

TITLE X
SUPPORT RECOVERYCHAPTER 95
COLLECTIONS

[Prior to 7/1/83, Social Services[770] Ch 95]

[Prior to 2/11/87, Human Services[498]]

441—95.1(252B) Definitions.

“*Bureau chief*” shall mean the chief of the bureau of collections of the department of human services or the bureau chief’s designee.

“*Caretaker*” shall mean a custodial parent, relative or guardian whose needs are included in an assistance grant paid according to Iowa Code chapter 239B, or who is receiving this assistance on behalf of a dependent child, or who is a recipient of nonassistance child support services.

“*Child support recovery unit*” shall mean any person, unit, or other agency which is charged with the responsibility for providing or assisting in the provision of child support enforcement services pursuant to Title IV-D of the Social Security Act.

“*Consumer reporting agency*” shall mean any person or organization which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

“*Current support*” shall mean those payments received in the amount, manner and frequency as specified by an order for support and which are paid to the clerk of the district court, the public agency designated as the distributor of support payments as in interstate cases, or another designated agency. Payments to persons other than the clerk of the district court or other designated agency do not satisfy the definition of support pursuant to Iowa Code section 598.22. In addition, current support shall include assessments received as specified pursuant to rule 441—156.1(234).

“*Date of collection*” shall mean the date that a support payment is received by the department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.

“*Delinquent support*” shall mean 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 shall also include assessments not received as specified pursuant to rule 441—156.1(234).

“*Department*” shall mean the department of human services.

“*Dependent child*” shall mean a person who meets the eligibility criteria established in Iowa Code chapter 234 or 239B, and whose support is required by Iowa Code chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598 or 600B, and any other comparable chapter.

“*Federal nontax payment*” shall mean an amount payable by the federal government which is subject to administrative offset for support under the federal Debt Collection Improvement Act, Public Law 104-134.

“*Obligee*” shall mean any person or entity entitled to child support or medical support for a child.

“*Obligor*” shall mean a parent, relative or guardian, or any other designated person who is legally liable for the support of a child or a child’s caretaker.

“*Payor of income*” shall have the same meaning provided this term in Iowa Code section 252D.16.

“*Prepayment*” shall mean payment toward an ongoing support obligation when the payment exceeds the current support obligation and amounts due for past months are fully paid.

“*Public assistance*” shall mean assistance provided according to Iowa Code chapter 239B or 249A, the cost of foster care provided by the department according to chapter 234, or assistance provided under comparable laws of other states.

“*Responsible person*” shall mean a parent, relative or guardian, or any other designated person who is or may be declared to be legally liable for the support of a child or a child’s caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the

Iowa Supreme Court in accordance with Iowa Code section 598.21, subsection 4, this shall mean the person from whom support is sought.

“*Support*” shall mean child support or medical support or both for purposes of establishing, modifying or enforcing orders, and spousal support for purposes of enforcing an order.

This rule is intended to implement Iowa Code chapters 252B, 252C and 252D.

441—95.2(252B) Child support recovery eligibility and services.

95.2(1) *Public assistance cases.* The child support recovery unit shall provide paternity establishment and support establishment, modification and enforcement services, as appropriate, under federal and state laws and rules for children and families referred to the unit who have applied for or are receiving public assistance. Referrals under this subrule may be made by the family investment program, the Medicaid program, the foster care program or agencies of other states providing child support services under Title IV-D of the Social Security Act for recipients of public assistance.

95.2(2) *Nonpublic assistance cases.* The same services provided by the child support recovery unit for public assistance cases shall also be made available to any person not otherwise eligible for public assistance. The services shall be made available to persons upon the completion and filing of an application with the child support recovery unit except that an application shall not be required to provide services to the following persons:

a. Persons not receiving public assistance for whom an agency of another state providing Title IV-D child support recovery services has requested services.

b. Persons for whom a foreign reciprocating country or a foreign country with which this state has an arrangement as provided in 42 U.S.C. §659 has requested services.

c. Persons who are eligible for continued services upon termination of assistance under the family investment program or Medicaid.

