Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 98
"Support Enforcement Services"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 252B, 252D, 252E, 252I, and 252J

State or federal law(s) implemented by the rulemaking: 42 U.S.C Sections 666 and 652; 45 CFR Sections 302.33, 303.8, 303.30, 303.31, 303.32. 303.6, 303.100, 303.72, 302, 252B.9(3), and 303; Iowa Code chapters 252E, 252D, 252B, 252J, 252I, and 17A; Iowa Code sections 252B.5, 598.1, 598.21B, 96.3, 252B.9, 252B.21, 252B.3, and 252B.4; 29 CFR Section 2590.609-2; 15 U.S.C. Sections 1673(b) and 1681s-1; and 31 C.F.R. Sections 285.1 and 285.3

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 19, 2024 2 to 3 p.m.	Microsoft Teams Meeting ID: 222 143 545 89 Passcode: Ythqof

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
Department of Health and Human Services
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

Child Support Services is responsible to provide child support enforcement services. This chapter expands on the federal laws and the Iowa Code of each enforcement action and provides additional procedures for each section. The rules also provide a procedure for referral of delinquent support to collection contractors and provide criteria to exempt cases from the procedure.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

None have been identified.

- **Classes of persons that will benefit from the proposed rulemaking:**

People receiving child support services will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

These rules provide Child Support Services the ability to pursue enforcement actions when necessary while providing services to customers in 139,547 cases for SFY 2023. Child Support Services collected $307,513,003 in SFY 2023.

- **Qualitative description of impact:**

These rules play an important role in providing consistency, clarity and clear direction.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel costs for team members to implement the program.

- **Anticipated effect on state revenues:**

None have been identified.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Child Support Services would be unable to perform its essential functions. The rules ensure families are supported.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

None have been identified.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

This chapter clarifies specific procedures but only as defined by and within the scope of the Iowa Code.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The rules in this chapter are mandated by the Iowa Code or are necessary to provide additional detail.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 98 and adopt the following **new** chapter in lieu thereof:

CHAPTER 98
SUPPORT ENFORCEMENT SERVICES

441—98.1(252E) Definitions.

"Delinquent support" means a payment, or portion of a payment, including interest, not received by the clerk of the district court or other designated agency at the time it was due. In addition, delinquent support will also include payments for parental liabilities not received as specified pursuant to 441—Chapter 156.

"Federal nontax payment" means an amount payable by the federal government that is subject to administrative offset for support under the federal Debt Collection Improvement Act, Pub. L. No. 104-134 (April 26, 1996).

"Medical support" means the same as defined in Iowa Code section 252E.1.

"Mistake of fact" means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

"Obligee" means the same as defined in Iowa Code section 252E.1.

"Obligor" means the same as defined in Iowa Code section 252E.1.

"Offsets" means a federal income tax refund or federal nontax payment as described in rule 441—98.30(252B).

"Setoffs" means a state income tax refund, rebate or payment owed to a person by a state agency as described in the process found at 701—Chapter 26 and in rules 441—98.28(252B) and 441—98.29(252B).

441—98.2(252E) Medical support health benefit plan information.

98.2(1) *Information from an employer.* Child support services will gather information concerning a health benefit plan an employer may offer an obligor as follows:

a. Child support services may send a form prescribed by the department whenever a potential employer is identified.

b. Child support services will secure information about health care coverage from a known employer on a form prescribed by the department when a form prescribed by the department or an order has been forwarded to the employer pursuant to Iowa Code section 252E.4.

98.2(2) *Information from an obligor.* Child support services may secure medical support information from an obligor on a form prescribed by the department.

98.2(3) *Disposition of information.* Child support services will provide the information:

a. To the Medicaid agency and to the obligee, when requested, when the dependent is a recipient of Medicaid.

b. To the obligee, when requested, when the dependent is not a recipient of Medicaid.

441—98.3(252E) Medical support insurer authorization. When the obligor does not provide to the insurer the signed documents necessary to enroll and process claims for the dependent for whom support is ordered, the insurer is authorized to accept the signature of the obligee or the department's designee on necessary forms. For purposes of this chapter, the third-party liability unit is the department's designee when support is assigned.

441—98.4(252E) Medical support enforcement.

98.4(1) *Medical support enforcement.* Medical support may be enforced pursuant to Iowa Code section 252E.12.

98.4(2) *Health care coverage.*

a. If an obligor was ordered to provide health care coverage under an order but did not comply with the order, child support services may implement the order by forwarding to the employer a copy of the order, an ex parte order as provided in Iowa Code section 252E.4, or on a form prescribed by the department.

b. If child support services implements an order under this subrule, child support services will send a notice to the obligor at the last-known address of the obligor by regular mail. The notice will contain the following information:

(1) A statement of the obligor's right to an informal conference.

(2) The process to request an informal conference.

(3) The obligor's right to file a motion to quash with the district court.

98.4(3) *Termination of employment.* When child support services receives information indicating the obligor's employment has terminated, child support services will secure the status of the health benefit plan by sending a form prescribed by the department to the employer.

If no response is received within 30 days of sending a form prescribed by the department, child support services will send a second request on a form prescribed by the department to the employer.

441—98.5(252E) Contesting enforcement of medical support. The obligor may contest the enforcement of medical support by means of an informal conference with child support services, or by filing a motion to quash.

98.5(1) *Motion to quash.* Procedures for filing a motion to quash the order are specified under Iowa Code sections 252D.31 and 252E.6A.

98.5(2) *Informal conference.*

a. The obligor will be entitled to only one informal conference for each new employer to which child support services has forwarded a form prescribed by the department or an order under Iowa Code section 252E.4 to enforce medical support.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the enforcement was entered in error.

(3) The obligor shall request an informal conference in writing, within 15 calendar days from the date of the notice of the right to an informal conference, or at any time if a mistake of fact regarding the identity of the obligor is believed to have been made.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

c. The issues to be reviewed at the conference shall be as follows:

(1) Whether the identity of the obligor is in error.

(2) Whether the obligor is already providing health care coverage for the dependent.

(3) Whether the availability of dependent health care coverage is in error.

(4) Whether the obligor was ordered to provide health care coverage under the support order.

d. The results in an informal conference will in no way affect the right of the obligor to file a motion to quash the order under Iowa Code section 252E.6A.

