

CHAPTER 99
SUPPORT ESTABLISHMENT AND ADJUSTMENT SERVICES

PREAMBLE

This chapter contains rules governing the provision of services by the child support recovery unit regarding: the establishment of paternity; the establishment of support obligations in accordance with the mandatory guidelines set by the Iowa Supreme Court; the review and adjustment of support obligations; the modification of support obligations; and the suspension and reinstatement of support obligations. The rules in this chapter pertain only to administrative actions or procedures used by the unit in providing the services identified. This chapter shall not be interpreted to limit the unit's authority to use other means as provided for by state or federal statute, including, but not limited to, judicial procedures in providing these services.

DIVISION I
CHILD SUPPORT GUIDELINES

441—99.1(234,252B,252H) Income considered. The child support recovery unit shall consider all regularly recurring income of both legal parents to determine the amount of the support award in accordance with the child support guidelines prescribed by the supreme court. These rules on child support guidelines shall not apply if the child support recovery unit is determining the support amount by a cost-of-living alteration as provided in 1997 Iowa Acts, House File 612, sections 106 through 109.

99.1(1) Exempt income. The following income of the parent is exempt in the establishment or modification of support:

- a. Income received by the parent under the family investment program (FIP).
- b. Income or other benefits derived from public assistance programs funded by a federal, state, or local governmental agency or entity that are exempt from consideration in determining eligibility under FIP.
- c. Income such as child support, social security dependent's benefits, and Veterans Administration dependent's benefits received by a parent on behalf of a child.
- d. Stepparent's income.
- e. Income of a guardian who is not the child's parent.
- f. Income of the child's siblings.

99.1(2) Determining income. Any of the following may be used in determining a parent's income for establishing or modifying a support obligation:

- a. Income reported by the parent in a financial statement.
- b. Income established by any of the following:
 - (1) Income verified by an employer or other source of income.
 - (2) Income reported to the department of employment services.
 - (3) For a public assistance recipient, income reported to the department of human services case-worker assigned to the public assistance case.
 - (4) Other written documentation that identifies income.
- c. The estimated state median income for a one-person family as published annually in the Federal Register for use by the Federal Office of Community Services, Office of Energy Assistance, for the subsequent federal fiscal year.

99.1(3) Verification of income. Verification of income and allowable deductions from each parent shall be requested.

a. Verification of income may include, but is not limited to, the following:

- (1) Federal and state income tax returns.
- (2) W-2 statements.
- (3) Pay stubs.
- (4) Signed statements from an employer or other source of income.
- (5) Self-employment bookkeeping records.
- (6) Award letters confirming entitlement to benefits under a program administered by a government or private agency such as social security, veterans' or unemployment benefits, military or civil service retirement or pension plans, or workers' compensation.

b. Cases in which the information or verification provided by a parent is questionable or inconsistent with other circumstances of the case may be investigated. If the investigation does not reveal any inconsistencies, the financial statement and other documentation provided by the parent shall be used to establish income.

c. If discrepancies exist in the financial statement provided by the parent and additional income information is not available, the child support recovery unit may:

- (1) Request a hearing before the court if attempting to establish a support order through administrative process.
- (2) Conduct discovery if a parent places the matter before the court by answering a petition or requesting a hearing before the court.
- (3) When attempting to establish a default order, provide the court with a copy of the parent's financial information and the reasons the information may be questionable.

d. If the child support recovery unit is unable to obtain verification of a parent's income, the financial statement provided by the parent may be used to establish support.

99.1(4) Use of estimated state's median income. The estimated state median income for a one-person household shall be used to determine a parent's income when the parent has failed to return a completed financial statement when requested, and when complete and accurate income information from other readily available sources could not be secured. The estimated annual state median income for the state where the parent resides shall be used in estimating the parent's income.

99.1(5) Self-employment income. A self-employed parent's adjusted gross income, rather than the net taxable income, shall be used in determining net income. The adjusted gross income shall be computed by deducting business expenses involving actual cash expenditures that affect the actual dollar income of the parent.

a. A person is self-employed when the person:

- (1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.
- (2) Establishes the person's own working hours, territory, and methods of work.
- (3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service (IRS).

b. In calculating net income from self-employment, the child support recovery unit shall deduct only those items allowed by the child support guidelines. Amounts from a prior period claimed as net losses shall not be allowed as deductions.

c. Net profits from self-employment may be determined through a review of self-employment bookkeeping records, sales and expenditure records, quarterly reports filed with the IRS, previous year's federal or state income tax returns, or other documentation. The parent shall provide records of bookkeeping, sales, and expenditures for the most recent 12-month period or, if the self-employment is less than 12 months old, for the period since the self-employment began.

99.1(6) *Fluctuating income.* A person has a fluctuating income when the calculated gross income or the adjusted gross income, as defined in subrule 99.1(5), for the current year varies from the gross or adjusted gross income of the previous year by more than 20 percent.

a. If requested, the child support recovery unit shall average the income of a person whose income fluctuated because the nature of the person's occupation is of a type that normally experiences fluctuations in income.

b. In determining a person's average income, the following procedures shall be used:

(1) For non-self-employed persons, the child support recovery unit shall estimate the gross income for the current year and add the amount to the gross income from relevant years that would accurately depict fluctuations in the person's income. The unit shall divide this sum by the number of years added, prior and current, to arrive at an average gross annual income. The unit shall divide the average gross annual income by 12 to arrive at the person's average gross monthly income.

(2) For income from self-employment, the child support recovery unit shall compute the adjusted gross annual income as defined in subrule 99.1(5), for the relevant years that would accurately depict fluctuations in the person's income. The unit shall use the adjusted gross annual income to compute the average adjusted gross monthly income in the same manner as the computation of average gross monthly income in 99.2(6) "b"(1).

441—99.2(234,252B) Allowable deductions. The deductions specified in the supreme court child support guidelines shall be allowed when determining the amount of income subject to application of the guidelines. The parent claiming the deduction shall provide the documentation necessary for computing allowable deductions. Allowable deductions are:

99.2(1) Federal and state income tax.

a. The amount of the deduction for federal and state income taxes may be the amount reported on the parent's financial statement or the amount verified through check stubs or other means. If the amount provided by the parent appears to be inaccurate, the child support recovery unit may calculate the appropriate allowable amount.

b. The amount of the federal and state income tax deduction for self-employed persons with fluctuating incomes, as defined in subrule 99.1(6), shall be computed by applying the person's averaged income to the federal and state tax tables based on the filing status and dependent exemptions previously identified on previously submitted tax forms.

99.2(2) Social security, mandatory pensions, and union dues.

99.2(3) Health insurance premiums deducted from wages or paid pursuant to a court or administrative order, provided the health insurance coverage includes the dependents for whom support is being sought. All dependent health insurance costs shall be verified before being allowed as a deduction. Any expected health insurance expenses shall be allowed as a deduction if the parent provides verification of this anticipated expense.

99.2(4) Actual payments of child and spousal support pursuant to a prior court or administrative order. The date of the original court or administrative order, rather than the date of any modifications, shall establish a prior order under this subrule. Support paid under an order established subsequent to the order being modified shall not be deducted. All support payments shall be verified before being allowed as a deduction. The child support recovery unit shall calculate deductions for support as follows:

a. In establishing prior support payments, the child support recovery unit shall verify payments made for the 12 months preceding the month in which the amount of support for the new order is determined. If the support obligation is less than one year old, the child support recovery unit shall verify each monthly payment since the beginning of the obligation.

b. If the obligation is one year old or older, the child support recovery unit shall add together all verified amounts paid during the past 12 months up to the total of the current support obligation that accrued during this 12-month period, and divide by 12. All amounts collected shall be included, regardless of the source.

c. If the support obligation is less than one year old, the child support recovery unit shall add together the verified amounts paid since the obligation began up to the total of the current support obligation that accrued during this period, and divide by the number of months that the obligation has existed.

d. When a parent has more than one prior support order, the child support recovery unit shall calculate the allowable deduction for each obligation separately, and then add the amounts together to determine the parent's total allowable deduction.

