

Title 9. Family Law

Chapter I. Office of Child Support Enforcement, Department of Finance and Administration

Subchapter A. Generally

Part 7. Office of Child Support Enforcement Policy Manual — Case Closure

Subpart 1. Generally

9 CAR § 7-101. Overview.

(a)(1) Federal regulations provide strict guidelines for determining when it is appropriate to close a child support enforcement case.

(2) The case must remain open for enforcement services if the circumstances of the case do not match one (1) of the following criteria.

(b)(1) A case cannot be closed for enforcement simply because all legal remedies have been attempted without success.

(2) When enforcement attempts fail, the caseworker must review the file to determine:

(A) The reason enforcement has failed; and

(B) When taking the next action would be appropriate.

(3) The case attorney should review the case to determine when the next appropriate legal action may be taken.

(c) Note that closure of a case for enforcement purposes does not affect the validity of the underlying court order.

Authority. Arkansas Code § 9-14-206.

9 CAR § 7-102. Criteria for case closure.

Cases may be closed, but are not required to be, for enforcement if at least one (1) of the following criteria is met and supporting documentation for the decision to close the case is maintained in the case file:

(1)(A) There is no longer a current obligation for child support and arrears are under five hundred dollars (\$500).

(B) Cases will remain open until paid in full if regular payments are being received;

(2) There is no longer a current obligation for child support, no arrears are owed to the family with only assigned arrears remaining, and, after review and appropriate approval, it has been determined there is low likelihood of collection;

(3) There is no longer a current obligation for child support, all the children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support;

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

(5) Paternity cannot be established for any of the following reasons:

(A) The child is at least eighteen (18) years old and an action to establish paternity is prohibited under Arkansas law;

(B) A genetic test or a court order has excluded the putative father and no other putative father can be identified;

(C) The Office of Child Support Enforcement has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or rape, or in any case where legal proceedings for adoption are pending; or

(D) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one (1) interview by the Office of Child Support Enforcement with the custodial party;

(6) The noncustodial parent's location is unknown and all locate efforts have been unsuccessful despite diligent efforts using multiple sources over a:

(A) Two-year period when there is sufficient information to initiate automated locate efforts;

(B) One-year period when there is sufficient information for automated locate efforts but locate interfaces are unable to verify a Social Security number; or

(C) Six-month period where there is not sufficient information to initiate automated locate efforts;

(7) The Office of Child Support Enforcement has determined, after review and appropriate approval, that the noncustodial parent cannot pay support for the duration of the child's minority or thereafter, has no income or assets available above the subsistence level that could be levied or attached for support, and shows no evidence of support potential for the following reasons:

(A) The noncustodial parent has been institutionalized in a psychiatric facility;

(B) The noncustodial parent is incarcerated; or

(C) The noncustodial parent has a medically verified total and permanent disability;

(8) The noncustodial parent's sole income is from Supplemental Security Income or from both Supplemental Security Income and Social Security Disability Insurance, but the Social Security Disability Insurance benefit is not a significant source of income;

(9) 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 no federal or state treaty or reciprocity with the country;

(10) The case was open for State Parent Locator Services only and the locate services have been provided;

(11) In cases where cooperation with the Office of Child Support Enforcement is not required as a condition of receiving public assistance, the custodial party requests closure in writing and there is no assignment to the state of medical support or of arrearages owed to the state that accrued under a support order;

(12) There has been a finding of good cause or a determination that support enforcement may not proceed without risk of harm to the child or custodial party;

(13) In cases where cooperation with the Office of Child Support Enforcement is not required as a condition of receiving public assistance, when the Office of Child Support Enforcement is unable to contact the party despite a good faith effort to contact the party through at least two (2) different methods;

(14) In cases where cooperation with the Office of Child Support Enforcement is not required as a condition of receiving public assistance, the Office of Child Support Enforcement documents the custodial party's failure to cooperate and an action by the custodial party is essential for the next step in providing establishment or enforcement services;

(15)(A) The Office of Child Support Enforcement documents failure by the initiating state to take an action that is essential for the next step in providing services.

(B) Federal requirements and time frames will be taken into consideration for closing intergovernmental cases;

(16) The initiating state has sent notification that the initiating state has closed its case;

(17) The initiating state has sent notification that services are no longer needed;

(18)(A) Another assistance program, including TEA, foster care, SNAP, and Medicaid, has referred a case to the Office of Child Support Enforcement that has been determined, after review and appropriate approval, to be inappropriate, as determined by an Office of Child Support Enforcement Field Manager, to establish, enforce, or continue to enforce a child support order and the custodial party has not applied for services.

(B) Detailed documentation of the review process and reason for case closure will be maintained in the case notes;

(19) The open enforcement case, including a case with arrears assigned to the state, has been transferred to a Tribal IV-D agency, and the Office of Child Support Enforcement has complied with the following procedures:

(A) Before transferring the case to a Tribal IV-D agency and closing the case:

- (i) The custodial party requested the Office of Child Support Enforcement to transfer the case to the Tribal IV-D agency and close the case; or
 - (ii) The Office of Child Support Enforcement notified the custodial party of its intent to transfer the case to the Tribal IV-D agency and close the case and the recipient did not respond to the notice to transfer the case within sixty (60) calendar days from the date notice was provided;
 - (B) The Office of Child Support Enforcement completely and fully transferred and closed the case; and
 - (C) The Office of Child Support Enforcement notified the custodial party that the case has been transferred to the Tribal IV-D agency and closed; or
 - (D)(i) The Tribal IV-D agency has a State-Tribal agreement approved by the United States Office of Child Support Enforcement to transfer and close cases.
 - (ii) The State-Tribal agreement must include a provision for obtaining the consent from the custodial party to transfer and close the case; or
- (20) A case must be closed and supporting documentation will be maintained for the case closure decision when:
- (A) The child is eligible for healthcare services from the United States Indian Health Service; and
 - (B) The case was opened because of a Medicaid referral based solely upon healthcare services, including the Purchased/Referred Care program provided through an Indian Health Program.

