CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES
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September 21, 2005

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
[X] Initiated by DCSS

CSS LETTER: 05-26

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

SUBJECT: LEGAL DATE OF COLLECTION

REFERENCE:

- CSS Letter 02-13 - Legal Date of Collection for Wage Withholding, dated July 1, 2002.
- DCSS Manual of Policies and Procedures, Sections 12-1 01.3(c)(4), 12-101.3(d)(1) and 12-101.3(d)(2).
- California Code of Regulations, Section 119184(a).

The purpose of this letter is to notify the local child support agencies (LCSAs) of the change to the definition of legal date of collection to date of receipt by the State Disbursement Unit (SDU) when the LCSAs transition to the SDU. CSS Letter 02-13 Legal Date of Collection for Wage Withholding, specific citations of Department of Child Support Services (DCSS) Manual of Policies and Procedures (MPP), and California Code of Regulations (CCR), Section 119184(a), are superseded by this change in definition on the date the LCSA transitions to the SDU. This letter also clarifies the impact of using date of receipt. The Question & Answer Attachment provides direction to the LCSAs for processing collections using date of receipt as the legal date of collection.

The Code of Federal Regulations (CFR), Section 302.51(4)(i) and (ii), requires the use of the date of receipt by the SDU for non-employer payments and allows states the option of using date of receipt for employer withheld payments. DCSS has elected to use date of receipt as the legal date of collection for all payments, including employer withheld payments. This will enable the SDU to automate the receipt processing of collections and will result in a consistent and efficient application of payments throughout the state. This statewide uniformity will enhance the automation of collections, thus reducing the need for manual intervention, and will result in more timely and accurate disbursements. Additionally, the use of date of receipt as the legal date of collection for payments to the SDU will help to ensure that California is in compliance with the federal disbursement timeframe requirements and successfully completes the certification process necessary to eliminate federal automation penalties.

The policies and regulations listed below will no longer be in effect once a LCSA transitions to the SDU. However, for those LCSAs not yet transitioned to the SDU, the following policies and regulations will remain in effect until transition.

- CSS Letter 02-13 - Legal Date of Collection for Wage Withholding, advises the LCSA that the "pay date/date of withholding" provided by the employer is considered the legal date of collection.

- DCSS MPP, Section 12-101.3(c)(4) defines the collection month as the month in which the support payment is received by the LCSA, which is used for determining entitlement of any payments to families.

- DCSS MPP, Section 12-101.3(d)(1) defines the date of collection as the date that the support payment is initially received by a Title IV-D agency or employer depending upon the payment source for the purpose of determining entitlement of any payments to families.

- DCSS MPP, Section 12-101.3(d)(2) defines the date of receipt as the date the LCSA received the support payment, which is used to determine compliance with disbursement timeframes.

- DCSS CCR, Section 119184(a) requires that issuance of the Monthly Statement of Collections and Distribution, CS 916, (dated 03/02), and Notice of Important Information, CS 917, (dated 03/02), are provided to each custodial party receiving child support services.

It is the goal of DCSS to support the LCSAs during transition to successfully implement California Child Support Automation System (CCSAS). DCSS is working to ease the transition to the SDU for both the LCSAs and the program's customers through development of outreach materials and other mitigation strategies to address concerns with transitioning to the SDU. Additional policy direction will be distributed as issues are identified to provide further guidance during the transition period. The Questions and Answers Attachment has been included to provide information and direction on the most common concerns identified to date.

If you have any questions or concerns regarding this matter, please contact Debra Sanchez at (916) 464-5055.

Sincerely,

o/s/SANDRA O. POOLE

SANDRA O. POOLE
Deputy Director
Child Support Services Division

Attachment(s)

ATTACHMENT

Date of Receipt
Questions and Answers

Legal Date of Collection

1. At what point after a local child support agency (LCSA) transitions to the State Disbursement Unit (SDU) do they begin to use date of receipt rather than date of withholding for all child support collections?