99.2(5) Actual payments of medical support pursuant to a court or administrative order. All medical support payments shall be verified before being allowed as a deduction and shall be calculated in the same manner as the deductions for support in subrule 99.2(4).

99.2(6) Unreimbursed individual health or hospitalization coverage or medical expense deductions, not to exceed \$25 per month.

99.2(7) Actual child care expenses during the custodial parent's employment, less the applicable federal income tax credit. The child support recovery unit shall determine the amount of the child care deduction as follows:

a. Actual child care expenses related to the custodial parent's employment shall be verified by a copy of the custodial parent's federal or state income tax return or by a signed statement from the person or agency providing the child care.

b. Only the amount of reported child care expenses in excess of the amount allowed as "credit for child and dependent care expenses" for federal income tax purposes shall be allowed as a deduction in determining the custodial parent's net income.

c. In determining the deduction allowed to the custodial parent for child care expenses due to employment, the following procedures shall be used:

(1) If the custodial parent provides a copy of a federal income tax return for the current tax processing year and the amount is consistent with the current financial circumstances of the parent, the child support recovery unit shall use the amount reported as "credit for child and dependent care expenses."

(2) If income tax information is not available, or if the parent indicates or there is reason to believe that the amount stated in the return is no longer representative of the parent's financial conditions or child care expenses, the child support recovery unit shall determine the allowable deduction for child care expenses for federal income tax purposes using the custodial parent's income only.

d. The child support recovery unit shall compute the child care deduction as follows:

- (1) Divide the amount of child care expense the parent may claim as a deduction for federal income tax purposes by 12 to arrive at a monthly amount.
- (2) If the child care expense reported on the financial statement is not a monthly amount, convert the reported amount to an equivalent monthly figure and round the figure to two decimal places.
- (3) Subtract the amount the parent may claim as “credit for child and dependent care expenses” for federal income tax from the amount of child care expenses reported on the financial statement. The difference, rounded to the nearest dollar, is the amount allowed for a deduction in determining income for child support.

99.2(8) Qualified additional dependent deduction (QADD). The qualified additional dependent deduction is the amount specified in the supreme court guidelines as a deduction for any child for whom parental responsibility has been legally established as defined by the child support guidelines. However, this deduction may not be used for a child for whom the parent may be eligible to take a deduction under subrule 99.2(4).

a. The deduction for qualified additional dependents may be used:

- (1) For dependents of the custodial or noncustodial father or mother, whether in or out of the parent’s home. The father may establish the deduction by providing written verification of a legal obligation to the children through one of the actions enumerated in the guidelines. The mother may establish the deduction by providing written verification of a legal obligation to the children, including the mother’s statement.
- (2) In the establishment of original orders.
- (3) In the modification of existing orders. The deduction may be used to limit the amount of an upward modification. The adjustment based upon the qualified additional dependent deduction cannot be used to affect a downward modification, but may be used after the threshold determination for modification has been met.

b. Reserved.

441—99.3(234,252B) Determining net income.

99.3(1) *Calculating net income.* All includable income and allowable deductions shall be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly shall be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2. All converted figures shall be rounded to the nearest dollar.

99.3(2) *Estimating net income.*

a. The estimated net income of a parent shall be 80 percent of the reported or estimated state’s median income, as appropriate, minus the deductions enumerated in subrules 99.2(3) to 99.2(8) when the information to calculate these deductions is readily available through automated or other sources.

b. The net income of a parent shall be estimated under the following conditions:

- (1) Gross earned income information was obtained from a source that did not provide itemized deductions allowed by the mandatory support guidelines.
- (2) Estimated state median income has been used to determine a parent’s income.

441—99.4(234,252B) Applying the guidelines.

99.4(1) *Selecting guidelines chart.* The child support recovery unit shall use the guidelines chart only for the number of children for whom support is being sought sharing the same two legal parents.

EXCEPTION: For foster care recovery cases the guidelines chart shall be used as set forth in subparagraph 99.5(4) “c”(2).

99.4(2) *Establishing current support.* The child support recovery unit shall calculate the amount of support required under the mandatory support guidelines as follows:

- a. Determine the net monthly income of the custodial parent.
- b. Determine the net monthly income of the noncustodial parent.
- c. Use the chart for the appropriate number of children and the respective incomes of the parents to determine the appropriate percentage to apply.
- d. Multiply the noncustodial parent's net monthly income by the percentage determined appropriate. Round this amount to the nearest whole dollar.

(1) In all cases other than foster care, CSRU shall establish current support payable in monthly frequencies.

(2) In foster care cases, CSRU may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, CSRU shall divide the figure in paragraph "d" by 4.33 and round to the nearest whole dollar.

99.4(3) *Establishing accrued support debt amount.*

a. Support debt created. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates an accrued support debt due and owing by the child's parent to the department. The amount of the accrued support debt is based on the period of time public assistance payment or foster care funds were expended, but is not created for the period of receipt of public assistance on the parent's own behalf for the benefit of the dependent child or the child's caretaker.

b. Calculating accrued support debt. CSRU shall calculate the accrued support debt as follows:

(1) For Family Investment Program (FIP) benefits, CSRU shall use the period for which FIP was paid during the 36 months preceding the date the notice of support debt is prepared or the date the petition is filed. For foster care assistance, CSRU shall use the three-month period for which foster care assistance was paid prior to the date the initial notice to the noncustodial parent of the amount of support obligation is prepared, or the date a written request for a court hearing is received, whichever is earlier.

(2) CSRU shall exclude periods the noncustodial parent received public assistance as a part of this eligible group.

(3) CSRU may extend the period to include any additional periods public assistance is expended prior to the entry of the order.

(4) CSRU shall calculate the amount of the obligation by using the current net income of both parents, the guidelines in effect at the time the order is entered, and the number of children of the noncustodial parent who were receiving public assistance for each month for which accrued support is sought.

(5) CSRU shall calculate the total amount of the FIP support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount.

(6) CSRU may calculate the total amount of the foster care support debt by multiplying the number of months for which assistance was paid times the determined guidelines amount and shall adjust this amount for weeks in which no foster care benefits were paid.

c. Establishing the accrued support repayment amount.

(1) In cases other than foster care, CSRU shall establish the repayment amount as follows:

1. When there is an ongoing obligation, the monthly repayment amount shall be 10 percent of the ongoing amount unless the noncustodial parent agrees to a higher amount.

2. When the order does not include ongoing support, the monthly repayment amount shall be the same as the amount for ongoing support which would have been due if such an obligation had been established. However, when all of the children for whom accrued support debt is sought are residing with the noncustodial parent, the monthly repayment amount shall be set at 10 percent of this amount.

(2) In foster care cases, CSRU shall establish the repayment amount in the same manner as subparagraph (1), but may establish weekly amounts and if the order does not include ongoing support, the repayment amount shall be set at 10 percent of the amount for ongoing support which would have been due if such an obligation had been established.

99.4(4) *Children in nonparental homes or foster care.* The parents of a child in a nonparental home or in foster care are severally liable for the support of the child. A support obligation shall be established separately for each parent.

a. Parents' location known. When the location is known for both parents having a legal obligation to provide support for their children, the income of both parents shall be used to determine the amount of ongoing support in accordance with the child support guidelines.

(1) Calculating support amount. There shall be a separate calculation of each parent's child support amount, regardless of whether the parents are married and living together, or living separately. Each calculation shall assume that the parent for whom support is being calculated is the noncustodial parent and the other parent is the custodial parent.

(2) Prior orders. If only one parent is paying support under a prior order for the children for whom support is being calculated, the amount of support paid shall not be deducted from that parent's net monthly income in computing the support amount for the other parent.

b. One parent's location unknown. When the location of one parent is not known, procedures shall be initiated to establish a support order against the parent whose location is known in accordance with the mandatory support guidelines as follows:

(1) The parent whose location is known shall be considered the noncustodial parent and that parent's income shall be used to calculate child support.

