

STATE OF FLORIDA
DEPARTMENT OF REVENUE
CHAPTER 12E-1, FLORIDA ADMINISTRATIVE CODE
CHILD SUPPORT PROGRAM
AMENDING RULES 12E-1.0051, 12E-1.012, 12E-1.027, AND 12E-1.030

12E-1.0051 Undistributable Collections.

(1) Introduction. The Department is responsible for distribution of child support payments under section 409.2558, F.S. When the Department is unable to disburse the payment to the final intended recipient, the provisions of this rule apply ~~shall be applied~~.

(2) Definitions. For purposes of this rule:

(a) “Final intended recipient” means a ~~custodial parent, caregiver, noncustodial parent, a parent’s or caregiver’s estate, or a state, country, or Federal agency providing Title IV-D services, including those agencies administering programs under Title IV-A (Temporary Assistance for Needy Families), Title IV-E (Foster Care), or and Title XIX (Medicaid) of the Social Security Act.~~ caregiver.

(b) “Obligee” means the person to whom support payments are made pursuant to an alimony or child support order.

(c) “Obligor” means a person who is responsible for making support payments pursuant to an alimony or child support order.

(d) “Undistributable collection” means ~~is defined by the social and economic assistance provisions in section 409.2554(14), F.S., to mean~~ a support payment received by the Department that which the Department determines cannot be distributed to the final intended recipient, as

defined by section 409.2554(17), F.S.

(3) Undistributable Collection Processing.

(a) The Department will consider a collection undistributable when:

1. The final intended recipient is deceased and the Department cannot locate the individual's ~~final intended recipient's~~ estate or the estate does not claim the funds.

2. The final intended recipient cannot be found after making reasonable efforts to locate the individual.

~~a.(b) The Department will use the following sources to try to find the final intended recipient. If the final intended recipient is deceased, location searches under subparagraphs 1. through 6. are not required. Reasonable efforts to locate a final intended recipient are considered complete exhausted when, at a minimum, searches of the Department's automated case management computer system, available electronic data exchange information from other state and federal agencies, and information available from a contractor providing location services to the Department, if any, following sources have taken place and the Department has not found the individual final intended recipient.~~

~~1. Department's automated case management computer system, to include electronic searches with multiple sources and responses from the Federal Parent Locator Service, as required in 45 CFR 303.70. This search includes the obligor, obligee, and children.~~

~~2. Florida Department of Highway Safety and Motor Vehicles.~~

~~3. Florida Department of Economic Opportunity. This search includes employment, wage, unemployment, and Workers' Compensation records.~~

~~4. Florida Department of Corrections.~~

~~5. Location sources available from an out-sourced location vendor, subject to a contractual~~

agreement between the Department and vendor.

~~6. Secure Internet locate sites, as determined on a case by case basis.~~

~~b.(e)~~ If the searches under ~~subparagraph (a)2.a.~~ subparagraphs (b)1. through 6. find the final intended recipient, the Department disburses the payment.

~~c.(d)~~ If the searches under ~~subparagraph (a)2.a.~~ subparagraphs (b)1. through 6. do not find the final intended recipient, the payment ~~collection~~ is considered undistributable.

~~(b)~~ The Department will ~~shall~~ process the undistributable collections ~~collection~~ in priority order as provided in section 409.2558(3), F.S.

~~(e)~~ When the obligor has more than one support order with a past due balance being enforced by the Department, the Department shall notify the obligor by certified mail, restricted delivery, return receipt requested, of its intent to apply the collection to the obligor's other cases, according to section 409.2558(3)(b)6., F.S. If the address of the obligor is unknown, the Department will try to find the obligor using sources referenced in paragraph (b) of this subsection.

~~(f)~~ If the obligor disagrees with the Department's plan to apply the collection to the obligor's other cases and a petition is filed in circuit court and served on the Department within 30 calendar days of the mailing date of notice, the Department will not apply the collection to the obligor's other cases unless the court enters an order for the Department to apply the collection to the obligor's other cases.

~~(g)~~ When the Department has processed the collections as required in section 409.2558(3)(b)6., F.S., and there are collections remaining, the Department will refund the remaining collections to the obligor if the address of the obligor is known. If the address of the obligor is unknown, the Department will try to find the obligor using sources referenced in

~~paragraph (b) of this subsection.~~

(4) Uncashed Checks for Less Than Ten Dollars.

(a) When the Department has sent one or more paper checks totaling less than ten dollars to the final intended recipient, and the individual has not cashed the check within 180 days of the issue date and does not have an established method of electronic disbursement, the Department will hold the collection for processing as program income.

1. The Department sends a Notice of Uncashed Check (CS-FM166) to the final intended recipient's last known address by regular mail. The notice states the Department's intention to process the collection as program income unless the individual contacts the Department to have the collection reissued. Form CS-FM166,

(http://www.flrules.org/Gateway/reference.asp?No=Ref-_____), is incorporated herein by reference, effective xx/xx.