   The change to "date of receipt" for all payments will occur at the time the SDU begins processing collections for a transitioned LCSA, regardless of a LCSA's method of forwarding collections to the SDU (forward PO Box, LCSA daily lockbox forwarding or electronic payment delivery).

2. What is the date of receipt when an employer sends payment for multiple months for one noncustodial party (NCP)?

   If an employer sends in a payment for multiple months, the date of receipt will be applied to the entire payment. In this case, a single disregard payment would be issued to an eligible custodial party (CP) for the month in which the payment was received. The balance of the child support collection that remains after the disregard has been paid is retained by the LCSA as recoupment or paid to the family as specified in Manual of Policy and Procedures (MPP) Sections 12-425 and 12-430.

   Outreach and LCSA regular communication with employers should stress that current support should be satisfied and sent as designated on the income withholding order to avoid potentially negative impacts to employees and their families.

3. What is the date of receipt for collections received from other states?

   The date of receipt at the SDU is the official date of collection. The payment must be issued within two business days from date of receipt at the SDU.

4. What is the date of receipt of a payment withheld and received at the LCSA on October 31st, but received in the following month at the SDU on November 2nd?

   The date of receipt is the date the collection is received at the SDU, November 2nd.

5. What will the legal date of a collection be when County A is enforcing the case and the CP moves to County B? While the case is being transferred, payments are still received in County A.

   A CSS Letter on Duplicate Case Transfer is currently being drafted and will provide LCSAs with procedures for processing payments during the transitional period of conversion to the California Child Support Automation System (CCSAS) Version 1 (V-1) Implementation 1 (I1).

In V-1 I1, while counties are transitioning onto the SDU, the current county process for duplicate case transfers/intercounty transfers will not substantially change.

In this example, it is assumed that County A has transitioned on to the SDU. Therefore, the legal date of collection is the date of receipt at the SDU and will be applied to all payments received by County A.

If County A has not transitioned to the SDU, then the legal date of collection will be based on the payment source as stated in current policy from the Manual of Policies and Procedures (MPP), Section 12-101.3 (d)(1)(A). For intercounty payments, the MPP, Section 12.101.3(d)(1)(B)(1) states that the collection date is contingent upon the payment source in the county initially making the collection.

Once all counties have transitioned, the legal date of collection statewide will be the date of receipt at the SDU.

6. What is the date of receipt for collections received from a title company to satisfy a demand request?

   Scenario:
   An NCP is involved in a real estate transaction. The LCSA has a lien in place on the real estate property. The title company contacts the LCSA for the pay-off amount. The title company delivers a pay-off check to the LCSA, based on the amount cited in the demand request. The LCSA accepts payment, and issues the appropriate Judicial Council form (i.e., full satisfaction, partial satisfaction, or matured installment form).

   The above process would remain essentially the same, regardless of the transition to the SDU or transition to date of receipt. The difference is that after transition, when the LCSA receives the pay-off check, this payment would then be sent to the SDU. The date of receipt for this collection is the date the payment is received at the SDU.

   LCSAs should take into consideration the number of days a payment will need to reach the SDU when preparing the demand request to ensure full payment is received from the title company.

   Outreach activities to title companies, educating them regarding the transition to the SDU and encouraging them to remit funds by the date designated by the LCSA, will help to ensure proper credit of the collection by the end of the month.

7. What is the collection date for credit card payments?

   For those LCSAs that currently provide the option of using a credit card to make a child support payment, NCPs will continue to be able to do so via the *LCSA locally maintained credit card system* until the SDU has this feature available. The LCSA will forward all daily child support credit card payments to the SDU in their daily SDU Package. The collection date for credit card payments will be the date the payment

is processed at the SDU. It is recommended that LCSAs inform the NCP that payments must be received by the 20th of each month to ensure proper credit of the collection by the end of the month. In addition, outreach notices developed by DCSS will be sent to NCPs explaining the transition and alerting them of the date payments should be received each month to avoid accrual of arrears/interest.

