

Title 9. Family Law

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

Subchapter A. Generally

Part 8. Office of Child Support Enforcement Policy Manual — Financial

Subpart 1. Cost/Fees for Service

9 CAR § 8-101. Noncustodial parent costs and fees.

(a) Arkansas law requires that all orders directing payments through the registry of the court or through the Arkansas Child Support Clearinghouse must set a fee to be paid by the noncustodial parent until the child support obligation has ended and there are no longer arrears due.

(b)(1) Payments made for this administrative fee may be made on an annual or quarterly basis online through the Office of Child Support Enforcement website, in the form of:

- (A) A check or money order payable to the office; or
- (B) Such other legal tender that the office may accept.

(2) This administrative fee payment is separate and apart from the support payment, and under no circumstances will the support payment be reduced to fulfill the payment of this fee.

(3) The administrative fee will not be assessed in the year that the case is entered in the system.

(c)(1) In addition, the office will petition the court for:

(A) Award of attorney fees and the cost associated with litigation, including the cost of paternity testing; and

(B) The recovery of fees for child support services generated due to the failure of the NCP to pay his or her obligation.

(2) However, noncustodial parents who must cooperate with child support services as a condition of receiving SNAP benefits shall not be charged attorney fees or court costs, including the costs of paternity testing.

(d) Cost and fee recovery.

(1)(A) Statements will be sent to noncustodial parents regularly when costs and/or fees are owed.

(B) The billing statements will provide an itemized list of costs and fees assessed during the current period, and any outstanding balance remaining due.

(2)(A) Noncustodial parents who owe fees or owe a debt to the state of fifty dollars (\$50.00) or more will be certified for state tax intercept.

(B) State tax intercepts are distributed in the order of:

- (i) Current support;
- (ii) Arrears; and
- (iii) Fees.

(C) Excess payments will be applied to any cost or fee balance.

(D) Other legal action such as, but not limited to, garnishment may be taken to collect outstanding fee and cost balances.

Authority. Arkansas Code § 9-14-206.

Codification Notes. "NCP" means noncustodial parent.

9 CAR § 8-102. Custodial party costs and fees.

(a) Costs and fees are charged to the custodial party who applies for Office of Child Support Enforcement services and in intergovernmental cases.

(b) However, pursuant to federal regulations, fees may not be charged to a custodial party who:

(1) Must cooperate with child support services because:

- (A) The custodial party receives TEA services;
- (B) The custodial party and the child receives Medicaid; or
- (C) The custodial party receives SNAP benefits; or

(2) Receives Medicaid or if the child for whom the custodial party is seeking services receives Medicaid.

(c)(1) Fees or costs for services including but not limited to legal fees noted below, generated because of a breach by the noncustodial parent of an agreement or a court order, will be incorporated into the request for relief and reduced to judgment in favor of the office against the noncustodial parent.

(2) Fees and costs based on such judgment and recovered from the noncustodial parent will offset fees assessed to the custodial party.

(d) The cost schedule is as follows:

Application Fee – The application fee per noncustodial parent is twenty-five dollars (\$25.00). This is paid by the applicant at the time the application for services is submitted. The application fee is charged per case and is nonrefundable and nonreimbursable.

Base Cost – Base cost is charged the first of each month if a payment was received during the previous month. The base cost is thirteen percent (13%) of the amount disbursed to the family for the previous month up to a maximum of eighteen dollars (\$18.00) per month.

Legal Action

- Initiation of legal action, eighty dollars (\$80.00). It is assessed when complaint, motion or petition, order and citation, affidavit and arrest warrant, notice/order of hearing, or other pleadings or notices are prepared and forwarded to the clerk for processing.
- Out-of-court settlement, one hundred dollars (\$100). It is assessed when court action is resolved prior to court appearance in all cases.
- In-court settlement, one hundred fifty dollars (\$150). It is assessed when court action is resolved at the court appearance without trial.
- Trial, two hundred fifty dollars (\$250). It is assessed when court action is resolved by the court after hearing.

Other

- Actual costs will be assessed based on actual costs incurred by the agency for monies expended including, but not limited to, the actual cost of transcripts, depositions, witness fees, paternity tests, Internal Revenue Service full collection process, filing fees, service of process, and other litigation costs, including federal offset program fees, not to exceed twenty-five dollars (\$25.00) if the offset is over one hundred dollars (\$100).
- Financial Institution Levy Fee, thirty-five dollars (\$35.00). This fee will be charged for each levy that results in a monetary recovery from a participating financial institution.
- Insurance Claim Levy Fee, thirty-five dollars (\$35.00). This fee will be charged for each levy that results in a monetary recovery from an insurance claim.

(e) **Cost and fee recovery.**

(1)(A) Fees and costs assessed in open enforcement cases are recovered from child support payments collected by withholding up to thirteen percent (13%) from any payment received through the Arkansas Child Support Clearinghouse until all charges are paid in full.