2. If the final intended recipient does not contact the Department within 30 days of the date of the notice, the Department will process the collection as program income, crediting the federal share of the collection to the federal government and the state share of the collection to the General Revenue Fund.

3. If the final intended recipient contacts the Department after the collection has been processed as program income, the Department will handle the request to claim the collection as provided in subsection (6).

~~(5)~~(4) Undistributed Collections for Ninety-Nine Cents or Less.

(a) If the Department has sent one or more paper checks totaling ninety-nine cents or less to a final intended recipient, the ~~final intended~~ recipient has not cashed the check(s) within 180 days of the issue date on the check(s), the collection(s) is the only remaining payment due to the final

intended recipient, and the individual ~~final intended recipient~~ does not have an established method of electronic disbursement, the Department will ~~shall~~ process the collection as program income.

(b) If the Department identifies undistributed collections totaling ninety-nine cents or less on a closed case and the collection is the only remaining collection due to the final intended recipient, the Department processes ~~shall process~~ the collection as program income without attempting to locate the final intended recipient.

~~(6)(5)~~ Claiming Reclamation of Undistributable Collections.

(a) The final intended recipient may claim ~~reclaim~~ undistributable collections retained as program income. The individual ~~final intended recipient~~ may not claim ~~reclaim~~ an undistributable collection if the collection was applied to bad check charges because the obligor's payment is returned to the Department ~~Child Support Enforcement Program~~ for insufficient funds, overpayments, state-assigned arrears, administrative costs, other cases in which the obligor owes past-due support, or the collection was returned to the obligor. The individual ~~final intended recipient~~ may contact the Department ~~local child support office or~~ ~~contact the Child Support Enforcement Program Office and ask for the Payment Processing Unit,~~ and to request the collection be disbursed ~~a reclamation form.~~

(b) ~~The~~ To reclaim a collection, the final intended recipient must ~~complete and send to the~~ complete and send to the Department, Form CS-FM125, Request for Refund, dated July 2010, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00620>) incorporated by reference in this rule. ~~The final intended recipient must~~ prove they are entitled to the collection ~~owner~~ by giving his or her name, mailing address, and other case or demographic information as needed for the Department to verify the individual's identity ~~if known, the child support or case number, date of~~

~~payment(s), and amount claimed.~~

(c) The Department will review the information provided ~~submitted by the final intended recipient~~ and respond in writing to approve or deny the request.

1. If the request is approved, the Department will disburse ~~mail~~ the collection to the final intended recipient.

2. If the request is denied, the Department will mail the Form CS-FM127, Request for Disbursement Refund Denied (CS-FM127) to the final intended recipient. Form CS-FM127 dated July 2010, incorporated by reference in this rule,

(http://www.flrules.org/Gateway/reference.asp?No=Ref-____00621) is incorporated herein by reference effective xx/xx ~~to the final intended recipient. Form CS-FM127 states the request is denied, reason for the denial, and the final intended recipient may contest the decision by seeking an administrative hearing under chapter 120, F.S. The form includes a Notice of Rights.~~

3. A final intended recipient may file a petition for ~~seek~~ an administrative hearing to contest the Department's decision to deny a request to claim ~~reclaim~~ a collection considered undistributable by the Department. A petition for an administrative hearing must be received by the Department of Revenue, Child Support Enforcement Program, Deputy Agency Clerk, within 20 calendar days from the mailing date of Form CS-FM127. Administrative hearings are ~~shall be~~ conducted pursuant to chapter 120, F.S.

(6) Forms.

Members of the public may get a copy of the forms used in this rule chapter, incorporated by reference, without cost, by writing to the Department of Revenue, Child Support Enforcement Program, Attn.: Forms Coordinator, P.O. Box 8030, Tallahassee, Florida 32314-8030.

Rulemaking Authority 409.2557(3)(j), 409.2558(3)(a), 409.2558(9) FS. Law Implemented

409.2558(3), 409.2558(5) FS. History—New 10-24-11, Amended_____.

12E-1.012 Consumer Reporting Agencies.

(1) through (3) No change.

(4) Notice and Right to Hearing.

(a) Before releasing a report or providing information concerning an obligor under this section, the Department ~~sends~~ ~~shall send~~ the obligor by regular mail to his or her last known address a Notice of Intent to Report to Consumer Reporting Agencies, Form CS-EF32, incorporated herein by reference, effective 11/20, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-12332>). The notice informs ~~must inform~~ the obligor that:

1. through 6. No change.

(b) An obligor may contest the Department's reporting of overdue support to consumer reporting agencies. To contest:

1. and 2. No change.