(2) The income of the parent whose location is unknown shall be determined by using the estimated state median income for a one-person family and that parent shall be considered the custodial parent in calculating child support.

c. When one parent is deceased or has had parental rights terminated, the method used to calculate support when one parent's location is not known shall be used. The parent who is deceased or has had parental rights terminated shall be considered the custodial parent with zero income.

441—99.5(234,252B) Deviation from guidelines.

99.5(1) *Criteria for deviation.* Variation from the child support guidelines shall not be considered without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate under the following criteria:

a. Substantial injustice would result to the obligor, the obligee, or the child.

b. Adjustments are necessary to provide for the needs of the child and to do justice between the parties under the special circumstances of the case.

c. In certain foster care cases, adjustments are necessary due to expenses related to the goals and objectives of the case permanency plan or other circumstances contemplated in Iowa Code section 234.39.

99.5(2) Supporting financial and legal documentation.

a. The party requesting a deviation from the guidelines shall provide supporting documentation. The supporting documentation shall include an itemized list identifying the amount and nature of each adjustment requested. Failure to provide supporting documentation for a request for deviation shall result in a denial of the request.

b. Legal documents prepared for the court's approval, such as stipulations and orders for support, shall include language to identify the following:

- (1) The amount of support calculated under the guidelines without allowance for deviations.
- (2) The reasons for deviating from the guidelines.
- (3) The amount of support calculated after allowing for the deviation.

99.5(3) Depreciation. A parent may request a deduction for depreciation of machinery, equipment, or other property used to earn income. Straight-line depreciation shall be the only type of depreciation that shall be allowed as a deduction. The child support recovery unit shall allow the straight-line depreciation amount as a deduction if the parent provides documentation from a tax preparer verifying the amount of straight-line depreciation being claimed. Straight-line depreciation is computed by deducting the property's estimated salvage value from the cost of the property, and deducting that figure in equal yearly amounts over the period of the property's remaining estimated useful life.

99.5(4) Foster care case. In a foster care case, the child support recovery unit may deviate from the guidelines as follows.

a. CSRU may deduct expenses under the case permanency plan, including the following costs associated with family counseling or visitation:

- (1) Cost for use of a private vehicle at the state rate or the actual cost of public transportation.
- (2) Cost for lodging and meals according to the state daily allowances.
- (3) Child care for the children left at home.
- (4) The cost of telephone calls with the child made according to the visit plan.

b. CSRU may deduct the following expenses based on financial hardship:

- (1) Medical expenses in excess of 3 percent of the net monthly income not covered by health insurance or not previously deducted under subrule 99.2(5).
- (2) Shelter costs in excess of 30 percent of the net monthly income. Shelter costs include the rent or payments on the first mortgage on the primary residence only.
- (3) Utility costs, not including the cost of a telephone or cable television, in excess of 15 percent of net monthly income.
- (4) The parent's court-ordered day care cost for a child living outside the parent's home and not in foster care.

c. CSRU shall calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows:

(1) The support obligation of each parent shall be calculated by allowing all deductions the parent is eligible for under the child support guidelines and by using the guidelines chart corresponding to the number of children in foster care for whom support is sought.

(2) The support obligation of each parent shall be recalculated by using the guidelines chart corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. All deductions shall be allowed as in subparagraph (1), except that the qualified additional dependent deduction (QADD) shall be limited to dependents not residing in the home for whom the parent has a legal obligation. The calculated support amount shall be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

(3) The support obligation for children in foster care shall be deviated to the lower of the amounts calculated in subparagraphs (1) and (2).

99.5(5) *Negotiation of accrued support debt.* The child support recovery unit may negotiate with a parent to establish the amount of accrued support debt owed to the department. In negotiating accrued support, the state does not represent the custodial parent. The custodial parent may intervene at any time prior to the filing of the order to contest the amount of the debt or request the entry of a judgment in the parent's behalf which may otherwise be relinquished through negotiation or entry of a judgment.

These rules are intended to implement Iowa Code sections 234.39, 252B.3, 252B.5, 252B.7A, and 598.21(4).

441—99.6 to 99.9 Reserved.

DIVISION II
PATERNITY ESTABLISHMENT

Part A
Judicial Paternity Establishment

441—99.10(252A) Temporary support. If a court ordered a putative father to pay temporary support before entering an order making a final determination of paternity under 1997 Iowa Acts, House File 612, section 5, but then the court determines the putative father is not the legal father and the court enters an order terminating the temporary support, all the following apply.

99.10(1) *Satisfaction of accrued support.* Upon receipt of a file-stamped copy of the order terminating the support order, the child support recovery unit shall take the following action concerning unpaid support assigned to the department:

- a.* The child support recovery unit shall satisfy only unpaid support assigned to the department.
- b.* The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver or notice, the child support recovery unit is not prevented from satisfying amounts due the department.
- c.* The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court.

99.10(2) *Previously collected moneys.* The child support recovery unit shall not return any moneys previously paid on the temporary support judgment.

This rule is intended to implement 1997 Iowa Acts, House File 612, section 5.

441—99.11 to 99.20 Reserved.

Part B
Administrative Paternity Establishment

441—99.21(252F) When paternity may be established administratively. The child support recovery unit may seek to administratively establish paternity and accrued or accruing child support and medical support obligations against an alleged father when the conditions specified in Iowa Code chapter 252F are met.

441—99.22(252F) Mother's certified statement. Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed Paternity Questionnaire, Form 470-0172, or a similar document from the child's caretaker. The unit shall obtain the Mother's Written Statement Alleging Paternity, Form 470-3293, from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. A similar document which substantially meets the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293 or similar document, the mother acknowledges that the unit may initiate a paternity action against the alleged father, and she agrees to accept service of all notices and other documents related to that action by first-class mail. The mother shall sign and return Form 470-3293 or a similar document to the unit within ten days of the date of the unit's request.

441—99.23(252F) Notice of alleged paternity and support debt. Following receipt of the Mother's Written Statement Alleging Paternity, Form 470-3293, or a similar document which substantially meets the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

441—99.24(252F) Conference to discuss paternity and support issues. The alleged father may request a conference as provided in Iowa Code chapter 252F with the office that issued the notice to discuss paternity establishment and the amount of support he may be required to pay.

441—99.25(252F) Amount of support obligation. The unit shall determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

441—99.26(252F) Court hearing. If the alleged father requests a court hearing within the time frames specified in Iowa Code section 252F.3, or as extended by the unit, and paternity testing has not been conducted, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing.

441—99.27(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—99.23(252F), a written statement contesting paternity to the address of the unit as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after the unit mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of the unit as set forth in the notice. When paternity is contested, or at the unit's initiative, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing.

441—99.28(252F) Paternity test results challenge. Either party or the unit may challenge the results of the paternity test by filing a written notice with the district court within 20 calendar days after the unit issues or mails the paternity test results to the parties. When a party challenges the paternity test results, and requests an additional paternity test, the unit shall order an additional blood or genetic test, if the party requesting the additional test pays for the additional testing in advance. If the party challenges the first paternity test results, but does not request additional tests, the unit may order additional blood or genetic tests.

441—99.29(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father shall acknowledge his consent on the Administrative Paternity Order, Form 470-3294. If the mother does not contest paternity within the allowed time period, the unit shall file the Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

441—99.30(252F) Entry of order establishing paternity only. If the alleged father requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, the unit shall prepare an order establishing paternity and reserving the support issues for determination by the court. The unit shall present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

441—99.31(252F) Exception to time limit. The unit may accept and respond to written requests for court hearings beyond the time limits allowed in this part.

441—99.32(252F) Genetic test costs assessed. If genetic testing of an alleged father is conducted and that person is established as the child's father, the unit shall assess the costs of the genetic testing to the father and enter an order for repayment of these costs.

These rules are intended to implement Iowa Code chapter 252F.

441—99.33 to 99.35 Reserved.