(B) Detailed information regarding assessments is available through the office customer service website and is provided in an annual statement.

(2) In payment processing or closed cases, regular billing statements are issued.

(3) Cost and fees totaling fifty dollars (\$50.00) or more owed by custodial parties in payment processing or closed cases will be certified for state tax refund offset.

(4) **State tax refund intercept — Overpayments.** Custodial parties who have overpayments due in open enforcement (IV-D), payment processing (non-IV-D), suspended, and closed cases will be certified for state tax offset if:

(A) There is an overpayment balance in excess of twenty-five dollars (\$25.00); and

(B) The custodial party failed to make arrangements to repay the overpayment.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-103. Intergovernmental cases.

(a) Interstate cases.

(1) Custodial parties in interstate cases will be charged fees according to the same cost schedule as intrastate cases, whether initiating or responding, and regardless of whether the other state also charges fees.

(2)(A) Fees assessed to the custodial party are deducted from child support collected and the amount deducted is identified when the payment is forwarded to the initiating state.

(B) The initiating state must give the noncustodial parent full credit for the total amount paid.

(b) International cases. Fees may not be charged to another country or to the custodial party residing in a foreign country in an international case.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-104. Debt recovery.

(a) The Office of Child Support Enforcement Debt Recovery Section concentrates on the collection of debts, including but not limited to:

- (1) Administrative fees;
- (2) Costs;
- (3) Custodial party overpayments; and
- (4) The collection of insufficient funds debt.

(b)(1) The office will make collection efforts in situations where income withholding is not possible.

(2) Those efforts may include, but are not limited to the following:

(A) Seeking judgment for past due amounts;

(B) Garnishing wages or bank accounts; and

(C) State income tax refund offset.

Authority. Arkansas Code § 9-14-206.

Subpart 2. Distribution Order

9 CAR § 8-201. Distribution order.

(a)(1) Child support payments collected in open enforcement cases, with the exception of federal income tax refund offsets, are distributed first to the support obligation due in the month in which the payment was collected.

(2) The date of collection is the date the payment was received at the Arkansas Child Support Clearinghouse.

(3) Collections are applied in the following manner.

(b) **Non-TEA cases.** In open enforcement cases where the custodial party is not receiving, nor has received, TEA benefits, support payments received are paid in the following order: current support, past due support (also known as arrears), cash medical support, spousal support, debts owed to the state, and fees owed by the noncustodial parent.

(c) **TEA cases.**

(1) In open enforcement cases where the custodial party is receiving TEA benefits, support payments received are paid first to the state up to the previous month's grant amount.

(2) Any amount collected in excess of the unreimbursed grant is disbursed to the family.

(d) **Former TEA cases.**

(1) In open enforcement cases where the custodial party has assigned arrears, payments received are paid first to the custodial party up to the amount of support due in the current month.

(2) Any amount collected in excess of current support is applied to arrears owed to the family and then arrears owed to the state.

(3) If the current month's support obligation and all arrears have been satisfied, excess payments are applied to any fees owed by the noncustodial parent, or if none, disbursed to the family.

(e) **Foster care cases.** Payment collected for a child receiving IV-D foster care that is a payment on the required support obligation for the current month will be retained by the state to reimburse foster care maintenance payments.

(f) **Payment processing cases.** All child support payments received in payment processing cases are disbursed to the custodial party.

(g) **Split-debt cases.**

(1) Federal tax refunds intercepted by the Office of Child Support Enforcement in split-debt cases will be applied to the assigned arrears.

(2) Any amount of federal tax intercept that remains will be refunded to the noncustodial parent.

(3) All other child support payments are disbursed to the custodial party.

(h) **Federal and state income tax intercept.**

(1) Amounts collected through federal income tax offset must be paid:

(A) To reimburse foster care maintenance payments first;

(B) Then to satisfy assigned arrears in TEA or former TEA cases; and

(C) Then to the custodial party.

(2) Internal Revenue Service offsets received by the office may be distributed to reflect payments on the case or cases, but the actual disbursement of the payment may be held for up to six (6) months if the refund is subject to adjustment by the Internal Revenue Service.

(3) State tax intercepts are distributed first to current support, then to arrears, and then fees.

(4)(A) In non-TEA cases, if the case is certified and the custodial party notified the office in writing subsequent to the certification that the case is to be closed, the office will delete the certification and return any funds that may be intercepted after the effective date of the closure to the noncustodial parent.

(B) If TEA arrears are owed to the state:

(i) The amount certified will be reduced to that amount;

(ii) A tax intercept up to the certified amount will be retained for arrears owed; and

(iii) Any amount collected in excess of the debt owed to the state will be refunded to the noncustodial parent.

Authority. Arkansas Code § 9-14-206.

Subpart 3. Disbursement

9 CAR § 8-301. Disbursement to the custodial party.

(a)(1) As required by state and federal law, payments are disbursed directly to custodial parties within two (2) business days of receipt and identification.

