

ENFORCING A SUPPORT ORDER

Redirecting Support Payments

CS 503.4

SUPERSEDES

CS 500.4 Redirecting Support Payments, May 5, 1998

REFERENCES

MCA 40-5-205, 40-5-412, and 40-5-909(2) through (5); OCSE Policy Interpretation Question 01-01, February 2, 2001

Policy

The purpose of a request to redirect support payments is to ensure that the CSED has a complete and accurate record of all support paid by an obligor, by requiring support to be paid through the CSED. When appropriate conditions apply a request to redirect support payments to the CSED may be sent to the obligor, the Montana Clerk of Court, or both.

A request to a Montana Clerk of Court is appropriate when the existing support order directs the obligor to pay support through the Montana Clerk of Court's office. The CSED must "release" (withdraw) this request when the case is closed.

A request to an obligor is appropriate when either the existing support order was issued in Montana, or names the obligee as the payee, or does not name a specific payee (person or entity). If neither condition applies, the CSED cannot order the obligor to redirect support payments; instead, the obligor must continue to send payments to the payee named in the order.

The request to the obligor is included in the version of the case opening letter that went into effect February 2002; case opening letters prior to that time included the request only in cases where the obligor was living in Montana.

Procedures for Caseworker

1. For all cases in which the CSED is enforcing a support obligation or payment of a support debt, determines whether a request to redirect payments is appropriate (see POLICY).
 - a. In cases where a request to a Montana Clerk of Court is appropriate, completes CS-503.4B Notice of Statutory Interest and mails the notice to the Clerk of Court, retains a copy in the case record. Proceeds to step 3.
 - b. [Cases opened before February 2002 only] In cases where a request to the obligor is appropriate, and the request was not contained in the case opening letter, completes CS-503.4A Notification to Obligor and mails the form to the obligor by regular mail, retains a copy in the case record.

NOTE:

In cases where the support order was issued by a Montana district court, and the pre-February 2002 case opening letter to the obligor did not contain a request to redirect payments to the CSED, actions in both 1a and 1b may apply.

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2. Monitors for payment. Enforces the support obligation through appropriate means, including income withholding as applicable (see sections at CS 510). In cases where the obligor has not been ordered to send payments to the CSED, and a notification in step 1b is not appropriate, sends an interstate referral to the state that issued the support order, requesting enforcement.

EXAMPLE:

The case is opened upon application or public assistance referral. Both the obligor and the obligee live in Montana; the obligor's Montana employer is known. The existing support order was issued by the state of Washington, and orders the obligor to make support payments to a Washington court. The CSED sends an interstate referral to Washington. Washington initiates direct income withholding with the Montana employer, and sends payments received from the employer to the CSED.

If the issuing state is unwilling to take enforcement action (because, for example, neither of the participants resides in the state or has applied to the state for services), consults the regional legal staff concerning the best course of action. Depending on the facts of the case, options may include (1) suggesting to the obligee (or obligor) that he or she apply directly to the state that issued the order, (2) proceeding with CSED income withholding after documenting the other state's response, or (3) other remedies that may be appropriate in the case.

NOTE:

Modification Not Available to Change Payee. The need to change the payee named in a support order is not, in and of itself, a "significant change of circumstances" for purposes of a modification action. However, if the order is eligible for review and modification under criteria described in section CS 408.3, the modified order will redirect all support payments to the CSED.

3. In cases where a Notice of Statutory Interest was sent in step 1a, immediately upon case closure completes and mails to the Clerk of Court CS-219 Notice of Release of Statutory Interest. If applicable, selects the option for payment to the CSED of assigned arrears.