Part C
Paternity Disestablishment

441—99.36(598,600B) Definitions.

"Disestablishment" means paternity which is legally overcome under the conditions specified in Iowa Code section 600B.41A as amended by 1997 Iowa Acts, House File 612, sections 212 through 216, or 598.21, subsection 4A, as amended by 1997 Iowa Acts, House File 612, section 189.

"Nonrequesting parent" means a parent who is not filing a petition to overcome paternity.

"Requesting parent" means a parent who files a petition to overcome paternity.

441—99.37(598,600B) Communication between parents. When a parent who has filed a petition to disestablish paternity requests assistance from the child support recovery unit in contacting the other parent, the child support recovery unit shall take the following actions if services are being provided by the child support recovery unit, the location of the nonrequesting party is known, and the child support recovery unit has been provided a copy of the petition to disestablish paternity.

99.37(1) Written contact. The child support recovery unit shall send written notification to the nonrequesting parent of the requesting parent's desire to disestablish paternity and of the requesting parent's whereabouts. The notice shall state that the nonrequesting parent may cooperate in this action by filing a statement of the nonrequesting parent's current address or the name and address of the nonrequesting parent's attorney in the court file, or may contact the requesting parent with this information.

99.37(2) Notification of requesting parent. The child support recovery unit shall provide notification to the requesting party that contact was made with the nonrequesting party and that the nonrequesting parent may file a statement in the court file or may contact the requesting parent directly.

441—99.38(598,600B) Continuation of enforcement. The child support recovery unit shall continue all enforcement actions to collect current and accrued support as ordered until a file-stamped copy of the order overcoming paternity establishment is received by the child support recovery unit.

441—99.39(598,600B) Satisfaction of accrued support.

99.39(1) *Disestablishment orders entered before May 21, 1997.* Upon receipt of a file-stamped copy of an order to disestablish paternity which was entered before May 21, 1997, the child support recovery unit shall take the following action concerning unpaid support assigned to the department.

a. The child support recovery unit shall satisfy only unpaid support assigned to the department and only if:

(1) For actions under Iowa Code section 600B.41A, blood or genetic testing was done and a guardian ad litem was appointed for the child.

(2) For actions under Iowa Code section 598.21, the written statement was filed and a guardian ad litem was appointed for the child.

b. The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, the child support recovery unit is not prevented from satisfying amounts due the department.

c. The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court. If the court later determines that paternity was incorrectly disestablished, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(2) *Disestablishment orders entered on or after May 21, 1997.* Upon receipt of a file-stamped copy of an order disestablishing paternity which was entered on or after May 21, 1997, the child support recovery unit shall take the following action concerning unpaid support:

a. If the order also contains a provision satisfying unpaid support, the unit shall adjust its records to show unpaid support is paid.

b. If the order does not contain a provision satisfying unpaid support, the unit shall satisfy only unpaid support assigned to the department. The unit shall notify the party who petitioned the court for disestablishment that this is the only support the unit can satisfy.

(1) The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver notice, the child support recovery unit is not prevented from satisfying amounts due the department.

(2) The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate court. If the court later determines that paternity was incorrectly disestablished, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(3) *Termination of paternity.* If the court entered an order dismissing a disestablishment of paternity action on or before May 21, 1997, this subrule applies. Upon receipt of a file-stamped copy of an order terminating paternity under the requirements of 1997 Iowa Acts, House File 612, section 216, the child support recovery unit shall take the following action concerning unpaid support assigned to the department:

a. The child support recovery unit shall satisfy only unpaid support assigned to the department.

b. The child support recovery unit shall ask the obligee to sign the satisfaction acknowledging the obligee has no right to support owed the department and waive notice of hearing on a subsequent satisfaction order. If the obligee does not sign the satisfaction and waiver of notice, the child support recovery unit is not prevented from satisfying amounts due the department.

c. The child support recovery unit shall prepare the required documents to satisfy any amounts owed the department and shall file them with the appropriate district court. If the court later determines that paternity was incorrectly terminated, the child support recovery unit may attempt to reinstate and enforce the prior judgment.

99.39(4) *Previously collected moneys.* The child support recovery unit shall not return any moneys previously paid on the judgment.

These rules are intended to implement Iowa Code section 598.21, subsection 4A, as amended by 1997 Iowa Acts, House File 612, section 21, and Iowa Code section 600B.41A as amended by 1997 Iowa Acts, House File 612, sections 214 through 216 and 218.

441—99.40 Reserved.

DIVISION III
ADMINISTRATIVE ESTABLISHMENT OF SUPPORT
[Prior to 9/1/93, see 441—95.11(252C)]

441—99.41(252C) **Establishment of an administrative order.**

99.41(1) *When order may be established.* The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings.

a. to d. Rescinded IAB 11/6/96, effective 1/1/97.

99.41(2) *Support debt.* When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child's caretaker, a support debt is created and owed to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

99.41(3) *Notice to responsible person.* When the bureau chief establishes a support debt against a responsible person, a notice of child support debt shall be served in accordance with the Iowa Rules of Civil Procedure. The notice shall include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice shall also inform the responsible person which of these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice shall include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances shall result in the entry of a default judgment for support.

99.41(4) *Negotiation conference.* The responsible person may, within ten calendar days after being served the notice of child support debt, request a negotiation conference with the office of the child support recovery unit which sent the notice.

99.41(5) *Amount of support obligation.* The child support recovery unit shall determine the amount of the child support obligation accrued and accruing using the child support guidelines established by the Iowa Supreme Court, and pursuant to the provisions of Iowa Code section 252B.7A.

a. Any deviation from the guidelines shall require a written finding by the bureau chief.

b. Reserved.

99.41(6) Reserved.

99.41(7) Court hearing. Either the responsible person or the child support recovery unit may request a court hearing regarding the establishment of a support obligation through the administrative process.

a. The request for a hearing by the responsible person shall be in writing and sent to the office of the child support recovery unit which sent the original notice of the support debt by the latest of the following:

- (1) Thirty days from the date of service of the first notice of support debt.
- (2) Ten days from the date of the negotiation conference.
- (3) Thirty days from the date the second notice and finding of financial responsibility is issued.
- (4) Ten days from the date of issuance of the conference report if the bureau chief does not issue a second notice and finding of financial responsibility after a conference was requested.

b. When a request for a court hearing is received from the responsible person, within the time limits allowed, or is made by the child support recovery unit, the bureau chief shall schedule or request that the hearing be scheduled in the district court in the county:

- (1) Where the dependent child resides if the child resides in Iowa.
- (2) Where the responsible person resides if the child for whom support is sought resides in another state or the sole purpose of the administrative order is to secure a judgment for the time period that public assistance was expended by the state on behalf of the family or child.

99.41(8) Exception to time limit. The bureau chief may accept and respond to written requests for a court hearing beyond the time limits allowed in this rule.

99.41(9) Entry of order. If no request for a hearing is received from the responsible person at the local office of the child support recovery unit, or made by the unit, the bureau chief may prepare an order for support and have it presented ex parte to the court for approval.

a. The attorney for the child support recovery unit shall present the order and other documents supporting the entry of the ex parte order to the court for review and approval. Pursuant to Iowa Code chapter 252C, the court shall approve the order unless defects appear in the order or supporting documents.

b. The bureau chief shall file a copy of the approved order with the clerk of the district court, as stated in 441—paragraph 95.11(7) “*b.*”

c. The bureau chief shall send a copy of the filed order by regular mail, to the caretaker’s last-known address, to the responsible person’s last-known address or the caretaker’s or the responsible person’s attorney pursuant to the provisions of Iowa Code chapter 252C within 14 days after approval and issuance of the order by the court.

99.41(10) Force and effect. Once the order has been signed by the judge and filed, it shall have all the force and effect of an order or decree entered by the court. Unless otherwise specified, the effective date of the support obligation shall be the twentieth day following the date the order is prepared by the unit.