95.2(3) *Services available.* Except as provided by separate rule, the child support recovery unit shall provide the same services as the unit provides for public assistance recipients to persons not otherwise eligible for services as public assistance recipients. The child support recovery unit shall determine the appropriate enforcement procedure to be used. The services are limited to the establishment of paternity, the establishment and enforcement of child support obligations and medical support obligations, and the enforcement of spousal support orders if the spouse is the custodial parent of a child for whom the department is enforcing a child support or medical support order.

95.2(4) *Application for services.*

a. A person who is not on public assistance requesting services under this chapter, except for those persons eligible to receive support services under paragraphs 95.2(2)“*a,*” “*b,*” and “*c,*” shall complete and return Form 470-0188, Application for Nonassistance Support Services, for each parent from whom the person is seeking support.

(1) The application shall be returned to the child support recovery unit serving the county where the person resides. If the person does not live in the state, the application form shall be returned to the county in which the support order is entered or in which the other parent or putative father resides.

(2) The person requesting services has the option to seek support from one or both of the child’s parents.

b. An individual who is required to complete Form 470-0188, Application for Nonassistance Support Services, shall be charged an application fee in the amount set by statute. The unit shall charge one application fee for each parent from whom support is sought. The unit shall charge the fee at the time of initial application and any subsequent application for services. The individual shall pay the application fee to the local child support recovery unit before services are provided.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

441—95.3(252B) Crediting of current and delinquent support. The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding

month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule 441—95.7(252B).

The date of collection shall be determined as follows:

95.3(1) *Payments from income withholding.* Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection shall be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, “Income Withholding Return Document,” to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider. When the income provider does not document the months for which the sums are withheld, the amounts shall initially be distributed based on the date of the check. If documentation is subsequently provided, any additional payments due the recipient shall be issued.

95.3(2) *Payments from state or political subdivisions.* Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department shall be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions shall be initially issued based on the date of the state’s or political subdivision’s check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

95.3(3) *Additional payments.* An additional payment in the month which is received within five calendar days prior to the end of the month shall be considered collected in the next month if:

- a.* CSC is notified or otherwise becomes aware that the payment is for the next month, and
- b.* Support for the current month is fully paid.

This rule is intended to implement Iowa Code sections 252B.15 and 252D.17.

441—95.4(252B) Prepayment of support. Prepayment which is due to the child support obligee shall be sent to the obligee upon receipt by the department, and shall be credited as payment of future months’ support. Prepayment which is due the state shall be distributed as if it were received in the month when due. Support is prepaid when amounts have been collected which fully satisfy the ongoing support obligation for the current month and all past months.

441—95.5(252B) Lump sum settlement.

95.5(1) Any lump sum settlement of child support involving an assignment of child support payments shall be negotiated in conjunction with the child support recovery unit. The child support recovery unit shall be responsible for the determination of the amount due the department, including any accrued interest on the support debt computed in accordance with Iowa Code section 535.3 for court judgments. This determination of the amount due shall be made in accordance with Section 302.51, Code of Federal Regulations, Title 45 as amended to August 4, 1989. The bureau chief may waive collection of the accrued interest when negotiating a lump sum settlement of a support debt, if the waiver will facilitate the collection of the support debt.

95.5(2) The child support recovery unit shall be responsible for the determination of the department’s entitlement to all or any of the lump sum payment in a paternity action.

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

441—95.6(252B) Offset against state income tax refund or rebate. The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

95.6(1) By the first day of each month, the department shall submit to the department of administrative services a list of obligors who are delinquent at least \$50 in support payments.

95.6(2) When the department claims an obligor's state income tax refund or rebate, the department shall send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall send a preoffset notice when:

a. The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

b. The obligor has a delinquency of \$50 or greater.

95.6(3) When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days after the preoffset notice is sent. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

95.6(4) The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be received by the department within 15 days after the date of the preoffset notice.

95.6(5) The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.

95.6(6) The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by sending a final disposition of support recovery claim notice to the obligor.

95.6(7) Application of offset. Offsets shall be applied as provided in rule 441—95.3(252B).

This rule is intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).
[ARC 9177B, IAB 11/3/10, effective 1/1/11]

441—95.7(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 shall include the entire balance of a judgment for accrued support, as provided in Iowa Code section 252B.5(4).

95.7(1) Amount of assigned support. If the delinquent support is assigned to the department, the amount of delinquent support shall 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.