It is anticipated that once all LCSAs have transitioned, credit card payments will be processed directly by the SDU (through the vendor credit card system). The collection date for credit card payments processed through the vendor credit card system will continue to be the date the payment is processed at the SDU.

Disregard

8. Will the new system disadvantage a CP eligible for disregard on a regular basis?

   Analysis was performed to determine the effects of date of withholding versus date of receipt on disregard payments. The issuance of disregard was evaluated for NCPs income withholding with payroll cycles of weekly, bi-weekly, semi-monthly, and monthly.

   The result of this analysis found that over a period of 12 months when using date of receipt for regular income withholding, a CP would receive disregard each month for every type of pay cycle as noted above. However, the "Monthly Statement of Collections" may show no disregard payment being issued for the month prior to transition because the basis for crediting current support has changed from date of withholding to date of receipt.

9. Will a disregard payment be issued if a payment is withheld in one month but is received by the SDU in a subsequent month?

   A CP will be issued a disregard payment in the month a current child support payment is received by the SDU.

   Under current practice, disregard payments are issued for wage withheld payments based on the date of withholding. Child support payments received through an income withholding order that are received in a subsequent month from which it was withheld are applied to the date withheld from the NCP. However, due to varying employer pay cycles under date of withholding; there are months in which no payment is withheld. In these months, the CP is not eligible for a disregard payment.

   The following example is provided to illustrate when disregard payments will be issued:

   CP is on aid during the two months (August and September) prior to transition. The NCP is paying his/her support through an income withholding order and is paid monthly.

The payment from the employer is withheld on the last business day of the month and is received at the LCSA on the 3rd business day of the subsequent month.

- Date withheld is August 31st – date received at LCSA is September 5th. The disregard payment is issued and sent to CP on September 7th.

- Date withheld is September 30th- date received at the **SDU** is October 5th. The LCSA transitioned on to the SDU on October 1st. The disregard payment is issued and sent to the CP on October 7th.

In the example above, since the basis for crediting current support in the month of transition changes to date of receipt, the Monthly Statement of Collections and Distributions will not reflect a September disregard as the September wages were not received at the SDU until October. There would be no disregard due for the month of September. However, as illustrated above, the CP will receive a disregard in October, based on the receipt of a child support payment in October.

10. Once an LCSA has transitioned to the SDU, what is the impact to the disregard payment for a CP who is on and off of aid?

    As long as a current child support payment is received in a month when the CP is on aid, a disregard payment will be issued. The following example is provided to illustrate this point:

    CP is on aid in October and November and goes off aid at the end of November. In October, the LCSA transitioned on to SDU and is using date of receipt as the legal date of collection.
    - October – The CP receives a disregard payment based on a payment received in October.
    - November – The CP receives a disregard payment based on a payment received in November.
    - December – The CP is off of aid. The LCSA receives a current child support payment in December. The CP now receives the full current support payment based on date of receipt.

General

11. What is the arrears certification process during the transition period?

    The arrears will be certified as they are currently performed at the LCSA. Once the LCSA transitions to the SDU, the amounts reflected for certification will be based on date of receipt rather than date of withholding for payments made after the transition on to the SDU.

12. Will a NCP be reported to credit agencies, Integrated Database (IDB) or will professional licenses be jeopardized if payments are received late by the SDU during the transition period?

As practiced in previous system conversions, DCSS will defer sending county files to credit agencies and licensing entities to mitigate negative customer impacts as the LCSAs transition to the SDU. DCSS will also delay submitting the IDB following the SDU conversion.

13. Will NCPs that have no arrears before their LCSA transitions, be reported to the Child Support Full Collection Program if their employers pay cycle results in the accrual of arrears?

    The Child Support Full Collection Program (CSFCP) is responsible for collecting all child support debts more than 60 days delinquent with an outstanding balance of $100 or more. However, as practiced in previous systems conversions, NCPs should not be submitted to CSFCP until the end of the month following conversion.