441—98.6(252D) Income withholding of delinquent support. When there is a delinquency in an amount equal to the support payable for one month as specified by an order for support or reimbursement order and child support services is providing services under 441—Chapter 5, child support services will enter an order to withhold the obligor's income not exempt by state or federal law to require the income withheld to be paid to the collection services center to pay the support obligation. An income withholding order will also be entered to collect the unpaid balance of a judgment for the reimbursement of a support debt when a repayment schedule is not specified in the order establishing the judgment.

441—98.7(252D) Income withholding amounts. Child support services will determine the amount to be withheld by the employer or other income providers as follows:

98.7(1) *Current support obligation exists.* When a current support obligation exists, the amount withheld will be an amount equal to the current support obligation, and an additional amount equal to 20 percent of the current support obligation to be applied toward the liquidation of any delinquency.

98.7(2) *Current obligation ended.* When the current support obligation has ended or has been suspended, the income withholding order will remain in effect until any delinquency has been satisfied. The amount withheld will be equal to the amount of the most recent prior current support obligation that is greater than zero. However, in the following circumstances, the amount withheld will be 20 percent of the amount owed for current support at the time the obligation ended or was suspended:

a. There has been a change of court-ordered physical care from the obligee to the obligor.

b. The obligee and obligor have reconciled and have obtained a modification ending the current support obligation.

c. The current obligation is suspended through the suspension process.

d. In a foster care case, the order for parental liability ended when the child left placement, or an order ending the liability has been entered and the child in foster care has returned to the home of a parent ordered to pay parental liability. In this situation, the amount withheld will be reduced to 20 percent of the current support amount when the obligation ended, but only for the parent with whom the child resides.

98.7(3) *No support ordered.* When there is no current child support ordered and the obligation is solely the result of a judgment that does not specify a repayment schedule, the withholding amount will be set at the amount for one person from the family investment program (FIP) schedule of basic needs.

98.7(4) *Lump-sum income source.* Notwithstanding subrules 98.7(1), 98.7(2), and 98.7(3), when the obligor is paid by a lump-sum income source, the withholding amount may include all current and delinquent support due through the current month. Lump-sum income includes income received in a sole payment or in payments that occur at two-month or greater intervals.

441—98.8(252D) Amendment of amount of withholding due to hardship.

98.8(1) *Request for amendment.* If subrule 98.7(2) or 98.7(3) applies, the obligor may request at any time an amendment of the amount withheld as payment toward the delinquency or reimbursement on the grounds of hardship. The obligor must submit the request in writing to child support services.

98.8(2) *Hardship criterion.* Hardship exists if the obligor's income is equal to or less than 200 percent of the poverty level for one person according to the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. Section 9902(2) (as amended to August 1, 2024).

a. If hardship is claimed by the obligor, child support services may verify income from:

(1) The employer or other income provider of the obligor.

(2) The obligor.

(3) The state employment security agency.

(4) Other records available in accordance with Iowa Code section 252B.9.

b. If the hardship criterion is met, the amount withheld as payment toward the delinquency may be amended as follows:

(1) The obligor's gross yearly income will be divided by 200 percent of the established yearly gross poverty level income for one person. That amount will be multiplied by .5. The resulting figure will be multiplied by the most recent prior current support obligation or the amount determined pursuant to subrule 98.7(3), as applicable, to determine the amended amount. Notwithstanding this calculation, the amended amount will not be less than $15 per month.

(2) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or the amended amount determined in subparagraph 98.8(2)*"b"*(1) is to be withheld.

98.8(3) *Hardship period.* If the hardship criterion in subrule 98.8(2) is met, child support services will grant the amended amount of withholding for a period of two years, subject to the provisions of subrule 98.8(6). However, if the obligor is receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits, the obligor is deemed to continue to meet the hardship criterion for the duration of those benefits.

98.8(4) *Denying requests.* A hardship request may be denied if:

a. The criterion in subrule 98.8(2) is not met.

b. The obligor has been granted an amended amount of withholding based on this rule within the last two years and that hardship period will not expire in less than 30 days.

c. The obligor's previous hardship period expired within the last six months and, within 30 days prior to the expiration date of the previous hardship period, the obligor did not submit the following to child support services:

(1) A written request for hardship; or

(2) Verification of the obligor's income, and child support services was not able to verify the obligor's income as described in paragraph 98.8(2)*"a."*

98.8(5) *Notice requirements.* Child support services will provide written notification to the obligor of the result of the hardship request.

a. When a hardship request is granted, the written notification will include the amended amount of withholding and the date the hardship period will expire.

b. When a hardship request is denied, the written notification will include the reason for denial.

98.8(6) *Termination of hardship prior to expiration date.* The hardship period will automatically end, regardless of expiration date, if any of the following occurs:

a. A current support obligation is added to the support order.

b. The current support obligation was previously suspended and is reinstated.

c. The delinquency has been paid in full.

d. The obligor was receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits at the time the hardship request was granted, and child support services has verified that the obligor is no longer receiving social security disability benefits, social security retirement benefits, or supplemental security income disability benefits.

441—98.9(252D) Immediate income withholding. Immediate withholding of income pursuant to Iowa Code section 252D.8 is automatic without additional notice to the obligor unless:

98.9(1) *Good cause exists.* Good cause is found to exist by the court or child support services. For purposes of this rule, "good cause" is defined as the posting of a secured bond by the obligor sufficient to pay all current and future child support obligations, including any delinquency that may accrue.

98.9(2) *Written agreement exists.* A written agreement is reached between both parties that provides for an alternative arrangement for payment of child support subject to the following conditions:

a. Unless approved by child support services, written agreements between the obligee and obligor to waive immediate income withholding become void when child support is assigned to this state or to another state pursuant to a statute of that jurisdiction.

b. All payments pursuant to any written agreement will be paid as directed in Iowa Code sections 252B.14 and 598.22.

441—98.10(252D) Approval of request for immediate income withholding. When the obligee or other party to the proceeding requests immediate withholding, child support services will determine whether the request will be approved.

98.10(1) *Basis for approval.* Approval of a request for immediate income withholding by child support services may be based on:

a. Past payment record of the obligor that demonstrates an inconsistent compliance with the support order.

b. Whether the state of Iowa is providing public assistance.

98.10(2) *Request denied.* Child support services may not approve a request for immediate income withholding on cases where no public assistance has been expended and there is a prior written agreement between the obligee and obligor that has been approved by court order.

