

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



February 6, 2012

CSS LETTER: 12-02

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

SUBJECT: RESTRICTIONS ON ENFORCEMENT ACTIONS FOR BANKRUPTCY

REFERENCE: *CSS 07-18 ENFORCEMENT ACTION GUIDELINES FOR
 BANKRUPTCY AND CSS 07-18 ENFORCEMENT ACTION
 GUIDELINES FOR BANKRUPTCY ENFORCEMENT ERRATA*

The purpose of this letter is to provide local child support agencies (LCSAs) with policy for handling the enforcement of Title IV-D cases when the obligor has filed for bankruptcy protection. This letter supersedes all previous policy issued regarding this matter.

Significant case law has been published since the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005 (P.L. 109-8), confirming the protection afforded individuals during the bankruptcy process. The BAPCPA, which was effective October 17, 2005, made changes to Title 11 of the United States Code and applies to all bankruptcy petitions filed on or after that date. Bankruptcy petitions filed before October 17, 2005, continue to follow the laws and procedures which existed prior to the amendment and LCSAs should refer to the policies and procedures accepted by the local bankruptcy courts and bankruptcy trustees for those cases.

The filing of a bankruptcy petition by a child support obligor establishes an automatic stay and LCSAs are prohibited from taking certain enforcement actions against the obligor and property of the bankruptcy estate while the bankruptcy proceeding is pending. Title 11 defines "property of the estate" as all legal or equitable interests of the obligor in property at the beginning of a case and any interest in property that the estate acquires after the commencement of the case. To safeguard LCSAs and the Department of Child Support Services (DCSS) from violating BAPCPA, DCSS is directing the LCSAs **not** to remove automatic system generated suppressions on bankruptcy cases without first consulting with the LCSA attorney.

The BAPCPA states that property not in the bankruptcy estate is exempt from the automatic stay. In addition, certain enforcement actions are exempt from the automatic stay, even against property of the bankruptcy estate; however, the decision to proceed

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with any enforcement action may differ based on the individual case and should only be made in consultation with the LCSA attorney.

Actions to establish paternity or child support are not subject to the automatic stay. LCSAs are not required to move for relief from the automatic stay before filing an action for paternity or support.

The *Entering Bankruptcy Information* Quick Reference Guide (QRG) outlines the procedure for the potential removal of automated suppressions for bankruptcy cases in the Child Support Enforcement system. The Enforcement Action for Bankruptcy outlined in the QRG may not be applicable given the facts of a particular case and should be reviewed in consultation with the LCSA attorney. The updated QRG is located on California Child Support Central.

If you have any questions or concerns regarding this matter, please contact Debra Shanaberger at (916) 464-5883.

Sincerely,

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KAREN ECHEVERRIA
Acting Deputy Director
Child Support Services Division