14. What customer service assistance and outreach information is available for LCSA during their transition to the SDU?

    SDU Outreach Key Messages were provided to the LCSAs Implementation coordinators on August 19, 2005 for all waves. These outreach materials were designed to help the LCSAs effectively communicate key messages about the SDU using a selection of appropriate outreach tools and methods for various audience groups.

    Outreach materials for customers includes direct notices, posters, Interactive Voice Response messages and bill stuffers developed by the Department, in consultation with LCSAs, to explain the transition to the SDU and advise the CP that every effort will be made to process and issue payments as quickly as possible. CPs will also be advised that the SDU will allow for a variety of options that will make receiving their child support payments more timely and convenient.

    During the transition period, delays are expected to occur since all payments will be redirected from the LCSA to the SDU. Once all of the counties have transitioned and employers are informed to make their payments directly to the SDU, the process will become more streamlined.

    Additionally, targeted outreach notices will be sent to NCPs explaining the transition and alerting them to the fact that payments, either directly to the LCSA or made via wage withholding, need to be received at the LCSA by the 20th of each month to avoid accrual of interest. NCPs will also be informed that once operational, the new SDU will provide a variety of payment options that will make it easier for NCPs (not subject to wage withholding) to make payments.

15. Will clients have a right to state hearings?

    If an issue remains unresolved after exhausting the Complaint Resolution Process, a request for a state hearing can be filed. During the state hearing process the Administrative Law Judge would make the determination of whether the LCSA followed established statute, regulations, or policy.

16. Does the use of date of receipt as legal date of collection violate the injunction in the Barnes case?

    Some LCSAs have voiced concerns that the decision to define by regulatory action the legal date of collection as date of receipt by the SDU may not conform to the requirements of the Barnes Injunction. The following statement is used to illustrate the concerns raised:

    …"[i]f the SDU distributes money based on the Date of Receipt instead of the Date of Collection, this appears to be in conflict with the required Barnes Notice and 'Information Sheet'."

    The federal regulations at 45 CFR 302.51(a)(4)(ii) defines "date of collection" for wage assignment payments as the date of receipt at the state distribution unit (SDU) or at state option the date of withholding may be deemed to be the date of collection. Therefore, the date of receipt at the SDU is in effect synonymous with the date of collection.

    A concern was also raised regarding the department's legal analysis of the impact of this change in definition to the Barnes case. Our research concluded that the Barnes case did not litigate the date of collection that must be used by California, nor did it define the legal date of collection. However, the Barnes Injunction specifically requires that the notice provide the "legal date of collection". Since the state is changing the definition of the legal date of collection to date of receipt as allowed under federal law, the Barnes injunction requires that we modify the notice to reflect that change. As part of our analysis of this issue, the Department also consulted with legal counsels who have direct knowledge of and past history with the Barnes case. These individuals concur with our conclusion. Therefore, Department is confident that the transition to use to date of receipt as the legal data of collection is consistent both with federal law and the Barnes court decision.

    As part of this policy change, the current Monthly Statement of Collections and Distribution, CS 916 and the Notice of Important Information About Support That Has Been Collected, CS 917 have been revised. The new forms, Monthly Statement of Collections and Distribution, DCSS 281 and the Notice Regarding Monthly Statement of Collection and Distribution, DCSS 279 reflect the change of the legal date of collection as date of receipt. As local child support agencies transition to the SDU, the new DCSS 281 and DCSS 279 forms will be used.

17. Should LCSAs continue to use the DCSS forms CS 916, Monthly Statement of Collections and Distributions (dated 03/02) and CS 917, Notice of Important Information (dated 03/02), or will new forms be used?

    Once transitioned to the SDU, the new Monthly Statement of Collections and Distributions (DCSS 0281 (dated 08/16/04)) form, along with the new Notice Regarding Monthly Statement of Collection and Distribution (DCSS 0279, (dated 08/16/04)) should be used.