441—98.11(252D) Immediate income withholding amounts. The amount withheld will be the amount of the current support obligation as specified in the support order. If a judgment for accrued support is established in the support order, the amount withheld will be the amount due for current support and the periodic payment amount due for the accrued support as specified in the order. If no periodic payment for the accrued support is established in the support order, the amount withheld will be the amount due for current support plus 10 percent of the amount of the current obligation to be applied to the accrued support.

441—98.12(252D) Immediate income withholding amounts when current support has ended. When the child support obligation has ended, the amounts to be withheld will be in accordance with subrule 98.7(2).

441—98.13(252D,252E) Income withholding for medical support. An income withholding order or notice of income withholding may also include provisions for enforcement of medical support when medical support is included in the support order. The income withholding order or notice of income withholding may require implementation of dependent health care coverage pursuant to Iowa Code chapter 252E or the withholding of a dollar amount for medical support. Amounts withheld for medical support will be determined in the same manner as amounts withheld for child support.

441—98.14(252D,252E) Maximum amounts to be withheld for income withholding. An income withholding order or a notice issued by child support services will require that the employer or other income provider withhold no more than the maximum amounts allowed under the Federal Consumer Credit Protection Act, 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.14(1) The amount of income subject to withholding will be limited to 50 percent of the nonexempt disposable income of the obligor unless there is more than one support order for which the obligor is obligated and the criteria of 15 U.S.C. Section 1673(b) (as amended to August 1, 2024) are met, or the obligor agrees to a greater amount within these limits.

98.14(2) Disposable income means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts mandated by law to be withheld.

441—98.15(252D) Income withholding for multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by child support services, child support services may enter an income withholding order to enforce each obligation. The amount specified to be withheld on the delinquency under the income withholding order or notice will be determined in accordance with rule 441—98.7(252D).

441—98.16(252D) Income withholding notice to employer and obligor. Child support services will send the obligor and the employer or other income provider a notice of income withholding as follows:

98.16(1) *Notice to employer.* Child support services may send notice to the employer or other income provider by regular mail or by electronic means in accordance with Iowa Code chapter 252D. If child support services is sending notice by regular mail, it will send a form prescribed by the department or a notice in the standard format prescribed by 42 U.S.C. Section 666(b)(6)(A) (as amended to August 1, 2024). If child support services is sending the notice by electronic means, it may include notice of more than one obligor's order and need only state once provisions that are

applicable to all obligors, such as the information in paragraphs 98.16(1)*"d," "f," "g,"* and *"i."* The statement of provisions applicable to all obligors may be sent by regular mail or electronic means. The notice of income withholding will contain information such as the following:

a. The obligor's name and social security number.

b. The amount of current support to withhold.

c. The amount of support to withhold for payment of delinquent support, if any.

d. The amount an income provider may deduct for costs of processing each support payment.

e. The child support case number.

f. The location to which payments are sent.

g. The maximum amount that can be withheld for payment of support as specified in rule 441—98.14(252D,252E).

h. The method to calculate net income.

i. Responsibilities of the income provider as specified in Iowa Code section 252D.17.

j. Responsibility, if any, of the income provider to enroll the obligor's dependent for coverage under a health benefit plan.

98.16(2) *Notice to obligor.* A form prescribed by the department will be sent to the last-known address of the obligor by regular mail. The notice will contain the following information:

a. A statement of the obligor's right to an informal conference.

b. The process to request an informal conference.

c. The obligor's right to claim hardship criteria and the process for a claim.

d. The obligor's right to file a motion to quash the income withholding order or notice with the district court.

e. The information provided to the employer or other income provider, or a copy of the notice sent to the employer or other income provider.

f. The amount of any delinquency.

98.16(3) *Standard format.* As provided in Iowa Code section 252D.17, an order or notice of an order for income withholding will be in a standard format and on a form prescribed by the department. Child support services will make a copy of the form available to the state court administrator and the Iowa state bar association.

441—98.17(252D) Contesting the income withholding. The obligor may contest the income withholding by means of an informal conference with child support services or by filing a motion to quash.

98.17(1) *Motion to quash.* Procedures for filing a motion to quash the order or the notice of income withholding are specified in Iowa Code chapter 252D.

98.17(2) *Informal conference.*

a. The obligor will be entitled to only one informal conference for each new or modified income withholding order or notice issued by child support services that specifies a new or modified total amount to withhold.

b. Procedures for the informal conference are as follows:

(1) Child support services will inform the obligor in writing of the right to request an informal conference.

(2) The obligor may request an informal conference with child support services if the obligor believes the withholding is in error.

(3) The obligor will request an informal conference in writing.

(4) Child support services will schedule an informal conference within 15 calendar days of the receipt of a written request from the obligor or the obligor's representative.

(5) Child support services may conduct the conference in person or by telephone.

(6) If the obligor fails to attend the conference, only one alternative time will be scheduled by child support services.

(7) Child support services will issue a written decision to the obligor within ten calendar days of the conference.

(8) If child support services has not complied with rule 441—98.7(252D), it will then adjust the income withholding amount.

c. The issues to be reviewed at the conference will be as follows:

(1) For all income withholding orders or notices, whether:

1. The identity of the obligor is in error.

2. The amount of the current support obligation is in error.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. The amount of delinquent support is in error.

2. For income withholding orders or notices, whether the guidelines described at rule 441—98.7(252D) were followed.

(3) For immediate income withholding orders or notices, whether the criteria of rules 441—98.9(252D) and 441—98.10(252D) were appropriately applied.

d. The results of an informal conference will in no way affect the right of the obligor to file a motion to quash the income withholding order or notice with the court.

98.17(3) *Income withholding issued from another state.* Child support services will follow procedures for a motion to quash or a request for hardship or conduct an informal conference based on an income withholding order or notice issued in another state only if child support services is providing services under 441—Chapter 95.

441—98.18(252D) Termination of income withholding. Child support services may, by ex parte order, terminate an income withholding order under the following conditions:

98.18(1) *Order entered in error.* Child support services will terminate an income withholding order upon determination that the order was entered in error as follows:

a. The person named as the obligor in the income withholding order is not the person required to provide support under the support order being enforced.

b. For orders resulting from the existence of a delinquency, the required minimum delinquency did not exist at the time the income withholding order was entered.

98.18(2) *No support due.* In cases for which services are being provided by child support services, child support services will terminate an income withholding order previously entered by child support services when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order. In no case will payment of overdue support be the sole basis for termination of withholding.