95.7(2) Amount of nonassigned support. If delinquent support is not assigned to the department, the claim shall 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 shall be the amount remaining following payment of a support delinquency assigned to the department. The department shall distribute to an obligee the amount collected from an offset according to subrule 95.7(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 95.7(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 95.7(8), whichever is later.

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

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

95.7(3) Notification to federal agency. The department shall, by October 1 of each year or at times as permitted or specified by federal regulations, submit a notification(s) of liability for delinquent support to the federal office of child support enforcement.

95.7(4) Preoffset notice and review. Each obligor who does not have an existing support debt on record with the federal office of child support enforcement will be sent a preoffset notice in writing, using address information provided to the federal office of child support enforcement, 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, the child support recovery unit shall conduct a review to determine if there is a mistake of fact and respond to the individual in writing within ten days. For purposes of this rule, “mistake of fact” means a mistake in the identity of the obligor or whether the delinquency meets the criteria for referral.

95.7(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, and records of payments made pursuant to state law, and will recalculate the delinquency.

95.7(6) The department shall notify the federal office of child support enforcement, within time frames established by it, of any modification or elimination of an amount referred for offset.

95.7(7) 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 person must wait for corrective action as specified in subrule 95.7(8).

95.7(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 the unit receives information from the federal office of child support enforcement 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 shall issue to that individual Form 470-3684, Appeal Rights for Federal Offsets.

a. The individual whose name was submitted for federal offset shall have 15 days from the date of the notice to contest the offset by initiating an administrative appeal pursuant to 441—subrules 7.8(1) and 7.8(2). Except as specifically provided in this rule, administrative appeals will be governed by 441—Chapter 7. The issue on appeal shall be limited to a mistake of fact as specified at paragraph 95.7(4) “*b.*”

b. The department shall 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 shall mean a listing from the federal office of child support enforcement 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 shall 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.

95.7(9) Application of offsets. Offsets of federal income tax refunds shall be applied to delinquent support only. The department shall first apply the amount collected from an offset to delinquent support assigned to the department under Iowa Code chapters 234 and 239B. The department shall then apply any amount remaining in equal proportions to delinquent support due individuals receiving nonassistance services.

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.5.
[ARC 9177B, IAB 11/3/10, effective 1/1/11]

441—95.8(96) Child support offset of unemployment insurance benefits. When the department of workforce development notifies the child support recovery unit that an individual who owes a child support obligation being enforced by the unit has been determined to be eligible for unemployment insurance benefits, the unit will enforce a child support obligation that is owed by an obligor but is not

being met by offset of unemployment insurance benefits. “Owed but not being met” means either current child support not being met or arrearages that are owed.

95.8(1) Withholding. The child support recovery unit shall offset unemployment insurance benefits by initiating a withholding of income pursuant to Iowa Code chapter 252D and 441—Chapter 98, Division II. The amount to be withheld through a withholding of unemployment insurance benefits shall not exceed the amount specified in 15 U.S.C. 1673(b).

95.8(2) A receipt of the payments intercepted through unemployment insurance benefits will be provided once a year, upon the obligor’s request to the child support recovery unit.

This rule is intended to implement Iowa Code section 96.3 and 15 U.S.C. 1673(b).

441—95.9 Reserved.

441—95.10(252C) Mandatory assignment of wages. Rescinded IAB 9/5/90, effective 11/1/90.

441—95.11(252C) Establishment of an administrative order. Rescinded IAB 9/1/93, effective 11/1/93. See 441—99.41(252C).

441—95.12(252B) Procedures for providing information to consumer reporting agencies. The bureau chief shall make information available to consumer reporting agencies, upon their request, regarding the amount of overdue support owed by a responsible person only in cases where the overdue support exceeds \$1,000.

95.12(1) Request of information. Agencies shall request the information from the Bureau of Collections, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. 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.

95.12(2) A notice of proposed release of information shall 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 shall explain the information to be released and the methods available for contesting the accuracy of the information.

95.12(3) The responsible person may, within 15 calendar days of the date of the notice of proposed release of information, request a conference with the child support recovery officer to contest the accuracy of the information to be given to the consumer reporting agency. In contested cases no referral shall be made to the consumer reporting agency until after the amount of overdue support has been confirmed to exceed \$1,000.