99.41(11) Modification by bureau chief. The bureau chief may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

This rule is intended to implement Iowa Code chapter 252C.

441—99.42 to 99.60 Reserved.

DIVISION IV
REVIEW AND ADJUSTMENT OF CHILD SUPPORT OBLIGATIONS
[Prior to 9/1/93, see 441—98.51(73GA,ch1244) to 98.60(73GA,ch1244)]

441—99.61(252B,252H) Definitions.

“*Best interests of the child*” means that an action can proceed because there has been no finding of good cause for noncooperation with the child support recovery unit pursuant to 441—subrule 41.22(8) or 441—subrule 75.14(1).

“*Parent*” shall mean a responsible person or caretaker as defined in rule 441—95.1(252B).

“*Recipient of service*” means a person receiving foster care services, or a recipient of family investment program assistance or Medicaid benefits whose child support or medical support is assigned, or a person who is not receiving public assistance but who is entitled to child support enforcement services pursuant to Iowa Code section 252B.4.

441—99.62(252B,252H) Review of permanent child support obligations. Permanent child support obligations in effect in the state of Iowa receiving enforcement services by the child support recovery unit for an ongoing support obligation shall be reviewed by the child support recovery unit to determine whether or not to adjust the obligation.

99.62(1) Periodic review. A permanent child support obligation being enforced by the child support recovery unit and meeting the conditions in Iowa Code section 252H.12 may be reviewed upon the initiative of the unit if:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The right to any ongoing medical support obligation is currently assigned to the state and the support order does not already contain medical provisions.

c. A review is otherwise necessary to comply with state or federal law.

99.62(2) Review by request. A review shall be conducted upon the request of the child support recovery agency of another state; or upon the written request of either parent subject to the order submitted on Form 470-2749, Request to Modify a Child Support Order. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the entry date of the support order or most recent modification, or last completed review, whichever is later.

99.62(3) Review initiated.

a. Procedures to adjust the support obligation shall be initiated only when the financial and other information available to the child support recovery unit indicates that the:

(1) Present child support obligation varies from the Iowa Supreme Court mandatory child support guidelines by more than 20 percent, or the net monthly income of the parent ordered to pay support does not fall within the income limits of the guidelines, and

(2) Variation is due to a change in financial circumstances which has lasted at least three months and can reasonably be expected to last for an additional three months.

b. Procedures to modify a support order may be initiated when the order does not include provisions for health insurance coverage or other medical support, and health insurance coverage for the children affected by the support order is available at a reasonable cost to the parent required to pay support, and the children are not otherwise adequately covered under a health benefit plan by the custodial parent, excluding coverage under Medicaid. For the purpose of this rule, health insurance is considered reasonable in cost if it is employment-related or other group health insurance as specified in Iowa Code paragraph 598.21(4)“*a.*”

441—99.63(252B,252H) Notice requirements. The child support recovery unit shall provide written notification to each parent affected by a permanent child support obligation being enforced by the child support recovery unit as follows:

99.63(1) *Notice of right to request review.* The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification shall be provided on Form 470-0188, Application For Nonassistance Support Services, Form CS-1113, Notice of Continued Support Services, or Form 470-3078, Availability of Review and Adjustment Services.

99.63(2) *Notice of pending review.* The child support recovery unit shall send notice of the pending review and a request for a completed financial affidavit and verification of income to each parent affected by the child support obligation at the parent’s last known mailing address at least 30 days before the review is conducted.

99.63(3) *Outcome of review.* After the child support recovery unit completes the review of the child support obligation in accordance with rule 441— 99.62(252B,252H), the child support recovery unit shall send notice to the last known address of each parent stating whether or not an adjustment is appropriate and, if so, of the unit’s intent to:

- a.* File a petition for review and adjustment of the child support obligation in the district court, or
- b.* Enter an administrative order for adjustment.

99.63(4) *Challenges to outcome of review.* Each parent shall be allowed 30 days to submit a written challenge to this determination to the child support recovery unit. The procedure for challenging the determination is as follows:

a. The parent challenging the determination shall submit the challenge in writing to the child support recovery unit stating the reasons for the challenge and providing written evidence necessary to support the challenge.

b. The child support recovery unit shall review the written evidence submitted with the challenge and all financial information available to the child support recovery unit and make a determination of one of the following:

- (1) To file a petition for review and adjustment of the child support obligation.
- (2) To enter an administrative order for adjustment of the obligation.
- (3) That adjustment of the child support obligation is inappropriate.

c. Written notice of the determination shall be sent to each parent affected by the child support obligation at the parent’s last known mailing address.

d. If either parent disputes this decision, the objecting parent shall have the following recourse:

(1) For cases under administrative review and adjustment pursuant to Iowa Code chapter 252H, if the review resulted in a determination that an adjustment was appropriate, either parent or the unit may request a court hearing within 30 days from the date of issuance of the notice of decision, or within 10 days of the date of issuance of the second notice of decision, whichever is later. If a timely written request is received by the unit, the matter shall be certified, by the unit, to the district court.

(2) In the judicial process, if the review resulted in a determination that an adjustment was appropriate and either parent disputes this decision, that parent must file an answer in the district court.

(3) In both the judicial and administrative processes, if the review resulted in a determination that an adjustment was not appropriate, the objecting parent may seek recourse by filing a private petition for modification through the district court or by submitting a request for a court hearing to the child support recovery unit within 30 days of the date of issuance of the first notice of decision or within 10 days of the date of issuance of the second notice of decision, whichever is later. If a timely request is received by the unit, the unit shall certify the matter to the district court.

441—99.64(252B,252H) Financial information. The child support recovery unit shall attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be reviewed necessary to conduct the review.

99.64(1) *Financial affidavits.* Both parents subject to the order to be reviewed shall provide a financial affidavit and verification of income within ten days of a written request by the child support recovery unit. Verification of income shall include, but not be limited to, the following: copies of state and federal income tax returns, W-2 statements, pay stubs, or a signed statement from an employer or other source of income. The child support recovery unit may also request that the parent requesting review provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if possessing sufficient information to do so.

99.64(2) *Independent sources.* The child support recovery unit may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed. These resources include, but are not limited to, the following: the employment services department, division of job service, the Iowa department of revenue and finance, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

In the absence of other verification of income and deductions allowed under the mandatory support guidelines, the child support recovery unit may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent from the gross earned income confirmed by an independent source.

A parent may challenge this estimate by providing verification of actual earned income deductions.

99.64(3) *Availability of medical insurance.* Both parents subject to the order to be reviewed shall provide documentation regarding the availability of health insurance coverage for the children covered under the order, and the cost of the coverage, within ten days of a written request by the child support recovery unit. Verification may include, but not be limited to: a copy of the health benefit plan including the effective date of the plan, a letter from the employer detailing the availability of health insurance, or any other source that will serve to verify health insurance information and the cost of the coverage.

441—99.65(252B,252H) Review and adjustment of a child support obligation.

99.65(1) *Conducting the review.* The child support recovery unit or its attorney shall review the case for administrative adjustment of a child support obligation or file a petition for review on behalf of the state of Iowa unless it is determined that any of the following exist:

- a.* The location of one or both of the parents is unknown.
- b.* The variation from the Iowa Supreme Court mandatory child support guidelines is based on any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

- c. The variation from the Iowa Supreme Court mandatory child support guidelines is due to a voluntary reduction in net monthly income attributable to the actions of the child support obligor.
- d. The criteria of rule 441—99.62(252B,252H) are not met.
- e. The end date of the order is less than 12 months in the future or the youngest child is 17½ years of age.

99.65(2) Civil action. The petition for review and adjustment of a child support obligation shall proceed as an ordinary civil action in equity, and the child support recovery unit attorney shall represent the state of Iowa in those proceedings.

99.65(3) Private counsel. After a petition for review and adjustment of a child support obligation is filed, or the notice of intent to review and adjust has been served, any party may choose to be represented personally by private counsel. Any party who retains private counsel shall notify the child support recovery unit attorney of this fact in writing.

