

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

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



October 23, 2023

CSSP LETTER: 23-02

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

SUBJECT: FOSTER CARE ARREARS

REFERENCE: [Children's Bureau – OCSS Joint Letter on Updated Child Support Referral Policy Dear Colleague Letter \(DCL-22-06\)](#), [Child Welfare Policy Manual 8.4C, Question #5, Chapter 755, Statutes of 2022 \(Assembly Bill \(AB\) 1686\)](#), [Family Code \(FC\) § 17400\(a\)\(2\)\(B\)](#), [22 California Code of Regulations § 119191](#), [California Department of Social Services \(CDSS\) All County Letter \(ACL\) 23-29 New Statewide Policy On Referring Families With A Child In Foster Care to Child Support Agencies, ACL 05-37 AB 1449 \(Chapter 463, Statutes of 2001\) Changes to Child Welfare And Eligibility Regulation Requirements Regarding Child Support Referrals, CSSI Letter # 23-10 Foster Care Referrals, CSSI Letter # 23-11 Foster Care Referrals Received Prior to January 1, 2023](#)

PURPOSE: To communicate statewide policy to local child support agencies (LCSAs) regarding when to take action to review a foster care case referred prior to January 1, 2023 to determine when state-owed arrears are uncollectable.

POLICY: LCSAs shall follow steps identified in the Action section to review foster care cases referred prior to January 1, 2023, and deem any state-owed arrears, as well as fees and costs, which have accrued on foster care referrals as uncollectable pursuant to FC section 17400(a)(2)(B) when the parent's income is under the threshold provided in ACL 23-29.

BACKGROUND: Title 42 United States Code (USC) section 671(a)(17) provides that "where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A of this subchapter and plan approved under part D of this subchapter, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part". On July 29, 2022, the Federal Administration for Children and Families' (ACF) Children's Bureau and Office of Child Support Services (OCSS) released Dear Colleague Letter 22-06 announcing updates to the Child Welfare Policy Manual (Section 8.4C, Question #5) encouraging child welfare agencies to implement across-the-board policies that require an assignment of the rights to child support for children in foster

Reason for this Transmittal

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

care “only in very rare circumstances.” The policy update is intended to ensure only cases that have been thoroughly reviewed and will not disrupt the reunification process, are referred to child support.

Chapter 755, Statutes of 2022 (AB 1686) amended FC section 17552 effective January 1, 2023 to better align with the updated federal policy. FC section 17552 amendments require the California Department of Social Services (CDSS) regulations to presume that the payment of support by the parent **is likely to pose a barrier** to the proposed family reunification. Previously, county welfare departments maintained discretion to determine on a case-by-case basis whether it was in the best interest of the child or nonminor dependent to have the case referred to the LCSA considering whether the payment of support by the parent would pose a barrier to the proposed family reunification or current or future ability to meet the financial needs of the child.

CDSS policy, per ACL 23-29, instructs county welfare departments to no longer refer parents whose children have been removed from the home and who are receiving Child Welfare Services to child support agencies. The only exception to this new policy is if at the time of assessment, a parent’s annual income is greater than \$100,000 annually **or** 400 percent of the federal poverty level, whichever is greater, **and** a referral to the child support agency will not pose a barrier to reunification. Coordination for implementing FC section 17552 and CDSS policy is occurring at the local level as LCSAs work collaboratively to cease charging current support on foster care accounts.

Uncollectable Debt

Authority exists under FC section 17400(a)(2)(B) to deem state-owed child support arrears as uncollectable, under certain circumstances. Under this statute, LCSAs are granted authority to cease enforcement of child support arrearages and otherwise past due amounts owed to the state that the Department of Child Support Services (DCSS) or the LCSA has determined to be uncollectable. FC section 17400(a)(2)(B) provides a non-exclusive list of factors to consider when making the determination. Through this policy, DCSS exercises its discretion to deem certain state-owed child support arrears uncollectable after careful consideration of the factors enumerated in FC section 17400(a)(2)(B) and the Federal and State foster care policies discussed in this letter.

DCSS's Foster Care Arrears policy, pursuant to FC section 17400(a)(2)(B), provides a targeted approach to recognize racial and income-based disparities within the child welfare and child support systems. This policy seeks to largely eliminate foster care arrears owed by parents whose children were previously in care. As referenced in ACL 23-29, parents from these communities often find themselves with lower incomes, with about half of all parents whose children are placed in foster care earning less than \$10,000 annually.

Eliminating foster care arrears where the parent's annual income is below the threshold in ACL 23-29 also supports cost-effectiveness, as studies indicate that the practice of collecting on these debts returns only 27 cents for every dollar spent. Thus, this policy aligns with federal guidance and improves fiscal responsibility. This policy advances economic self-sufficiency and family well-being, aligning state actions with federal child welfare and child support policy goals.

Recent Changes for Statewide Foster Care, Approved Relative Caregiver (ARC) and Kinship Guardianship Assistance Program (KinGAP) Cases

In order to implement changes from AB 1686 and the accompanying policy in ACL 23-29, DCSS developed a two-phased approach. Phase 1, as directed in CSSI Letter 23-10, provides guidance for LCSAs when reviewing cases referred after the passage of AB 1686 and directs specific actions be taken to prevent accrual of support where the referral is no longer appropriate under ACL 23-29. Phase 2, directs implementation in two letters:

- 1) CSSI Letter 23-11 which provides guidance for addressing current support on referrals received prior to passage of AB 1686 and ACL 23-29, and
- 2) CSSP 23-02 (this letter) which provides policy for determining when state-owed foster care arrears are uncollectable

ACTION: LCSAs shall examine all cases with foster care arrears and determine if the arrears are uncollectable. If the current annual income of the Parent Ordered to Pay Support (PPS) exceeds the \$100,000 or 400 percent of the federal poverty level threshold established in ACL 23-29 and any of the dependents are still receiving foster care services, the LCSA shall inquire with the local child welfare department (CWD) whether continued enforcement of arrears is likely to pose a barrier to reunification. If there are no dependents still receiving foster care services (e.g., all are emancipated, parental rights have been terminated) and the current annual income of the PPS exceeds the threshold, the case does not qualify for relief of the foster care arrears review.

Arrears are uncollectable if the current annual income of the PPS is under the threshold established in ACL 23-29. LCSAs shall take the following steps to remove arrears and deem them uncollectable:

- Refer to the Performing a Collectability Review - Foster Care procedure to document uncollectable debt (refer to Statewide Procedures Manual, under the 5000 Financial Management, Performing a Collectability Review – Foster Care section),

- Remove all state-owed foster care arrears, fees, and costs from the participant's accounts by updating the associated account charging instructions,
- If Good Cause information has been received from the CWD in the form of a CW 51, or other county specific process, DO NOT apply Good Cause procedures to close the case. Close the case to the maximum extent permitted by 45 CFR section 303.11 and 22 California Code of Regulations (CCR) section 118203(a)(1) using closure reason "**Arrears are unenforceable under state law.**"

Collections that applied to foster care arrears prior to the collectability determination and removal of the affected arrears from the participant's accounts pursuant to this letter are not eligible for a refund to the PPS.

Please see the Statewide Procedures Manual Section 5000 Financial Management, *Creating and Updating Case Accounts* for more information on adjusting charging instructions.

CONTACT: If you have any questions or concerns regarding this matter, please contact the Policy and Program Branch at (916) 464-5883 or Policy.branch@dcss.ca.gov.

Sincerely,

o/s

JUSTIN FREITAS
Deputy Director
Child Support Services Division