98.18(3) *Other circumstances.* Child support services may revoke an income withholding order under other circumstances provided the conditions of Iowa Code chapter 252D are met.

441—98.19(252D) Modification of income withholding. Child support services may modify a previously issued income withholding order or notice according to the guidelines established under rule 441—98.7(252D) if it is determined that:

98.19(1) *Current support obligation changed.* There has been a change in the amount of the current support obligation.

98.19(2) *Amount in error.* The amount required to be withheld under the income withholding order or notice is in error as follows:

a. The amount required to be withheld as current support is not the amount specified in the order for support being enforced.

b. The guidelines established in rule 441—98.7(252D) were not followed.

98.19(3) *Past-due support paid.* Any past-due support debt has been paid in full. The withholding order or notice will be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order or

notice may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment will be set at 20 percent of the current support amount.

98.19(4) *Income withholding and determination of controlling orders.* An obligation amount different than what child support services has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency will be 20 percent.

98.19(5) *Income withholding and review and adjustment of orders.* Child support services has conducted a review of the obligation pursuant to 441—Chapter 99. Child support services will modify the amount withheld to be applied toward the liquidation of any delinquency to 20 percent upon completion of the review and adjustment process.

98.19(6) *Implementation or termination of amended amount of withholding due to hardship.* Child support services has determined that the withholding order should be modified based upon the hardship provisions in rule 441—98.8(252D).

441—98.20(252D) Refunds of amounts improperly withheld. Child support services will refund to the obligor any amounts improperly withheld and received by the department under an income withholding order or notice issued by child support services, subject to the following:

98.20(1) *Services provided by the department.* Only those amounts received by the department during the period enforcement services are being provided are subject to refund.

98.20(2) *Satisfaction of amount to withhold.* No refund will be made unless amounts have been collected that fully satisfy the amount specified in the income withholding order or notice for the withholding period during which income has been generated.

98.20(3) *When issued.* Any amounts received in excess of the amounts specified in the order or notice to withhold will be issued to the obligor within 30 days of discovery by child support services unless the obligor requests in writing that these amounts be credited toward the delinquency or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in subparagraphs 98.17(2)*"b"*(3) through (7). This procedure will not preclude the obligor from utilizing other civil remedies.

98.20(4) *Recovery by child support services.* The department may recover payments from the obligee in excess of those described in subrule 98.20(2) that have been received by the department and improperly forwarded to the obligee.

441—98.21(96) Child support intercept of unemployment insurance benefits. When the department of workforce development notifies child support services that an individual who owes a child support obligation being enforced by child support services has been determined to be eligible for unemployment insurance benefits, child support services will enforce a child support obligation that is owed by an obligor but is not being met by intercept of unemployment insurance benefits. "Owed but not being met" means either current child support not being met or arrearages that are owed.

98.21(1) *Withholding.* Child support services will intercept unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and this chapter. The amount to be withheld through a withholding of unemployment insurance benefits will not exceed the amount specified in 15 U.S.C. Section 1673(b) (as amended to August 1, 2024).

98.21(2) Reserved.

441—98.22(252B) Administrative seek employment order. Child support services may enter an ex parte order requiring the obligor to seek employment in accordance with Iowa Code section 252B.21.

441—98.23(252B) Effective date of seek employment order. The seek employment order will be effective 15 days after issuance of the order to the obligor. This 15-day period will serve as advance notice to the obligor.

441—98.24(252B) Method and requirements of reporting for administrative seek employment order. The obligor shall complete a form prescribed by the department, which will be submitted to child support services on a weekly basis throughout the duration of the order unless the obligor has a valid reason for not complying with the order. The obligor will document at least five new attempts to find employment on the form each week. The same employer may not be reported more than once per week.

The obligor will include the names, addresses, and the telephone numbers of each of the five employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom the inquiry was directed.

441—98.25(252B) Reasons for noncompliance of administrative seek employment. Upon verification, certain conditions will be considered valid reasons for noncompliance. At the request of child support services, the obligor will provide verification of any reason for noncompliance with the order when the information is not available to child support services through online sources. Valid reasons for noncompliance and acceptable verification are:

98.25(1) *Receipt of social security, supplemental security income (SSI), or FIP.* Receipt of social security, SSI, or FIP is considered a valid reason for noncompliance when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.25(2) *Temporary illness or disability.* Temporary illness or disability of the obligor or other household member is considered a valid reason upon receipt of a completed form prescribed by the department verifying the obligor's inability to seek or accept employment.

98.25(3) *High school student.* Attending high school is considered a valid reason upon verification from the high school.

98.25(4) *Incarceration.* Incarceration is considered a valid reason when verified through online information available to child support services or on receipt of verification from the institution.

98.25(5) *Substance use disorder treatment.* Participating in a supervised substance use disorder treatment program that is associated with a treatment center is considered a valid reason upon verification from the treatment center.

98.25(6) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition Assistance Program is considered a valid reason upon receipt of verification from the department of employment services.

98.25(7) *Employment or self-employment.* Employment or self-employment is considered a valid reason upon verification through the employer for those employed or through tax documents or business records for those self-employed.

98.25(8) *Payment of support.* Payment on the account equal to the amounts prescribed for income withholding in accordance with rule 441—98.7(252D) throughout the duration of the seek employment order is considered a valid reason upon verification of payments posted to the Iowa collection and reporting (ICAR) system.

441—98.26(252B) Administrative seek employment method of service. The seek employment order will be served on the obligor by regular mail. Proof of service will be completed according to Rule of Civil Procedure 1.442.

441—98.27(252B) Administrative seek employment order duration of order. The seek employment order will remain in effect for three months from the date of issuance unless child support services determines the obligor has a valid reason for noncompliance as specified at rule 441—98.25(252B), at which time the order becomes unenforceable.

Upon acceptance of the reason for noncompliance, child support services will notify the obligor that the obligor is no longer required to comply with the seek employment order. Upon denial of the reason for noncompliance, child support services will notify the obligor that the obligor will comply with the existing seek employment order. The notice will be filed with the clerk of the district court. If the obligor disputes this decision, the obligor will have recourse through the district court.

441—98.28(252B) Setoff against payment owed to a person by a state agency. The department will make a claim pursuant to 701—Chapter 26 against a payment owed to an obligor by a state agency when support is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against a payment owed to an obligor will be applied to court-ordered support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.28(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least $50 in support payments to the department of revenue.