441—99.66(252B,252H) Medical support. The child support recovery unit, or its attorney, shall review the medical support provisions contained in any permanent child support order which is subject to review under rule 441—99.65(252B,252H) and shall include in any adjustment order a provision for an employment-related or other group health benefit plan as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, Division I, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

441—99.67(252B,252H) Confidentiality of financial information. Financial information provided to the child support recovery unit by either parent for the purpose of facilitating the review and adjustment process may be disclosed to the other parties to the case, or to the district court, as follows:

99.67(1) Financial affidavits. Affidavits of financial status may be disclosed to either party.

99.67(2) Other documentation. Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court after the petition for review and adjustment has been filed, or the notice of intent to review and adjust has been served, unless otherwise prohibited by state or federal law.

441—99.68(252B,252H) Payment of service fees and other court costs. Responsibility for payment of fees for administrative review or service of process and other court costs associated with the review and adjustment process is the responsibility of the party requesting review unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified. In a judicial review and adjustment procedure, if the requesting party is indigent or receiving public assistance, deferral of fees and costs may be requested. For the purposes of the division, indigent means that the requesting party's income is 200 percent or less than the poverty level for one person as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

441—99.69(252B,252H) Denying requests. A request for review by a parent subject to the order may be denied for the following reasons:

99.69(1) Rescinded IAB 8/2/95, effective 10/1/95.

99.69(2) It has been less than two years since the support order was entered, last modified, or last reviewed for the purpose of adjustment.

99.69(3) The child support recovery unit is not providing enforcement services for an ongoing support obligation under the order for which the review has been requested.

99.69(4) The request is based entirely on issues such as custody or visitation rights, which are not directly related to child support.

99.69(5) The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

99.69(6) The request is for the review of a temporary support order.

441—99.70(252B,252H) Withdrawing requests. If the requesting party contacts the child support recovery unit to withdraw the request, the child support recovery unit shall proceed as follows:

99.70(1) *Best interests of the child.* If the family entitled to support has assigned its rights to child support or medical support as a condition of receiving public assistance benefits under the family investment program, foster care, or Medicaid program, the child support recovery unit shall proceed with the review and adjustment process if it appears that an adjustment to the support order is appropriate pursuant to rule 441—99.62(252B,252H), and such an adjustment would be in the best interests of the children affected by the order, as defined in rule 441—99.61(252B,252H).

a. and b. Rescinded IAB 8/2/95, effective 10/1/95.

99.70(2) *Consent of both parties.* Except as provided by subrule 99.70(1), the child support recovery unit shall inform the nonrequesting party of the requesting party's desire to withdraw the request. If the nonrequesting party wishes to continue the review, the review will continue with that party thereafter being considered the requestor. If the nonrequestor indicates a desire to stop the process or fails to respond within ten days to the notification of the request to withdraw, the unit shall notify all parties that the review and adjustment process has terminated.

99.70(3) *Effect of withdrawal.* If a request is successfully withdrawn pursuant to subrule 99.70(2), a later request by either party shall be subject to the limitations of subrule 99.62(3).

441—99.71(252H) Effective date of adjustment. Unless subject to court action, the new obligation amount shall be effective on the first date that the periodic payment is due under the order being modified after the entry of the adjustment order.

These rules are intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21(9) and Iowa Code chapter 252H.

441—99.72 to 99.80 Reserved.

DIVISION V
ADMINISTRATIVE MODIFICATION

PREAMBLE

This division implements provisions of 1997 Iowa Acts, House File 612, sections 93 through 109, which provide for administrative modification of support obligations when there is a substantial change in the financial circumstances of a party and when both parties agree to a change in an obligation through a cost-of-living alteration. These rules also provide for use of the administrative procedure to modify orders to add children, correct errors, set support which had previously been reserved or set at zero dollars, and increase support for minor obligors who do not comply with statutory educational or parenting class requirements or who are no longer minors.

441—99.81(252H) Definitions.

“Additional child” means a child who was born to the same parents as covered by a support order after the original court order establishing support provisions was filed.

“Born of a marriage” means a child was born of a woman who was married at the time of conception, birth, or at any time during the period between conception and birth of the child pursuant to Iowa Code chapter 252A as amended by 1997 Iowa Acts, House File 612, section 1, and Iowa Code section 144.13 as amended by 1997 Iowa Acts, House File 612, section 223.

“Cost-of-living alteration” means a change in an existing child support order which equals an amount which is the amount of the support obligation following application of the percentage change of the consumer price index for all urban consumers, United States city average, as published in the Federal Register by the federal Department of Labor, Bureau of Labor Statistics, pursuant to 1997 Iowa Acts, House File 612, section 94.

“Substantial change of circumstances,” for the purposes of this division, means there has been a change of 50 percent or more in the income of a parent and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months, pursuant to 1997 Iowa Acts, House File 612, section 105, subsection 3.

441—99.82(252H) Availability of service. The child support recovery unit shall provide the services described in this division for a support order originally entered or a foreign order registered in the state of Iowa. The order must be one which:

1. Involves at least one child born of a marriage or one child for whom paternity has been legally established.
2. Is being enforced by the unit in accordance with Iowa Code chapter 252B.
3. Is subject to the jurisdiction of this state for the purposes of modification.
4. Is not subject to or is not appropriate for review and adjustment.
5. Provides for support of at least one child under the age of 18 or a child between the ages of 18 and 19 years who is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person's reaching 19 years of age.
6. Has an obligation ending more than 12 months in the future.
7. Involves parents for whom the location of both parents is known.

441—99.83(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—99.82(252H) may be modified at the initiative of the unit, or upon written request of either parent subject to the order submitted on Form 470-2749, Request to Modify a Child Support Order. Any action shall be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order shall not be modified. The procedures used by the child support recovery unit to determine if a modification is appropriate are as follows:

99.83(1) Substantial change of circumstances. Procedures to modify the support obligation may be initiated outside the minimum time frame described in subrule 99.62(2) if a request is received from either parent and if the parent has submitted verified documentation of a substantial change in circumstances which indicates both of the following:

a. A change of at least 50 percent in the net income of a parent as defined by guidelines. The new net income will be compared to the net income upon which the current child support obligation was based.

b. The change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

The unit shall review the request and documentation and, if appropriate, issue a notice of intent to modify as described in subrule 99.84(1).

99.83(2) Adding provisions for additional children. Procedures to modify the support obligation may be initiated if:

a. A parent requests, in writing, or the unit determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the appropriate Iowa supreme court mandatory child support guidelines pursuant to Iowa Code section 598.21(4) as amended by 1997 Iowa Acts, House File 612, section 188, and Iowa Code section 252B.7A as amended by 1997 Iowa Acts, House File 612, section 37; and

b. Paternity has been legally established.

99.83(3) Reserved or zero-dollar-amount orders. Procedures to modify the support obligation may be initiated if:

a. A parent requests a modification in writing or the unit determines that it is appropriate to include a support amount based on the Iowa supreme court mandatory child support guidelines; and

b. The original order reserved establishment of a dollar-amount support obligation giving a specific reason other than lack of personal jurisdiction over the obligor, or the amount was set at zero.

99.83(4) Corrections. Procedures to modify the support obligation may be initiated if:

a. An error or omission pertaining to child support or medical provisions was made during preparation or filing of a support order; and

b. A necessary party requests a modification or the unit determines that a modification to correct an error or omission is appropriate.

99.83(5) Noncompliance by minor obligors. Procedures to modify a support order may be initiated by the unit if:

a. A minor obligor fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section 598.21A; or

b. A minor obligor fails to provide proof of compliance with education requirements described in Iowa Code section 598.21(4)“e.”

c. The obligor is no longer a minor as defined in Iowa Code section 598.21A or 598.21(4)“e.”