95.12(4) Rescinded IAB 11/6/96, effective 1/1/97.

This rule is intended to implement Iowa Code section 252B.8.

441—95.13(17A) Appeals. Nonreceipt of support collected by the department that is to be paid to the obligee may be appealed pursuant to the procedures provided in this rule if the obligee claims that the payment was credited to the incorrect month in accordance with subrules 95.3(1), 95.3(2), and 95.3(3).

95.13(1) Contact with department. Obligees who believe they have not received all or part of a support payment to which they are entitled in accordance with subrules 95.3(1), 95.3(2), and 95.3(3) must first contact a customer service representative and indicate that they have not received the payment.

a. An obligee may contact a customer service representative in person at the department’s collection services center, by telephone through the specialized customer services unit, or by writing to the Collection Services Center, 727 East 2nd Street, Des Moines, Iowa 50306.

b. The department will acknowledge this contact in writing, indicating the months at issue.

95.13(2) Written decision. Within 30 days of the contact, the department shall issue a written decision on all contested support distributions based on the date of collection.

95.13(3) Initiation of appeal. If the department denies some or all support payments that are claimed based on the date of collection, the obligee may initiate an administrative appeal.

a. To initiate an administrative appeal, the obligee shall make a written request to the child support recovery unit indicating an intent to appeal.

b. The time limit for initiating an administrative appeal shall be governed by 441—subrule 7.5(4). The time limit provided in 441—subrule 7.5(4) shall start with the date that a written decision as required by subrule 95.13(2) is issued.

c. If no written decision has been issued after 30 days, the obligee may appeal the failure to issue a written decision. The appeal may be initiated at any time after 30 days and before a written decision is issued.

95.13(4) *Limitation of appeals.* Appeals will be limited to claims based on child support received by the department during the nine-month period before the month in which the appeal is initiated.

95.13(5) *Appeal process.* Except as specifically provided in this rule, administrative appeals shall be governed by 441—Chapter 7.

95.13(6) *Appeal issue.* The issue in appeals held pursuant to these procedures shall be limited to the obligee's entitlement to a support payment that has been collected by the department.

This rule is intended to implement Iowa Code sections 17A.12 to 17A.20.

441—95.14(252B) Termination of services.

95.14(1) *Case closure criteria.*

a. Child support services to a recipient of public assistance may be terminated when one of the following case closure criteria is met:

(1) There is no ongoing support obligation and arrearages are under \$500 or unenforceable under state law.

(2) The noncustodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken.

(3) Paternity cannot be established because:

1. The child is at least 18 years old and action to establish paternity is barred by the statute of limitations;

2. A genetic test or a court or administrative process has excluded the putative father and no other putative father can be identified; or

3. The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the child support recovery unit with the recipient of services.

(4) The noncustodial parent's location is unknown, and the child support recovery unit has made diligent efforts to locate the noncustodial parent using multiple sources, in accordance with regulations in 45 CFR 303.3, as amended to March 10, 1999, all of which have been unsuccessful, within the applicable time frame:

1. Over a three-year period when there is sufficient information to initiate an automated locate effort.

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort.

(5) The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The child support recovery unit must have determined that no income or assets are available to the noncustodial parent which could be levied or attached for the payment of support.

(6) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets, and there is not a reciprocity agreement with that country.

(7) There has been a finding of good cause or other exception in a public assistance case as specified in 441—subrules 41.22(8) through 41.22(12) and 441—subrule 75.14(3), including a determination that support enforcement may not proceed without risk or harm to the child or caretaker relative.

(8) The child support recovery unit documents failure by the child support agency of another state which requested services to take an action which is essential for the next step in providing services.

(9) The non-IV-A recipient of services requests closure of a case and there is no assignment to the state of medical support under 42 CFR 433.146, as amended to October 1, 2002, or of arrearages which accrued under a support order.

(10) The case meets any other basis for case closure based upon federal law.

b. Child support services to a person who is not receiving public assistance may be terminated when one of the case closure criteria of subparagraphs 95.14(1)“*a*”(1) through (6) or (8) is met or for one or more of the following reasons:

(1) The child support recovery unit has received a written or oral request from the recipient to close the case, and there is no assignment to the state of medical support or arrearages which accrued under a support order.