98.28(2) *Distribution of setoff amount.* Setoffs will be applied in accordance with rules 441—95.3(252B) and 441—95.4(252B).

98.28(3) *Percentage of payment setoff.* The amount of setoff will be 50 percent of the total payment due the obligor unless the payment results from lottery winnings, from gambling winnings, from sports wagering winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of setoff will be 100 percent of the payment. The amount taken will not exceed the delinquent amount owed by the obligor.

441—98.29(252B) Setoff against state income tax refund or rebate. The department will make a claim pursuant to 701—Chapter 26 against an obligor's state income tax refund or rebate when support is delinquent and the case qualifies for setoff. Any setoff received as the result of a claim against an obligor's state income tax refund or rebate will apply to support that the department is attempting to collect pursuant to Iowa Code chapter 252B.

98.29(1) *Case selection.* The department will submit periodically a list of obligors who are delinquent at least $50 in support payments to the department of revenue.

98.29(2) *Refunds.* The department will refund any amount incorrectly setoff to the department of revenue or to the obligor pursuant to 701—subrule 26.7(6). The obligor may agree in writing to apply the refund of the incorrect setoff to any other support obligation due in cases where child support services would otherwise refund the setoff directly to the obligor.

98.29(3) *Distribution of setoff amount.* Setoffs will be applied as provided in rule 441—95.3(252B).

441—98.30(252B) Offset against federal income tax refund and federal nontax payment. The department will make a claim against an obligor's federal income tax refund or federal nontax payment when delinquent support is owed. For purposes of this offset, delinquent support will include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4). Any offset received as the result of a claim against an obligor's federal income tax refund or federal nontax payment will apply to support that child support services is attempting to collect pursuant to Iowa Code chapter 252B.

98.30(1) *Amount of assigned support.* If the delinquent support is assigned to the department, the amount of delinquent support will be at least $150, calculated by combining the assigned delinquent support in all of the obligor's cases in which the assigned delinquent support is at least $50.

98.30(2) *Amount of nonassigned support.* If delinquent support is not assigned to the department, the claim will be made if the amount of delinquent support is at least $500, calculated by combining the nonassigned delinquent support in all of the obligor's cases in which the nonassigned delinquent support is at least $50.

a. The amount distributed to an obligee will be the amount remaining following payment of a support delinquency assigned to the department. The department will distribute to an obligee the amount collected from an offset according to subrule 98.30(9) within the following time frames:

(1) Within six months from the date the department applies an offset amount from a joint income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later, or

(2) Within 30 days from the date the department applies an offset amount from a single income tax refund to the child support account of the responsible person, or within 15 days of the date of resolution of an appeal under subrule 98.30(8), whichever is later.

(3) However, the department is not mandated to distribute until it has received the amount collected from an offset from the federal Department of the Treasury.

b. Federal nontax payment offsets will be applied as provided in rule 441—95.3(252B).

98.30(3) *Notification to federal agency.* The department will, as permitted or specified by federal regulations, submit notification(s) of liability for delinquent support to the federal Office of Child Support Services.

98.30(4) *Preoffset notice and review.* Each obligor who does not have an existing support debt on record with the federal Office of Child Support Services will be sent a preoffset notice in writing, using address information provided to the federal Office of Child Support Services, stating the amount of the delinquent support certified for offset.

a. Individuals whose names were submitted for federal offset who wish to dispute the offset must notify the department in writing within the time period specified in the preoffset notice.

b. Upon receipt of a complaint from the individual disputing the submission for offset, child support services will conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days.

98.30(5) *Recalculation of delinquency.* When the records of the department differ with those of the obligor for determining the amount of the delinquent support, the obligor may provide and the department will accept documents verifying modifications of the order, records of payments made pursuant to state law, and will recalculate the delinquency.

98.30(6) *Notification of modification or elimination.* The department will notify the federal Office of Child Support Services, within time frames established by the federal Office of Child Support Services, of any modification or elimination of an amount referred for offset.

98.30(7) *Failure to timely respond.* When an individual does not respond to the preoffset notice within the specified time even though the department later agrees a certification error was made, the individual must wait for corrective action as specified in subrule 98.30(8).

98.30(8) *Offset notice, appeal, and refund.* The federal Department of the Treasury will send notice that a federal income tax refund or federal nontax payment owed to the obligor has been intercepted. When child support services receives information from the federal Office of Child Support Services regarding the offset, or when the individual whose name was submitted for federal offset notifies the department that the individual has received an offset notice, the department will issue to that individual a form prescribed by the department.

a. The individual whose name was submitted for federal offset will have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—Chapter 7. Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal will be limited to a mistake of fact. Any other issue may be determined only by a court of competent jurisdiction.

b. The department will refund the incorrect portion of a federal income tax offset or federal nontax payment offset within 30 days following verification of the offset amount. Verification means a listing from the federal Office of Child Support Services containing the obligor's name and the amount of tax refund or nontax payment to which the obligor is entitled. The date the department receives the federal listing will be the beginning day of the 30-day period in which to make a refund.

c. The department will refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

98.30(9) *Application of offsets.* Offsets of federal income tax refunds will be applied to delinquent support only. The department will first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department will then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

441—98.31(252I) Administrative levy. When there is a delinquency in an amount equal to the ordered support payable for one month, child support services may issue an administrative levy pursuant to Iowa Code chapter 252I and according to Rule of Civil Procedure 1.442.

441—98.32(252J) Referral for license sanction. In the process referred to as license sanction, child support services may refer an individual to a licensing agency for the suspension, revocation, nonissuance, or nonrenewal of a variety of licenses, including but not limited to motor vehicle registrations; driver's licenses; business and professional licenses; and licenses for hunting, fishing, boating, or other recreational activity. In order to be referred to a licensing agency for license sanction, one of the following must apply:

98.32(1) *Delinquent support payments.* An obligor's support payments must be delinquent in an amount equal to the support payment for three months. Child support services will not refer obligors whose support payments are being made under an income withholding order.

98.32(2) *Subpoena or warrant.* An individual must have failed to comply with a subpoena or warrant, as defined in Iowa Code chapter 252J, relating to a paternity or support proceeding. If a subpoena was issued, the individual must have failed to comply with a form prescribed by the department or an Interstate Subpoena as provided in 441—subrule 96.2(1) within 15 days of the issuance of the subpoena, and proof of service of the subpoena was completed according to Rule of Civil Procedure 1.442.