3. When the review is concluded, the Department will ~~shall~~ hand-deliver or send the obligor by regular mail a Notice of Decision Concerning Report to Consumer Reporting Agencies, Form CS-EF62, incorporated herein by reference, effective 07/22 ~~11/21~~, (http://www.flrules.org/Gateway/reference.asp?No=Ref-____13849). The notice informs ~~must inform~~ the obligor whether the Department intends to report the obligor's overdue support amount to the consumer reporting agencies. The notice also informs ~~must inform~~ the obligor of the right under Chapter 120, F.S., to file a petition for administrative hearing to contest the accuracy of the information to be reported.

~~4. The obligor may contest the notice of decision by filing a petition for administrative hearing with the Department at the address provided in the notice within 15 days after receipt of the notice of decision. A petition is filed when it is received by the Department, not when it is mailed. If the obligor contests the notice of decision by filing a timely petition, the Department may not report information to consumer reporting agencies until the obligor withdraws the petition, the obligor consents, or a final order is entered that authorizes the release of the information.~~

(5) and (6) No change.

Rulemaking Authority 61.1354(5), 409.2557(3)(i) FS. Law Implemented 61.1354 FS. History—New 6-17-92, Amended 7-20-94, Formerly 10C-25.009, Amended 10-22-00, 10-30-06, 9-19-17, 11-12-20, 11-21-21, _____.

12E-1.027 Written Agreements for Payment of Past-Due Support.

(1) No change.

(2) Definitions.

(a) and (b) No change.

(c) “Written agreement” or “payment agreement” means an agreement entered into by the department and an obligor ~~in a format prescribed by the department and suitable to be filed in court or administrative proceedings~~ that sets the terms for payment of past-due support.

(3) No change.

~~(4) Terms of Written Agreements for Payment of Past-Due Support.~~

~~(a) An obligor completing a written agreement for payment of past due support shall admit liability for the total amount of past due support determined by the department to be due in~~

~~accordance with the records of the appropriate court depository established by section 61.181, F.S., or other appropriate records in interstate cases.~~

~~(b) Written agreements for payment of past due support must provide for payment(s) that will satisfy the total amount of past due support, as follows:~~

- ~~1. A one time payment of the total past due support; or~~
- ~~2. Periodic payments in equal amounts, paid at the same frequency as the ongoing support obligation, if any, or~~
- ~~3. Another agreed upon payment schedule that satisfies the total past due support.~~

~~(c) When the department agrees to suspend an enforcement remedy to accept a payment plan, the written agreement shall provide that, in the event the obligor does not pay as agreed:~~

- ~~1. The department shall resume the enforcement remedy without further notice, unless the debt is paid in full, enforcement is contrary to law, or a subsequent written agreement is entered into with the obligor,~~
- ~~2. The obligor consents to the department resuming the enforcement remedy; and,~~
- ~~3. The obligor waives the right to further notice or hearing concerning the department resuming the enforcement remedy.~~

~~(4)(5)~~ Form and Completion of Written Agreements.

~~(a) The Department uses the Payment Agreement for Past-Due Support (CS-EF91) form to enter into a written agreement with an obligor. Form CS-EF91, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____), is incorporated herein by reference effective xx/xx. A written agreement completed under this rule must specify the obligor's name, the obligee's name, and the civil circuit case number, if applicable.~~

~~(b) A written agreement must be signed on behalf of the department by an authorized~~

~~representative.~~

~~(c) A written agreement must be signed by the obligor, or the obligor's attorney, or another representative authorized by law to enter into an agreement on behalf of the obligor.~~

~~(b)(d)~~ A written agreement becomes effective when completed and signed by both the Department ~~department~~ and the obligor, or the obligor's representative as described in paragraph ~~(e), above~~. After execution of a written agreement, the Department provides ~~department shall~~ furnish the obligor, or the obligor's representative as described in paragraph ~~(e), above~~, and the ~~obligee~~ with a copy of the agreement.

Rulemaking Authority 409.2557(3)(f), 409.2564(13) FS. Law Implemented 61-13016, 409.2561(1), (2)(b), (3), 409.2564(4), 409.2598 FS. History—New 3-6-02, Amended _____.

12E-1.030 Administrative Establishment of Child Support Obligations.

(1) through (14) No change.

(15) Termination of an Administrative Support Order or Support Obligation.

(a) The Department issues a Notice of Intent to Terminate Support, Determine Arrears and Establish Payment on Arrears (CS-OA160) when:

1. The parents reside together with the child(ren);
2. The child(ren) for whom support is ordered permanently resides with the parent who is ordered to pay support;
3. The parent who is ordered to pay support begins receiving Supplemental Security Income (SSI) after the support order is rendered;
4. The parent who is ordered to pay support has no income, is permanently disabled, and provides a doctor's statement that the parent is permanently disabled and unable to work; or

5. A court has terminated the parental rights of the parent who is ordered to pay support.

(b) The Department sends the notice by regular mail to each parent or caregiver, as applicable, at the address of record with the Department in accordance with section 409.2563(13)(c), F.S. Form CS-OA160, Notice of Intent to Terminate Support, Determine Arrears and Establish Payment on Arrears, is hereby incorporated by reference, effective xx/xx, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____).