Authority. Arkansas Code § 9-14-206.

9 CAR § 7-103. Notice of case closure.

(a) A notice of intent to close a case for enforcement services will be sent to the custodial party sixty (60) days prior to the closure of the case.

(b)(1) In intergovernmental cases meeting the criteria for case closure, the Office of Child Support Enforcement will send the notice to the other state, in a record, sixty (60) days prior to closure of the intent to close the case.

- (2) The office will not contact the custodial party in responding cases.
- (c) If the custodial party is deceased, the sixty-day closure notice should be sent to the:
 - (1) Person in charge of closing out the custodial party's business affairs; or
 - (2) Custodial party's last known address.
- (d) The following exceptions do not require a notice of closure and can be closed immediately:
 - (1) The custodial party who is not a recipient of TEA or SNAP requests closure in writing and there is no assignment of medical support owed to the state;
 - (2) The case was opened for State Parent Locator Services only and the location services have been provided; or
 - (3) The office or the appropriate agency has determined that support enforcement may not proceed without risk of harm to the child or a party, including a finding of good cause.
- (e)(1) The case shall remain open if the custodial party or the initiating state supplies information in response to the notice of closure which could lead to:
 - (A) The establishment of paternity or a support order; or
 - (B) Enforcement of an order.
- (2) A case that is scheduled for closure because the office was unable to contact the custodial party by two (2) different methods must remain open if contact with the custodial party is reestablished.

Authority. Arkansas Code § 9-14-206.

9 CAR § 7-104. Closing cases when legal action is pending.

- (a) If legal action is pending at the time the applicant requests closure, the Office of Child Support Enforcement may either:
 - (1) Dismiss all action without prejudice; or
 - (2) Substitute the applicant as plaintiff or moving party and withdraw.

(b)(1) The attorney will notify the parties of the office's actions and where the case stands in the legal process.

(2) The case will be closed as soon as practicable.

Authority. Arkansas Code § 9-14-206.

9 CAR § 7-105. Closing an enforcement case.

(a)(1) After a closure notice has been generated and the sixty-day period has passed, a case will either:

(A) Change to a payment processing case; or

(B) Close altogether.

(2) If a valid Arkansas order exists, and a continuing current or past due child support obligation, the case will change from an open enforcement case to a payment processing case.

(3) If there is no longer a valid Arkansas order and continuing child support obligation, the case will close completely.

(b)(1) If there are any actions pending when an enforcement case closes, enforcement efforts such as license suspension and any pending tax offset will cease.

(2) If TEA arrears are owed to the state, the TEA arrears will:

(A) Continue to be subject to tax offset up to the certified amount; and

(B) Be retained for arrears to the state owed.

(3) Any amount received from a federal tax offset in excess of the TEA arrears will be disbursed to the noncustodial party.

(4) Any intercepted federal tax refund in a non-TEA case that may be on hold at the time of case closure will be disbursed to the noncustodial parent.

(c) In a case where current support or arrears are still due when a case is no longer being enforced, any income withholding to an employer or to the Workers' Compensation Commission will remain in place.

Authority. Arkansas Code §§ 9-14-206, 9-14-239.

9 CAR § 7-106. Intergovernmental case closure.

(a)(1) Federal regulations authorize the responding state to close an intergovernmental case when it documents a failure on the part of the initiating state to take an action that is essential for the next step in providing services.

(2)(A) One (1) exception involves income withholding.

(B) If a state using authority under its Uniform Interstate Family Support Act, Arkansas Code § 9-17-101 et seq., statute sends a withholding notice directly to an employer in another state, it cannot be considered noncooperation and a rationale for case closure by the employer's state that is otherwise processing an intergovernmental case for the state that sends the direct withholding.

(b) When making a decision regarding whether or not an initiating state has failed to take an action that is essential to the next step in providing services, take into consideration the requirements and time frames outlined in federal regulations.

(c)(1) A notice of intent to close the case must be sent to the initiating state sixty (60) days prior to case closure.

(2) The Office of Child Support Enforcement is not required to send a closure notice to the custodial party.

(3) It is not the responding state's responsibility to be in direct contact with the custodial party in the initiating state.

(d)(1) The initiating state must be notified within ten (10) working days of locating the noncustodial parent in another state.

(2) The case may not be closed until the initiating state has directed the responding state to either return the forms or forward the case to the noncustodial parent's new location.

(3) The case may be closed only after notification that receipt of the transferred case has been acknowledged.

(e)(1) The caseworker is responsible for ensuring that the address for future payments is correct when closing an intergovernmental case.

(2)(A) If the order is from another state, two (2) attempts to obtain the address must be made.

(B) The second attempt should be in a record advising the initiating state that money may be returned to the noncustodial parent if a good address is not provided.

(3) Collections based on Arkansas orders will be retained until a good address is provided.

Authority. Arkansas Code § 9-14-206.

9 CAR § 7-107. Reopening of closed cases.

(a) Custodial parties whose case was previously closed for enforcement services may request the case be reopened upon submitting an application and fees, if applicable.

(b) The application will be reviewed to determine if the circumstances of the case allow effective enforcement efforts.

Authority. Arkansas Code § 9-14-206.