441—98.33(252J) Reasons for exemption from license sanction. Certain conditions will be considered valid reasons for exemption from the license sanction process. Upon verification of these conditions, child support services will bypass, exempt, or withdraw the individual's name from referral to licensing agencies for the purpose of applying a license sanction. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the individual will provide, verification of the reason for exemption. Valid reasons for exemption for failure to comply with a subpoena or warrant and acceptable verification are those listed in subrules 98.33(2), 98.33(3), 98.33(5), and 98.33(6). Valid reasons for exemption for delinquent support payments and acceptable verification are any of the following:

98.33(1) *Receipt of social security, supplemental security income (SSI) or FIP.* Receipt of social security, SSI, FIP, or county assistance (general relief, general assistance, community services, and veteran's assistance), based upon the eligibility of the obligor, is considered a valid reason for exemption when verified by information contained in online sources available to child support services or written verification from the agency providing the benefits.

98.33(2) *Temporary illness or disability.* Temporary illness or disability of the individual or illness or disability of another household member that requires the presence of the individual in the home as caretaker is considered a valid reason for exemption upon receipt of a completed form prescribed by the department verifying the individual's or household member's inability to work.

98.33(3) *Incarceration.* Incarceration is considered a valid reason for exemption when verified through online information available to child support services or upon receipt of verification from the institution.

98.33(4) *Job training.* Participation in a job-training or job-seeking program through the department of employment services as a result of receiving benefits from the Supplemental Nutrition

Assistance Program is considered a valid reason for exemption upon receipt of verification from the department of employment services or verification through online information available to child support services or upon receipt of a written statement from an income maintenance worker.

98.33(5) *Chemical dependency treatment.* Participation in a chemical dependency treatment program that is licensed by the department or the joint commission (TJC) is considered a valid reason for exemption upon receipt of written verification from the professional staff of the program that participation in the program precludes the individual from working.

98.33(6) *Contempt process.* Involvement in a contempt action dealing with support issues is considered a valid reason for exemption from the license sanction process during the pendency of the contempt action.

441—98.34(252J) Notice of potential sanction of license. When an individual meets the criteria for selection, child support services may issue a notice to the individual of the potential sanction of any license held by the individual pursuant to Iowa Code chapter 252J using a form prescribed by the department.

441—98.35(252J) License sanction conference.

98.35(1) *Scheduling of conference.* Upon receipt from an individual of a written request for a conference, child support services will schedule a conference not more than 30 days in the future. At the request of either child support services or the individual, the conference may be rescheduled one time. When setting the date and time of the conference, if notice was sent to an obligor under rule 441—98.34(252J), child support services will request the completion of a form prescribed by the department and other financial information from both the obligor and the obligee as may be necessary to determine the obligor's ability to comply with the support obligation.

98.35(2) *Payment calculation.* If notice was sent to an obligor under rule 441—98.34(252J) during the conference held in compliance with the provisions of Iowa Code section 252J.4, child support services will determine if the obligor's ability to pay varies from the current support order by applying the mandatory supreme court guidelines as contained in 441—Chapter 99, with the exception of 441—subrules 99.4(3) and 99.5(5). If further information from the obligor is necessary for the calculation, child support services may schedule an additional conference no less than ten days in the future in order to allow the obligor to present additional information as may be necessary to calculate the amount of the payment. If, at that time, the obligor fails to provide the required information, child support services will issue a certificate of noncompliance to applicable licensing authorities. If the obligee fails to provide the necessary information to complete the calculation, child support services will use whatever information is available. If no income information is available for the obligee, child support services will determine the obligee's income in accordance with 441—subrules 99.1(2) and 99.1(4). This calculation is for determining the amount of payment for the license sanction process only and does not modify the amount of support obligation contained in the underlying court order.

98.35(3) *Referral for review and adjustment.* If the amount calculated in subrule 98.35(2) meets the criteria for review and adjustment as specified in rule 441—101.4(252B,252H), or administrative modification as specified in rule 441—101.12(252H) and 441—subrules 101.13(1), 101.13(2) and 101.13(6) at the time child support services provides the payment agreement to the obligor, child support services will also provide the obligor with any necessary forms to request a review and adjustment or administrative modification of the support obligation. The payment agreement remains in effect during the review and adjustment or administrative modification process.

441—98.36(252J) License Sanction Payment Agreement. The License Sanction Payment Agreement will require the obligor to pay the lower of the amount calculated in subrule 98.35(2) or the maximum amount payable under an income withholding order as specified in rule 441—98.7(252D).

98.36(1) *Duration of payment agreement.* The License Sanction Payment Agreement signed under this chapter will remain in effect for at least one year from the date of issuance unless child support services determines the obligor has a valid reason for exemption as specified in rule 441—98.33(252J). Except in those cases in which review and adjustment are in process, child support services may, at the end of the year, begin the process of reviewing the case so that the payment amount continues to accurately reflect the obligor's ability to pay as calculated in subrule 98.35(1).

98.36(2) *Failure to comply.* If at any time following the signing of a payment agreement the obligor fails to comply with all the terms of the agreement, child support services will issue a form prescribed by the department to applicable licensing authorities in accordance with the provisions of Iowa Code chapter 252J.

441—98.37(252J) Staying the process of license sanction due to full payment of support. If the obligor, at any time, pays the total support owed, both current and past due, or an individual complies with the subpoena or warrant, child support services will stay the process, and any form issued by the department will be withdrawn by child support services.

441—98.38(252J) Duration of license sanction. Forms issued by the department will remain in effect until the obligor pays all support owed, both arrears and current; or the obligor enters into a payment agreement with child support services; or the obligor meets one of the criteria for exemption specified at subrules 98.33(1), 98.33(2), and 98.33(4); or the individual complies with the subpoena or warrant.

441—98.39(252B) Procedures for providing information to consumer reporting agencies. Child support services may make information available to consumer reporting agencies regarding the amount of delinquent support owed by a responsible person, but only in cases where the delinquent support exceeds $1,000. However, before child support services will release the information to a consumer reporting agency, the agency must meet the requirements for a nationwide consumer reporting agency under Iowa Code section 252B.9(3)*"j."*

98.39(1) *Request of information.* Agencies may request the information from the department. Requests for information about an individual shall include the individual's name and identifying information such as a social security number or birth date. Agencies may also request a listing of all obligors owing support in excess of $1,000.