(2) The child support recovery unit has received information that the address in the unit’s record is no longer current, and the unit is unable to contact or otherwise locate the recipient within 60 days following receipt of this information, despite an attempt of at least one letter sent by first-class mail to the recipient’s last-known address.

(3) The recipient of services has failed to cooperate with the child support recovery unit, the circumstances of the noncooperation have been documented, and an action by the recipient of services is essential for the next step in providing services. (See rule 441—95.19(252B).)

(4) The child support recovery unit has provided location-only services.

(5) The child support recovery unit has determined that it would not be in the best interest of the child to establish paternity in a case that involves incest or forcible rape or a case in which legal proceedings for adoption are pending.

(6) The case meets any other basis for case closure based upon federal law.

95.14(2) Notification in public assistance cases. In cases meeting one of the criteria of subparagraphs 95.14(1)“*a*”(1) through (6), (8), or (10), the child support recovery unit shall send notification of its intent to close the case to the recipient of services or the child support agency in the state which requested services in writing 60 calendar days before case closure. The notice shall be sent to the recipient of services or the state requesting services at the last-known address stating the reason for denying or terminating services, the effective date, and an explanation of the right to request a hearing according to 441—Chapter 7. Closure of the case following notification is subject to the following:

a. If, in response to the notice, the recipient of services or the state requesting services supplies information which could lead to the establishment of paternity or a support order or enforcement of an order, the case shall be kept open.

b. The recipient of services may request that the case be reopened at a later date if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application and paying any applicable fee.

95.14(3) Reasons for termination of services to nonpublic assistance recipients. Rescinded IAB 4/30/03, effective 7/1/03.

95.14(4) Notification in nonpublic assistance cases. The child support recovery unit shall provide notification to nonpublic assistance cases meeting the criteria for closure in paragraph 95.14(1)“*b*” in the manner and under the conditions stated in subrule 95.14(2), except for cases terminated for the reasons listed in subparagraphs 95.14(1)“*b*”(1) and (4). If the case is to be closed because the child support recovery unit was unable to contact the recipient of services as provided in subparagraph 95.14(1)“*b*”(2), the case shall be kept open if contact is reestablished with the recipient of services before the effective date of the closure.

This rule is intended to implement Iowa Code sections 252B.4, 252B.5 and 252B.6.

441—95.15(252B) Child support recovery unit attorney.

95.15(1) State’s representative. An assistant attorney general, assistant county attorney, or independent contract attorney employed by or under contract with the child support recovery unit represents only the state of Iowa. The sole attorney-client relationship for the child support recovery

unit attorney is between the attorney and the state of Iowa. A private attorney acting under Iowa Code section 252B.6A is not a child support recovery unit attorney, and is not a party to the action.

95.15(2) *Provision of services.* The special role of the child support recovery unit attorney is limited by the attorney-client relationship between the attorney and the state of Iowa. The provision of legal services by the child support recovery unit attorney is limited as follows:

a. The child support recovery unit attorney shall not represent any person or entity other than the state of Iowa in the course of the attorney's employment by or contractual relationship with the child support recovery unit.

b. The child support recovery unit attorney shall issue written disclosure of the attorney-client relationship between the attorney and the state of Iowa to recipients of child support enforcement services and to all parties in a review and adjustment proceeding.

95.15(3) *Communication concerning case circumstances.*

a. The child support recovery unit shall provide case status information upon written request by any recipient of child support enforcement services or any party under the review and adjustment procedure, unless otherwise prohibited by state or federal statute or rules pertaining to confidentiality.

b. All communications with other parties will be directed to those parties personally, unless a licensed attorney has entered an appearance or notified the child support recovery unit in writing that the attorney is representing a party. If any party is represented by counsel, all communications shall be directed to counsel for that party.

c. When a party is receiving public assistance, the unit shall refer any suspected fraud or questionable family investment program expenditures to the appropriate governmental agencies.

This rule is intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21.

441—95.16(252B) Handling and use of federal 1099 information. Data from the collection and reporting system is matched with federal 1099 records for information on assets and income. Verified 1099 information may be used for: establishing support orders, modifying support orders under the review and adjustment process and enforcing payment of support debts.