99.83(6) *Cost-of-living alteration.* A support order may be modified to provide a cost-of-living alteration if all the following criteria are met:

- a. A parent requests a cost-of-living alteration in writing.
- b. Two years have passed since the order was entered or last reviewed, modified, or altered.
- c. The nonrequesting parent signs a statement agreeing to the cost-of-living alteration of the support order.
- d. Each parent signs a waiver of personal service accepting service by regular mail.
- e. The current support order addresses medical support for the children.
- f. A copy of each affected order is provided, if the unit does not already have copies in its files.

441—99.84(252H) Notice requirements. The child support recovery unit shall provide written notification to parents affected by a permanent child support obligation being enforced by the unit as follows:

99.84(1) *Notice of intent to modify.* When a request for administrative modification is received or CSRU initiates an administrative modification, CSRU shall provide written notice of its intent to modify.

a. The notice shall include the legal basis and purpose for the action; a request for income or other information necessary for the application of guidelines (if applicable); an explanation of the legal rights and responsibilities of the affected parties, including time frames; and procedures for contesting the action.

b. The unit shall take the following actions to notify parents:

(1) If the modification is based on subrule 99.83(1), notice shall be provided to the other parent. The notice shall be served in accordance with the Rules of Civil Procedure.

(2) If the modification is based on subrules 99.83(2) through 99.83(5), notice shall be provided to each parent. The notice shall be served in accordance with the Rules of Civil Procedure.

(3) If the modification is based on provision of a cost-of-living alteration as established at subrule 99.83(6) and the required documentation is included, the child support recovery unit shall notify each parent of the amount of the cost-of-living alteration by regular mail to the last-known address of each parent or, if applicable, each parent's attorney. The notice shall include:

1. The method of determining the amount of the alteration pursuant to 1997 Iowa Acts, House File 612, section 106.

2. The procedure for contesting a cost-of-living alteration by making a request for review of a support order as provided in 1997 Iowa Acts, House File 612, section 109.

3. A statement that either parent may waive the 30-day notice waiting period. If both parents waive the notice waiting period, the unit may prepare an administrative order altering the support obligation.

99.84(2) *Notice of decision to modify.* The unit shall issue a notice of its decision to modify the support order to each parent affected by the support obligation at each parent's (or attorney's) last-known address. The notice shall contain information about whether the unit will continue or terminate the action and the procedures and time frames for contesting the action by requesting a court hearing pursuant to 441—subrule 99.86(2).

441—99.85(252H) Financial information. The child support recovery unit may attempt to obtain and verify information concerning the financial circumstances of the parents subject to the order to be modified that is necessary to conduct an analysis and determine support for circumstances involving a substantial change, the addition of a child, changing reserved or zero-dollar-amount orders, making a correction, or noncompliance by a minor obligor.

99.85(1) *Financial affidavits.* Parents subject to the order shall provide a financial affidavit and verification of income within ten days of a written request by the unit.

a. If the modification action is based on a substantial change of circumstances, the requesting party must provide the following documentation with Form 470-2749, Request to Modify a Child Support Order:

(1) A completed and signed financial affidavit listing current financial circumstances of the requesting party.

(2) Copies of state and federal income tax returns, W-2 statements, pay stubs, or a signed statement from an employer or other source of income or other documentation which proves the amount of change in income as well as the date the change took place.

b. If the modification action is based on addition of a child, changing reserved or zero-dollar-amount obligations, making a correction (if financial information is needed), or noncompliance by a minor obligor, the unit may require a completed and signed financial affidavit and verification of income from each parent as described in subrule 99.1(3). The child support recovery unit may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if possessing sufficient information to do so. The unit may also use the estimated state's median income when a parent has failed to return a completed financial statement when requested and when complete and accurate information is not available from other readily available sources. Self-employment income will be determined as described in subrule 99.1(5).

99.85(2) *Independent sources.* The child support recovery unit may use other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be modified as described in rule 441—99.1(234,252B).

99.85(3) *Guidelines calculations.* The unit shall determine the appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B) and shall determine medical support provisions as described in rules 441—98.1(252E) through 441—98.7(252E). If the modification action is due to noncompliance by a minor obligor, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

441—99.86(252H) Challenges to the proposed modification action. For modification actions based on subrules 99.83(1) through 99.83(5), each parent shall have the right to request a conference to contest the proposed modification. Either parent, or the unit, may also request a court hearing. For requests made based on subrule 99.83(6), either parent may contest the cost-of-living alteration by making a request for a review and adjustment of the support order.

99.86(1) Conference. Either parent may contest the proposed modification based on subrules 99.83(1) through 99.83(5) by means of a conference with the office of the unit that issued the notice of intent to modify.

- a. Only one conference shall be held per parent.
- b. The request must be made within ten days of the date of service of the notice of intent to modify.
- c. The office that issued the notice of intent to modify shall schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference.
- d. Reasons for contesting the modification include, but are not limited to, mistake of fact regarding the identity of one of the parties or the amount or terms of the modification.
- e. The child support recovery unit may conduct the conference in person or by telephone.
- f. If the party who requested the conference fails to attend the conference, only one alternative time shall be scheduled by the child support recovery unit.
- g. The results of a conference shall in no way affect the right of either party to request a court hearing pursuant to subrule 99.86(2).
- h. Upon completion of the conference, the unit shall issue a notice of decision to modify as described in subrule 99.84(2).

99.86(2) Court hearing. Either parent, or the unit, may contest the proposed modification, based on subrules 99.83(1) through 99.83(5), by requesting a court hearing within the latest of any of the following time periods: 20 days from the date of successful service of the notice of intent to modify, 10 days from the date scheduled for a conference, or 10 days from the date of issuance of a notice of decision to modify. If a timely written request is received by the unit, the unit shall certify the matter to the district court as described in Iowa Code section 252H.8 as amended by 1997 Iowa Acts, House File 612, section 100. If a timely request is not received, if waiting periods have been waived, or if the notice periods have expired, the unit shall prepare an administrative order as provided in Iowa Code section 252H.9 as amended by 1997 Iowa Acts, House File 612, section 101.

99.86(3) Contesting a proposed cost-of-living alteration. Either parent may contest a cost-of-living alteration within 30 days of the date of the notice of intent to modify by making a request for a review of the support order as provided in Iowa Code section 252H.13 as amended by 1997 Iowa Acts, House File 612, section 103. If a timely written request for review is received, the unit shall terminate the cost-of-living alteration process and proceed with the review and adjustment process. If a timely request is not made, or the notice waiting period has been waived by both parties, or the notice period has expired, the unit shall prepare an administrative order as provided in 1997 Iowa Acts, House File 612, section 109.

441—99.87(252H) Voluntary reduction of income. The unit shall not modify the support order based on a substantial change of circumstances if a change in income is due to a voluntary reduction in net monthly income attributable to the actions of the party or is due to any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

The unit may request verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

441—99.88(252H) Effective date of modification. The new obligation amount shall be effective on the first date that payments are due under the order being modified, after the entry of the modification order. If the modification is based on a “reserved” or “zero-dollar-amount” obligation, the new obligation amount shall be effective 20 days after generation of the administrative modification order.

441—99.89(252H) Confidentiality of financial information. Financial information provided to the child support recovery unit by either parent for the purpose of facilitating the modification process may be disclosed to the other parties to the case, or the district court, as follows:

99.89(1) *Financial affidavits.* The financial statement or affidavit may be disclosed to either party.

99.89(2) *Other documentation.* Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court unless otherwise prohibited by state or federal law.

441—99.90(252H) Payment of fees. Responsibility for payment of service of process and other costs associated with the modification process is the responsibility of the party requesting modification unless the court orders otherwise or the requesting party, as a condition of eligibility for receiving public assistance benefits, has assigned the rights to child or medical support for the order to be modified.

441—99.91(252H) Denying requests. A request for modification by a parent subject to the order may be denied if the criteria in rule 441—99.82(252H) are not met or the following conditions exist:

99.91(1) *Nonsupport issues.* The request is based entirely on issues such as custody or visitation rights.

99.91(2) *Request only for delinquent support.* The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order.