98.39(2) *Notice of proposed release of information.* A notice of proposed release of information will be sent to the last-known address of the responsible person 30 calendar days prior to the release of the support arrearage information to a consumer reporting agency. This notice will explain the information to be released and the methods available for contesting the accuracy of the information.

98.39(3) *Contesting proposed release of information.* The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with child support services to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases, no referral will be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed $1,000.

441—98.40(252B) Difficult-to-collect arrearages. Child support services may refer difficult-to-collect arrearages to a collection entity under contract with child support services or with another state entity. Upon referral, a surcharge, in addition to the support, shall be due and payable by the obligor as provided in Iowa Code chapter 252B.

98.40(1) *Difficult-to-collect arrearage.* A difficult-to-collect arrearage is one based upon a court or administrative order that meets all the following criteria:

a. There is no order for current support and only an arrearage is owing.

b. There has been no payment, except for federal or state tax refund offset payments, in the past three months.

c. There is no valid reason for exemption from the referral and surcharge process. Valid reasons for exemption and acceptable verification are those listed in subrules 98.33(1), 98.33(3), and 98.33(6). Upon verification of those conditions, child support services will bypass or exempt the obligor's arrearages from the referral and surcharge process. When the information to verify the exemption is not available to child support services through online sources, child support services will request, and the obligor will provide, verification of the reason for exemption.

98.40(2) *Notice of the possibility of referral and surcharge.* Child support services will provide notice of the possibility of a referral and surcharge to the obligor as mandated by Iowa Code chapter 252B. The notice will be provided at least 15 days before child support services sends the notice of referral and surcharge to the obligor, subject to the following:

a. Notification contained in order. When the support order under which the arrearage has accrued contains language advising of statutory provisions for referral and surcharge, no other preliminary notice will be required.

b. Notification issued by child support services. When the support order under which the arrearage has accrued does not contain language regarding the statutory provisions for referral and surcharge, or was entered under a foreign jurisdiction and notification was not included in the support order or provided as a separate written notice, child support services will issue a notice to the obligor pursuant to Iowa Code section 252B.23.

98.40(3) *Notice of referral and surcharge.* Child support services will send notice of a referral and surcharge to the obligor by regular mail to the obligor's last-known address, with proof of service completed according to Rule of Civil Procedure 1.442. The notice will contain all the information mandated by Iowa Code chapter 252B. The notice will be sent at least 30 days before child support services refers the arrearage to the collection entity.

98.40(4) *Contesting the referral and surcharge.* An obligor may contest the referral and surcharge. The right to contest is limited to a mistake of fact, including but not limited to a mistake in the identity of the obligor, a mistake as to whether there was a payment in the three months before the date of the notice specified in subrule 98.40(3), a mistake as to whether an exemption in paragraph 98.40(1)*"c"* applies, or a mistake in the amount of arrearages.

a. An obligor may contest the referral and surcharge by submitting a written request for a review to child support services within 20 days of the date on the notice of referral and surcharge specified in subrule 98.40(3). Upon receipt of a written request for review, child support services will follow the criteria and procedures specified in Iowa Code chapter 252B for resolving the request.

(1) If child support services determines there is a mistake in the identity of the obligor, if there was a payment, other than a federal or state income tax offset, within the three months before the date of the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, child support services will issue a written notice to the contestant or obligor of the determination and not refer the arrearages. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If child support services determines there was a mistake in the amount of arrearages, but the corrected amount of arrearages will still be referred, or if child support services determines there is no mistake of fact, child support services will issue a written notice of the determination of the review to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearages that will be referred and the surcharge that will be assessed. The notice will also include information on requesting an additional review by the department, and on requesting a judicial hearing.

b. An obligor may contest the notice of determination of review by submitting a written request for an additional review by the department within 20 days of the date of the notice of determination of the review issued under paragraph 98.40(4)*"a."* Upon receipt of the written request for additional review, child support services will review the facts of the case.

(1) If the department determines a mistake in the identity of the obligor has occurred, if there was a payment, other than a federal or state income tax offset, within the three months before the date of

the notice specified in subrule 98.40(3), or if there is another mistake of fact and the arrearage does not meet the criteria for referral, the department will issue a written notice to the contestant or obligor of the determination and the arrearages will not be referred. If child support services later determines an arrearage may be subject to referral, it will issue a new notice as provided in subrule 98.40(3).

(2) If the department determines that there was a mistake in the amount of the arrearage but the corrected amount of arrearages will still be referred, or if there is no mistake of fact, the department will send a written notice of the additional review determination to the obligor by regular mail to the last-known address of the obligor. The notice will include the amount of the arrearage that will be referred and the surcharge that will be assessed. The notice will also include information on requesting a judicial hearing.

c. Following the issuance of a notice of determination of a review under paragraph 98.40(4)*"a,"* or issuance of a notice of determination of an additional review under paragraph 98.40(4)*"b,"* the obligor may request a district court hearing. The obligor will make a request by sending a written request for a hearing to child support services within ten days of the date of the department's written determination of the review, or within ten days of the date of child support services' written determination of an additional review, whichever is later. Procedures for a district court hearing are specified in Iowa Code chapter 252B.

d. Child support services will not refer arrearages and assess a surcharge until after completion of any review, additional review or judicial hearing process.

98.40(5) *Referral and surcharge.*

a. If the obligor has not paid the arrearage, has not contested the referral, or if, following child support services review, the department's additional review, and any judicial hearing, child support services, or court does not find a mistake of fact, the arrearage will be referred to the collection entity.

b. The amount of the arrearage referred will be the amount that is unpaid as of the date of the referral. The amount of the surcharge will be an amount equal to the amount of the arrearage unpaid as of the date of the referral, multiplied by the percentage specified in the contract with the collection entity.

c. Child support services will file a notice of the surcharge with the clerk of the district court in the county in which the underlying support order is filed.

441—98.41(252B) Enforcement services by private attorney entitled to state compensation. An attorney licensed to practice law in Iowa may utilize judicial proceedings to collect support, at least a portion of which is assigned support, and be entitled to compensation by the state as provided in Iowa Code chapter 252B.