(2) In an intergovernmental responding case, payments are disbursed to the initiating child support program within two (2) business days.

(3) Payment may not be made to private collection agencies or similar third parties.

(b) Distribution and disbursement may be delayed only if:

(1) The court has ordered payments held pending the outcome of:

(A) A judicial review or during the pendency of an appeal; or

(B) Other litigation regarding the existence or amount of arrears owed or on specific order of the court; or

(2)(A) There is an error that has occurred and the worker is correcting the problem.

(B) The worker must monitor the case daily to ensure that any money that should be disbursed to the custodial party is released promptly in order to meet the two-business-day timeframe required by the regulation and then remove the distribution hold as soon as the problem is corrected.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-302. Stale-dated and lost/stolen checks.

(a)(1) There is a waiting period of fourteen (14) calendar days from the date the check was mailed before action can be taken on a lost or stolen check.

(2) However, if it is determined that the check was mailed to an incorrect address, the waiting period is only seven (7) days.

(3) The intended recipient of the check must complete an affidavit and/or surety bond, as appropriate.

(4) After the waiting period and the necessary paperwork has been signed, a new check may be issued.

(b)(1) A check is considered stale-dated one hundred eighty (180) calendar days after it was issued.

(2) If a payee is in possession of a stale-dated check:

(A) The check should be returned to the Office of Child Support Enforcement; and

(B) A replacement check will be issued.

(3) When a stale-dated check becomes one (1) year old and the payee cannot be located, the funds are:

(A) Redistributed and applied to arrears and/or fees;

(B) Refunded to the noncustodial parent or payor; or

(C) Sent to the Treasurer of State.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-303. Insufficient funds.

(a) If the bank returns a check unpaid because of insufficient funds, the Office of Child Support Enforcement:

(1) Will pursue payment in the manner required by law; and

(2) May restrict the payor's check-writing privileges as permitted by Arkansas law and Department of Finance and Administration policy.

(b)(1) When a payor bank or financial institution returns a check due to either a lack of funds to pay the demand or due to the absence of a valid account, that check may be subject to civil collection procedures, and referral to the office of the Prosecuting Attorney for criminal process.

(2) An attempt will be made to notify the maker of the check to allow for redemption.

(3) A service charge for all returned checks is charged as allowed by state law.

(c) If the payor responds to the notice and makes restitution before the record is submitted to the prosecuting attorney's office, civil remedies will not be pursued.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-304. Overpayments.

(a) Custodial party reimbursement.

(1)(A) The Office of Child Support Enforcement will make every effort to ensure that payments are posted and disbursed correctly.

(B) However, if the office made an error, if payments were made by a check on which a stop payment order was placed, or if an adjustment was made by the Internal Revenue Service to a collection previously disbursed, the office will seek reimbursement for the overpayment.

(2)(A) The office will attempt to recover overpayments by requesting instruction from custodial parties regarding how they wish to repay an overpayment.

(B) Custodial parties will be given the option to choose to permit the overpayment to be repaid by:

- (i) Recoupment; or
- (ii) Repaying the overpayment directly either in full or in installment

agreements.

(C) Instruction will be solicited from a custodial party in writing and those instructions must be given to the office in writing.

(3) Custodial parties who have not made arrangements to repay an overpayment may be certified for state tax offset, as described in this document, 9 CAR § 8-102.

(b) Refunds to the noncustodial parent.

(1) Refunds to the noncustodial parent will be made only if the office made an error that resulted in the overpayment.

(2)(A) The noncustodial parent must initiate the request for a refund.

(B) The request must be in writing and indicate that the noncustodial parent understands that refunding money will create an overpayment for the custodial party.

Authority. Arkansas Code § 9-14-206.

Subpart 4. Payments Made by the Noncustodial Parent

9 CAR § 8-401. Overview.

(a) Payments made to the Arkansas Child Support Clearinghouse may be made by:

- (1) Check;
- (2) Money order;
- (3) Cashier's check;
- (4) Through Office of Child Support Enforcement MyCase by credit card or

eCheck; or

(5) Any other form of payment that may be available through the Office of Child Support Enforcement.

(b) Cash payments are discouraged.

Authority. Arkansas Code § 9-14-206.

9 CAR § 8-402. Direct payments from the noncustodial parent to the custodial party.

(a) In order to ensure proper credit is given for payments made, all child support payments should be made through the Arkansas Child Support Clearinghouse.

(b)(1) If a custodial party who has an open enforcement case receives payment directly from a noncustodial parent, the money must be forwarded to the clearinghouse to ensure that the payment is properly recorded.

(2) If a recipient of TEA or Medicaid fails to forward a payment made directly from the noncustodial parent, the result may be a reduction in or a loss of benefits.

(3) The Office of Child Support Enforcement must notify the IV-A agency of the amount of the collection, which represents payments on the required support obligation for the month, within ten (10) business days of the end of the month in which the support is received.

Authority. Arkansas Code § 9-14-206.