95.16(1) *Security of 1099 information.* Information received from the federal source, 1099, shall be safeguarded in accordance with Internal Revenue Code Section 6103(p)(4). Information shall be kept in a secure section of the state computer system and not released until verified by a third party.

95.16(2) *Verification of 1099 information.* Prior to release of any information to the local child support recovery office, the information shall be verified by a third party as follows:

a. When information indicates there may be assets available from a financial institution, the child support recovery unit shall secure verification of these assets from the financial institution on Form 470-3170, Asset Verification Form.

b. When address information is received, the child support recovery unit shall secure verification of the address information from the post office on Form 470-0176, Address Information Request.

c. When employment information is received, the child support recovery unit shall secure verification of the employment from the employer on Form 470-0177, Employer Information Request.

This rule is intended to implement Iowa Code section 252B.9.

441—95.17(252B) Effective date of support. For all original orders established by the child support recovery unit, the effective date of the support obligation under the orders shall be the twentieth day following the date the order is prepared by the unit, unless otherwise specified.

441—95.18(252B) Continued services available to canceled family investment program (FIP) or Medicaid recipients. Support services shall automatically be provided to persons who were eligible to receive support services as recipients of FIP or Medicaid and who were canceled from FIP or Medicaid. Continued support services shall not be provided to a person who has been canceled from FIP or Medicaid when a claim of good cause, as defined at 441—subrule 41.22(8) or 441—subrule 75.14(3), as appropriate, was valid at the time assistance was canceled or when one of the reasons for termination of services, listed at rule 441—95.14(252B), applies to the case.

Support services shall be provided to eligible persons without application or application fee, but subject to applicable enforcement fees.

95.18(1) *Notice of services.* When a family is no longer eligible for public assistance, the department shall forward Form 470-1981, Notice of Continued Support Services, to the family's last-known address within five working days of the notification of ineligibility, to inform the family:

a. That, unless the family notifies the department to the contrary, services will continue.

b. Of the effect of continuing to receive support services, including the available services and the state's policies on fees, cost recovery, and distribution.

95.18(2) *Termination of services.* A person may request the department to terminate support services at any time by the completion and return of the appropriate portion of Form 470-1981, Notice of Continued Support Services, or in any other form of written communication, to the child support recovery unit.

Continued support services may be terminated at any time for any of the reasons listed in rule 441—95.14(252B).

95.18(3) *Reapplication for services.* A person whose services were denied or terminated may reapply for services under this chapter by completing the application process and paying the application fee described in subrule 95.2(4).

This rule is intended to implement Iowa Code section 252B.4.

441—95.19(252B) Cooperation of public assistance recipients in establishing and obtaining support. If a person who is a recipient of FIP or Medicaid is required to cooperate with the child support recovery unit in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the following shall apply:

95.19(1) *Cooperation defined.* The person shall cooperate in good faith in obtaining support for persons whose needs are included in the assistance grant or Medicaid household, except when good cause or other exception as defined in 441—subrule 41.22(8) or 75.14(8) for refusal to cooperate, is established.

a. The person shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom assistance or Medicaid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom assistance or Medicaid is claimed.

(3) Obtaining support payments for the person and the child for whom assistance is claimed, and obtaining medical support for the person and child for whom Medicaid is claimed.

b. Cooperation is defined as including the following actions by the person if the action is requested by the child support recovery unit:

(1) Providing the name of the noncustodial parent and additional necessary information.

(2) Appearing at the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the person that is relevant to achieving the objectives of the child support recovery program.

(3) Appearing at judicial or other hearings, proceedings or interviews.

(4) Providing information or attesting to the lack of information, under penalty of perjury.

(5) If the paternity of the child has not been legally established, submitting to blood or genetic tests pursuant to a judicial or administrative order. The person may be requested to sign a voluntary affidavit of paternity after being given notice of the rights and consequences of signing such an affidavit as required by the statute in Iowa Code section 252A.3A. However, the person shall not be required to sign an affidavit or otherwise relinquish the right to blood or genetic tests.

c. The person shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the noncustodial parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity or to secure medical support. This includes completing and signing Form 470-3877, Child Support Information, if requested, as well as documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

95.19(2) Failure to cooperate. The local child support recovery unit shall make the determination of whether or not a person has cooperated with the unit. The child support recovery unit shall promptly send notice of a determination of noncooperation to the person on Form 470-3400, Notice of Noncooperation, and notify the FIP and Medicaid programs, as appropriate, of the noncooperation determination and the reason for the determination. The FIP and Medicaid programs shall take appropriate sanctioning actions as provided in statute and rules.