98.41(1) *Eligible cases.* To be eligible for attorney services with compensation under this rule, a case must meet all of the following:

a. Child support services is providing services under Iowa Code chapter 252B.

b. The current support obligation is terminated and only arrearages are due under the administrative or court order.

c. There has been no payment under any order in the case for at least a 12-month period prior to the provision of the notice from the attorney to child support services under paragraph 98.41(1)*"f."*

d. At least a portion of the arrearages due under any order in the case is assigned to the state because cash assistance was paid under Iowa Code chapter 252B.

e. The case does not have any of the following characteristics:

(1) There has been a finding of good cause or other exception pursuant to Iowa Code section 252B.3.

(2) A portion of the arrears is assigned to another state because of public assistance provided by that state.

(3) Another attorney has already notified child support services of the intent to initiate a judicial proceeding to collect support due under any order in the same case under this rule, and either the time

to receive the collection has not expired or child support services has not received a notice from the other attorney that the judicial proceeding has concluded prior to the expiration of the time period.

(4) If the notice from the attorney under paragraph 98.41(1)*"f"* specifies contempt of court as the judicial proceeding, and child support services has generated an administrative seek employment order to the obligor under Iowa Code section 252B.21 less than nine months prior to the date on the notice from the attorney.

(5) The case or arrearages have been referred by child support services to a collection entity under Iowa Code section 252B.5(3) less than nine months prior to the date on the notice from the attorney.

(6) The obligor has filed for bankruptcy and collection activities are stayed.

(7) The notice from the attorney under paragraph 98.41(1)*"f"* lists a specific judicial proceeding and child support services has already initiated the same type of proceeding in court.

(8) The case has been referred to the U.S. Attorney's office and is still pending at that office.

f. The attorney has provided written notice to the central office of child support services, and to the last-known address of the obligee of the intent to initiate a specified judicial proceeding to collect support on any identified court or administrative order involving the obligor and obligee in the case.

g. The attorney has provided documentation of insurance to child support services as mandated by Iowa Code chapter 252B.

h. The collection must be received by the collection services center within 90 days of the notice from the attorney in paragraph 98.41(1)*"f,"* or within a subsequent 90-day extension period.

98.41(2) *Procedure.*

a. To begin the process under this rule, the attorney shall submit the following to the department at least 30 days prior to initiating the specified judicial proceeding:

(1) A dated, written statement that lists the specific judicial proceeding that the attorney intends to initiate, any court or administrative order under which the arrearages accrued identified by the order number, and the names of the obligor and obligee.

(2) Documentation that the attorney is insured as mandated by the statute. Documentation shall be either a copy of the attorney's policy from the insurer, or a letter from the insurer verifying insurance coverage as mandated by the statute.

(3) Documentation that the attorney is licensed to practice law in Iowa.

b. Child support services will mail a response to the attorney within ten days of receipt of the notice from the attorney. All of the following will apply to the child support services response:

(1) If the case meets the requirements of this rule, the notice will list the case number, any order numbers, the judicial proceeding specified by the attorney, the balance due the state of Iowa, the balance due an obligee, and the date that is 90 days from the date of the notice from the attorney. The notice will also contain a statement that any compensation due the attorney as a result of application of this rule will be calculated on the amount of support credited to arrearages due the state at the time the support paid as a result of the judicial proceeding is received by the collection services center. The notice will also contain a statement that any support collected will be disbursed in accordance with federal requirements, and any support due the obligee will be disbursed to the obligee prior to disbursement to the attorney as compensation.

(2) If the case does not meet the requirements of this rule, the notice will list the case number, any order number, and the reason the case does not meet the requirements.

c. If the case is eligible under this rule, the attorney may initiate judicial proceedings after 30 days after providing the notice to child support services in paragraph 98.41(2)*"a."* Iowa Code chapter 252B defines "judicial proceedings."

d. The attorney may extend the time to complete the judicial proceeding or to allow for receipt of the collection by the collection services center by submitting a notice requesting a 90-day extension to the address in paragraph 98.41(2)*"a."* This or any subsequent notice must be received by child support services before expiration of the current 90-day time frame. Child support services will

acknowledge receipt of the subsequent notice and list on the acknowledgment the date that is 90 days from the date of the attorney's subsequent notice.

98.41(3) *Collection and payment to attorney.*

a. Upon compliance with the requirements of Iowa Code chapter 252B and this rule, the attorney will be entitled to compensation from the state as provided for in this rule.

b. Upon receipt of a file-stamped copy of a court order that identifies the amount of support collected as a result of the judicial proceeding and that does not order the payment of attorney fees by the obligor, and the receipt of the collection by the collection services center, all the following apply:

(1) Iowa Code chapter 252B specifies the formula to calculate the compensation due the attorney from the state. Child support services will calculate the compensation due the attorney based upon the amount of support that is credited to arrearages due the state at the time the collection is received by the collection services center. After calculating the amount due the attorney, child support services will reduce the amount due the attorney by the amount of any penalty or sanction imposed upon the state as a result of any other judicial proceeding initiated by that attorney under Iowa Code chapter 252B. Child support services will send the attorney a notice of the amount of the compensation due from the state.

(2) The collection services center will disburse any support due an obligee prior to payment of compensation to the attorney.

(3) Child support services will not authorize disbursement of compensation to the attorney until the later of 30 days after receipt of the collection and the file-stamped copy of the order, or resolution of any timely appeal by the obligor or obligee.

(4) The amount of compensation due the attorney is subject to judicial review upon application to the court by the attorney.

441—98.42(17A) Right of appeal.

98.42(1) Under this chapter, an administrative appeal pursuant to 441—Chapter 7 will be limited to the following issues:

a. A claim or offset is contested as provided in subrule 98.29(2), 98.30(3), or 98.30(8) by a person's alleging a mistake of fact.

b. A name has been certified for passport sanction as provided in Iowa Code section 252B.5.

98.42(2) A hearing will not be granted under 441—Chapter 7 when the appellant has a complaint about child support services enforcement matters other than those described in this rule.

441—98.43(17A) Appeal record. The record in an administrative appeal under this rule will include, in addition to those materials specified in Iowa Code section 17A.12(6), the notice of appeal and the verbatim record of the hearing.

These rules are intended to implement Iowa Code sections 96.3, 252B.9, 252B.21, 252B.5, 252B.3, 252B.4, and 8A.504; chapters 252D, 252E, 252I, 252J, and 17A; and 15 U.S.C. Section 1673(b).