99.91(3) *Temporary order.* The request is for the modification of a temporary support order.

99.91(4) *Two-year time frame.* The request is for a cost-of-living alteration and it has been less than two years since the order was entered or last reviewed, modified, or altered.

441—99.92(252H) Withdrawing requests. If the requesting party contacts the child support recovery unit to withdraw the request, the child support recovery unit shall notify the nonrequesting party of the requesting party's desire to withdraw the modification request. If the nonrequesting party indicates, in writing, a desire to continue with the modification process, the child support recovery unit shall proceed, and if appropriate, modify the support order. If there is no response from the nonrequesting party or if the nonrequesting party also wants the process to end, the unit shall end the modification process. If the unit initiated the modification action, the unit may terminate the process if, after notifying both parents, neither parent indicates a desire to continue with the modification.

These rules are intended to implement 1997 Iowa Acts, House File 612, sections 93 through 109.

441—99.93 to 99.100 Reserved.

DIVISION VI
SUSPENSION AND REINSTATEMENT OF SUPPORT

441—99.101(252B) Definitions. As used in this division, unless the context otherwise requires:

“*Child*” shall mean the same as defined in Iowa Code section 252E.1.

“*Child support recovery unit*” or “*unit*” shall mean the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“*Obligee*” shall mean the same as defined in rule 441—98.1(73GA,ch1224).

“*Obligor*” shall mean the same as defined in rule 441—98.1(73GA,ch1224).

“*Public assistance*” shall mean the same as defined in Iowa Code section 252H.2.

“*Spousal support*” shall mean either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

“*Support*” shall mean the same as defined in 1997 Iowa Acts, House File 612, section 60, and shall include spousal support and support for a child.

“*Support for a child*” shall mean either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

“*Support order*” shall mean the same as a “court order” as defined in Iowa Code section 252C.1.

441—99.102(252B) Availability of service. The child support recovery unit shall provide the services described in this division only with respect to support orders entered or registered in this state for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support. Services described in this division shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under 1997 Iowa Acts, House File 612, division XI.

441—99.103(252B) Basis for suspension of support.

99.103(1) Reconciliation. The child support recovery unit shall assist an obligor and obligee in suspending support for a child and, if contained in a child support order, spousal support, when the obligor and obligee are reconciled and are residing together, with all of the children entitled to support under the order, in the same household.

99.103(2) Change in residency. The unit shall assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, the unit shall not assist in suspending any spousal support provisions of a support order on this basis.

99.103(3) All affected children. The unit shall assist an obligor and obligee in suspending a support order as provided in this division only when the basis for suspension as described in this rule applies to all of the children entitled to support under the order to be suspended. The unit shall not, under this division, assist an obligor and obligee in suspending a proportion of the support order when the basis for suspension applies to some, but not all, of the children entitled to support under the order.

99.103(4) *Limited to current support.* The provisions in this division for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

99.103(5) *Duration of conditions.* The basis for suspension of support as provided in subrule 99.103(2) and subrule 99.103(3) must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by the child support recovery unit.

441—99.104(252B) Request for assistance to suspend.

99.104(1) *Submitting a request.* The obligor and obligee subject to a support order being enforced by the unit may request that the unit assist in having the ongoing support provisions suspended as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-3033, Request to Suspend Support, and Form 470-3032, Affidavit Regarding Suspension of Support.

b. The unit shall provide Forms 470-3032 and 470-3033 to the obligor or obligee upon request.

c. Both forms must be signed by both the obligor and the obligee affected by the order to be suspended. In the event that current support payments are assigned to an individual or entity other than the obligee named in the original order, but may revert to the original obligee at a future date without court action, both the original obligee and the current assignee must sign both forms.

d. Form 470-3032 must be notarized.

e. The request shall contain sufficient information to allow the local unit to identify the court order and parties involved, and a statement that the obligor and obligee expect the basis for suspension to continue for not less than six months.

f. If the obligor and obligee are requesting suspension of more than one order at the same time, the obligor and obligee shall be required to submit only one copy of Form 470-3033, identifying each order the request involves; however, the obligor and obligee shall be required to submit a separate, signed and notarized affidavit, Form 470-3032, for each order.

99.104(2) *Acknowledging requests.* The local unit providing services shall issue a written notice to the obligor and obligee indicating whether the request is accepted or denied.

a. This notice shall be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice shall be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice shall be issued to the obligor and obligee at their respective last known addresses.

c. A notice denying a request shall indicate the reason for denial.

99.104(3) *Denying requests.* A request for suspension shall be denied when:

a. The conditions specified in Iowa Code section 252B.20, rule 441—99.102(252B), or rule 441—99.103(252B) are not met.

b. Form 470-3033, Request for Suspension, is not signed by both the obligor and obligee affected by the order, or does not contain sufficient information to identify the support order to be suspended.

c. Form 470-3032, Affidavit Regarding Suspension of Support, is not signed by both the obligor and obligee affected by the order, or is not notarized.

d. Denial of a request is not subject to appeal or review under Iowa Code chapter 17A.

441—99.105(252B) Order suspending support. After approving a request to suspend support, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

99.105(1) When the basis for suspension is reconciliation, the suspension shall apply to any ongoing support provisions of the order, including medical support, with respect to any child, spouse or former spouse entitled to support under the order to be suspended.

99.105(2) When the basis for suspension is a change in residency of the children entitled to support, the suspension shall apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order. Any spousal support also ordered in the same support order shall remain unaffected by this action.

99.105(3) A copy of the filed order shall be sent by first-class regular mail to the last known address of the obligor and obligee, or, if applicable, to the last known address of the obligor's or obligee's attorney.

441—99.106(252B) Suspension of enforcement of current support. The child support recovery unit shall suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support order is suspended. The unit shall continue to provide all appropriate enforcement services to collect any arrearages that accrued prior to the effective date of the suspension.

441—99.107(252B) Request for reinstatement. The unit may request that the court reinstate the suspended support order in accordance with the procedures found in Iowa Code section 252B.20.

99.107(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to the child support recovery unit. The request must indicate that reinstatement is being requested, the reason for reinstatement, and contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

99.107(2) The unit may, at its own initiative, request that the court reinstate a support order when it is determined that the children affected by the suspended order are receiving public assistance benefits.

99.107(3) The unit shall issue a written notice to any obligor or obligee requesting reinstatement, approving or denying the request. This notice shall be sent to the last known address of the requesting party by first-class regular mail and shall indicate any reason for denial.

99.107(4) A request for reinstatement shall be denied when any of the following conditions exist:

a. The request is made by someone other than the obligor, obligee, or the obligor's or obligee's attorney.

b. The request is not signed, or does not contain sufficient information to identify the order and parties involved.

c. The unit is no longer providing enforcement services for the suspended order.

d. The request is received more than six months since the date of the filing of the order suspending support.

e. The request is for partial reinstatement of the suspended support order.

f. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under 1997 Iowa Acts, House File 612, division XI.

441—99.108(252B) Reinstatement. The child support recovery unit shall follow the procedures in Iowa Code section 252B.20, in seeking to have the court reinstate a support order.

99.108(1) The unit shall request that the court reinstate all support provisions previously suspended, including spousal support if included in the suspension in accordance with subrule 99.105(1).

99.108(2) The unit shall not seek to have a suspended order partially reinstated under this division when it is determined that the basis for suspension as provided in subrules 99.103(2) and 99.103(3) continues to apply to some, but not all, of the persons entitled to support under the terms of the suspended order. This provision shall not prohibit any party, including the child support recovery unit, from taking other action to establish support as provided for by law.

441—99.109(252B) Reinstatement of enforcement of current support. If a suspended support order is reinstated, the unit shall also reinstate all appropriate enforcement measures to enforce the reinstated ongoing support provisions of the support order.

441—99.110(252B) Temporary suspension becomes final. The temporary suspension of a support order under this division shall become final if not reinstated in accordance with Iowa Code section 252B.20.

These rules are intended to implement Iowa Code section 252B.20.

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