFP) for Making Arrests Pursuant to Appropriate State Process*
OCSE-AT-87-9, *Child Support Enforcement Program; Prohibition of Federal Funding of Costs of Incarceration and Counsel for Indigent Absent Parents*

PIQ-81-02, *Fee for Service in Sheriff's Agreements*
PIQ-81-13, *Eligibility for FFP – Inclusion of Deputy Sheriff in the Unit Cost Rate Computation in South Carolina*

State
MCL 400.236a
MCL 600.2529

IV-D Memorandum 2010-002, **REVISED**: *Final Judgment or Order Fees as Program Income on CRP Billing Statements*

ATTACHMENTS:

- 2010-003E1: *Child Support Bench Warrant Enforcement Fund Data Collection – Schedule A*
- 2010-003E2: *Examples of How the Bench Warrant Enforcement Fund (BWEF) May and May Not Be Used*
- 2010-003E3: *PIQ-81-02, Fee for Service in Sheriff's Agreements*
- 2010-003E4: *PIQ-81-13, Eligibility for FFP – Inclusion of Deputy Sheriff in the Unit Cost Rate Computation in South Carolina*

MFS/DN