95.19(3) Good cause or other exception.

a. A person who is a recipient of FIP assistance may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrules 41.22(8) through 41.22(12).

b. A person who is a recipient of Medicaid may claim a good cause or other exception for not cooperating, taking into consideration the best interests of the child as provided in 441—subrule 75.14(3).

This rule is intended to implement Iowa Code section 252B.3.

441—95.20(252B) Cooperation of public assistance applicants in establishing and obtaining support. If a person who is an applicant of FIP or Medicaid is required to cooperate in establishing paternity; in establishing, modifying, or enforcing child or medical support; or in enforcing spousal support, the requirements in 441—subrule 41.22(6) and rule 441—75.14(249A) shall apply. The appropriate staff in the FIP and Medicaid programs are designees of the child support recovery unit to determine noncooperation and issue notices of that determination until the referral to the unit is completed.

This rule is intended to implement Iowa Code section 252B.3.

441—95.21(252B) Cooperation in establishing and obtaining support in nonpublic assistance cases.

95.21(1) Requirements. The individual receiving nonpublic assistance support services shall cooperate with the child support recovery unit by meeting all the requirements of rule 441—95.19(252B), except that the individual may not claim good cause or other exception for not cooperating.

95.21(2) Failure to cooperate. The child support recovery unit shall make the determination of whether or not the nonpublic assistance applicant or recipient of services has cooperated. Noncooperation shall result in termination of support services. An applicant or recipient may also request termination of services under 95.14(1)“b”(1).

This rule is intended to implement Iowa Code section 252B.4.

441—95.22(252B) Charging pass-through fees. Pass-through fees are fees or costs incurred by the department for service of process, genetic testing and court costs if the entity providing the service charges a fee for the services. The child support recovery unit may charge pass-through fees to persons who receive continued services according to rule 441—95.18(252B) and to other persons receiving nonassistance services, except no fees may be charged an obligee residing in a foreign country or the foreign country if the unit is providing services under paragraph 95.2(2)“b.”

This rule is intended to implement Iowa Code section 252B.4.

441—95.23(252B) Reimbursing assistance with collections of assigned support. For an obligee and child who currently receive assistance under the family investment program, the full amount of any assigned support collection that the department receives shall be distributed according to rule 441—95.3(252B) and retained by the department to reimburse the family investment program assistance.

This rule is intended to implement Iowa Code section 252B.15.

441—95.24(252B) Child support account. The child support recovery unit shall maintain a child support account for each client. The account, representing money due the department, shall cover all periods of time public assistance has been paid, commencing with the date of the assignment. The child support recovery unit will not maintain an interest-bearing account.

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

441—95.25(252B) Emancipation verification. The child support recovery unit (CSRU) may verify whether a child will emancipate according to the provisions established in the court order prior to the child's eighteenth birthday.

95.25(1) Verification process. CSRU shall send Form 470-2562, Emancipation Verification, to the obligor and obligee on a case if CSRU has an address.

95.25(2) Return information. The obligor and obligee shall be asked to complete and return the form to the unit. CSRU shall use the information provided by the obligor or obligee to determine if the status of the child indicates that any previously ordered adjustments related to the obligation and a child's emancipation are necessary on the case.

95.25(3) Failure to return information. If the obligor and obligee fail to return the questionnaire, CSRU shall apply the earliest emancipation date established in the support order to the case and implement changes in support amounts required in the support order.

95.25(4) Conflicting information returned. If conflicting information is returned or made known to CSRU, CSRU shall have the right to verify the child's status through sources other than the obligor and obligee.

This rule is intended to implement Iowa Code sections 252B.3 and 252B.4.

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⁰ Two or more ARCs

¹ Effective date of 95.1, definition of “Date of collection,” and 95.3 delayed 70 days by the Administrative Rules Review Committee at its meeting held September 15, 1999; delayed until the end of the 2000 Session of the General Assembly at its meeting held October 11, 1999.