

## **252I.8 Challenges to action.**

1. Challenges under this chapter may be initiated only by an obligor or by an account holder of interest. Actions initiated by the unit under this chapter are not subject to chapter 17A, and resulting court hearings following certification shall be an original hearing before the district court.
2. The person challenging the action shall submit a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice.
3. The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact, including but not limited to, a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding.
4. If the unit determines that a mistake of fact has occurred the unit shall proceed as follows:
  - a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution that the administrative levy has been released. The unit shall provide a copy of the notice to the support obligor by regular mail.
  - b. If the obligor is delinquent, but the amount of the delinquency is less than the amount indicated in the notice, the unit shall notify the financial institution of the revised amount with a copy of the notice and issue a copy to the obligor or forward a copy to the obligor by regular mail. Upon written receipt of instructions from the unit, the financial institution shall release the funds in excess of the revised amount to the obligor and the moneys in the amount of the debt shall be processed according to section 252I.7.
5. If the unit finds no mistake of fact, the unit shall provide a notice to that effect to the challenging party by regular mail. Upon written request of the challenging party, the unit shall request a hearing before the district court in the county in which the underlying support order is filed.
  - a. The financial institution shall encumber moneys if the child support recovery unit notifies the financial institution to do so.
  - b. The clerk of the district court shall schedule a hearing upon the request by the unit for a time not later than ten calendar days after the filing of the request for hearing. The clerk shall mail copies of the request for hearing and the order scheduling the hearing to the unit and to all account holders of interest.
  - c. If the court finds that there is a mistake of identity or that the obligor does not owe the delinquent support, the unit shall notify the financial institution that the administrative levy has been released.
  - d. If the court finds that the obligor has an interest in the account, and the amount of support due was incorrectly overstated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys in the amount of the debt to the collection services center for disbursement to the appropriate recipient.
  - e. If the court finds that the obligor has an interest in the account, and the amount of support due is correct, the financial institution shall forward the moneys to the collection services center for disbursement to the appropriate recipient.
  - f. If the obligor or any other party known to have an interest in the account fails to appear at the hearing, the court may find the challenging party in default, shall ratify the administrative levy, if valid upon its face, and shall enter an order directing the financial institution to release the moneys to the unit.
  - g. Issues related to visitation, custody, or other provisions not related to levies against accounts are not

grounds for a hearing under this chapter.

*h.* Support orders shall not be modified under a challenge pursuant to this section.

*i.* Any findings in the challenge of an administrative levy related to the amount of the accruing or accrued support obligation do not modify the underlying support order.

*j.* An order entered under this chapter for a levy against an account of a support obligor has priority over a levy for a purpose other than the support of the dependents in the court order being enforced.

6. The support obligor may withdraw the request for challenge by submitting a written withdrawal to the person identified as the contact for the unit in the notice or the unit may withdraw the administrative levy at any time prior to the court hearing and provide notice of the withdrawal to the obligor and any account holder of interest and to the financial institution, by regular mail.

7. If the financial institution has forwarded moneys to the collection services center and has deducted a fee from the moneys of the account, or if any additional fees or costs are levied against the account, and all funds are subsequently refunded to the account due to a mistake of fact or ruling of the court, the child support recovery unit shall reimburse the account for any fees assessed by the financial institution. If the mistake of fact is a mistake in the amount of support due and any portion of the moneys is retained as support payments, however, the unit is not required to reimburse the account for any fees or costs levied against the account. Additionally, for the purposes of reimbursement to the account for any fees or costs, each certificate of deposit is considered a separate account.

94 Acts, ch 1101, §8