(c) If a timely petition for an administrative hearing is filed with the Department in response to the notice, the Department refers the proceeding to the Division of Administrative Hearings in accordance with section 409.2563(6), F.S. If the notice is not contested, the Department renders a Final Order Terminating Support, Determining Arrears and Establishing Payment on Arrears (CS-OA178). Form CS-OA178 is hereby incorporated by reference, effective xx/xx, (http://www.flrules.org/Gateway/reference.asp?No=Ref-_____).

(d) The Department terminates an administrative support order under paragraph (a) when retroactive support or past-due support is not owed, or if retroactive support or past-due support are owed, none is assigned to the state, and the parent to whom retroactive support or past-due support is owed waives it in writing, except when a parenting time plan is incorporated into a final administrative support order.

(e) The Department terminates the support obligation prospectively, determines arrears and establishes payment on arrears when there are grounds for termination under paragraph (a) and retroactive support or past-due support are owed and not waived by the person to whom it is owed. The administrative support order is not terminated.

(f) A parent or caregiver may request the Department to terminate an administrative support order or support obligation. Requests must be made in writing and may be made using Request

to Terminate Support (CS-OA179). Form CS-OA179 is hereby incorporated by reference, effective xx/xx, (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____). The request must include the following information:

1. Name of the parent or caregiver making the request;
2. Name of the other parent;
3. Child support case number or depository number;
4. Name of the child(ren) named in the order;
5. Specific reasons for the request to terminate; and,
6. Documentation that supports the request to terminate, if any.

(g) The Department evaluates requests to terminate an administrative support order or support obligation and issues a Notice of Intent to Terminate Support, Determine Arrears and Establish Payment on Arrears (CS-OA160) if the request and supporting documentation meet the criteria in paragraph (a). If the request does not meet the criteria, the Department mails the parent or caregiver the Response to Request to Terminate Support (CS-OA180). Form CS-OA180 is hereby incorporated by reference, effective xx/xx, (<http://www.flrules.org/Gateway/reference.asp?No=Ref->_____).

~~(15) Termination of an Administrative Support Order.~~

~~(a) A parent or caregiver may request in writing that the Department terminate an Administrative Support Order for the reasons listed in paragraph (b). A written request must include the following information:~~

- ~~1. Names and addresses of the respondent and petitioner,~~
- ~~2. Child support case number, administrative support order number, or depository number,~~
- ~~3. Names of child or children,~~

4. Specific reasons for the request to terminate; and,
5. Any documentation that supports the request to terminate.

(b) The Department initiates action to terminate an administrative support order when:

1. A parent due support or caregiver who does not receive cash assistance requests termination of an Administrative Support Order.
2. The parent who owes support is permanently disabled, and is not receiving earned income. The person claiming permanent disability must provide a doctor's certificate stating the parent is permanently disabled and unable to return to work.
3. There has been a permanent change of physical custody of all the children on the order to the parent who owes support, or
4. The court terminates the parental rights of the parent who owes support.

(c) Arrears owed at the time the support is terminated will be established by the Department along with a repayment amount. The parent due support may waive arrears owed to them.

(d) The Department shall send a notice of intent to terminate the Administrative Support Order, to the non-requesting party, or any legal counsel or qualified representative representing the non-requesting party, and the requesting party. The notice of intent informs each parent:

1. The effective date of terminating the support order,
2. How to ask for an informal discussion,
3. How to ask for an administrative hearing; and,
4. That he or she has the right to file a civil action in circuit court to determine child support issues.

(e) When the Department begins a proceeding to terminate an Administrative Support Order, the Department shall notify the parents or caregiver by regular mail at the address of record for

~~each party using Form CS-OA160, Notice of Intent to Terminate Final Administrative Support Order, hereby incorporated by reference, effective 10/21,~~

~~(<http://www.flrules.org/Gateway/reference.asp?No=Ref-13854>).~~ If the notice is not contested the

~~Department shall render Form CS-OA178, Final Order Terminating Administrative Support Order, hereby incorporated by reference, effective 10/21,~~

~~(<http://www.flrules.org/Gateway/reference.asp?No=Ref-13855>).~~

(16) through (18) No change.

Rulemaking Authority 61.13(1)(b)7., 61.14(1)(d), 409.2557(3)(p), ~~409.2563(7)(e)~~, 409.2563(16), 409.25633(9) FS. Law Implemented 409.2563, 409.25633 FS. History—New 9-19-17, Amended 1-17-18, 9-17-18, 8-28-19, 11-12-20, 11-21-21,_____.