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Tip 4: Before leaving court, place all child support related documents in the “DOR box” in the courthouse.

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DOR and the Family Law Practitioner: Tips for Working Effectively with the Department of Revenue in Collecting Child Support

Every child support case in the Commonwealth has some connection with the Child Support Enforcement Division of the Department of Revenue (DOR), whether DOR is providing full child support enforcement services, processing payments made through income withholding or serving as the Commonwealth's registry for child support order information. For family law practitioners representing clients in cases involving child support, it is important to understand the extent of DOR's involvement so that you can advise clients of their rights and responsibilities, ensure that DOR has the necessary information to process your client's case, and help your clients understand the basis for DOR's actions.

DOR continues to work to improve child support enforcement services for the families of the Commonwealth, looking for ways to strengthen parents' provision of financial and emotional support for their children. To this end, we are committed to working with the private bar to be more responsive, streamline procedures, and make information available quickly. The private bar, in turn, can help us by becoming knowledgeable about DOR's systems and procedures so that you can give accurate information to clients, and by providing us with all the necessary documentation, such as court orders and changes in addresses, as soon as it is available.

Here you can find some useful tips for working effectively with DOR in collecting child support.

Tip 1: Understand the difference between "IV-D" and "Non-IV-D" child support cases.

DOR is referred to in G.L. c. 119A, and elsewhere, as the "IV-D agency" because it operates pursuant to a complex statutory scheme required by Title IV, Part D of the Social Security Act (42 U.S.C. 651 et seq.). Child support cases are therefore designated as either "IV-D cases" or "non-IV-D cases." Family law practitioners should understand the difference between IV-D and non-IV-D cases and what services are provided in each type of case.

IV-D child support cases: In IV-D child support cases, also known as full-service cases, DOR provides a full range of child support services, including establishing parentage and establishing, modifying and enforcing orders for child and medical support. Full-service cases come to DOR from several sources: 1) referrals from the Department of Transitional Assistance (DTA) or MassHealth when custodial parents are receiving public assistance benefits; 2) referrals from the Department of Children and Families (DCF) when DCF is providing services; 3) requests from other states (or countries) where one party lives in Massachusetts; and 4) applications from custodial and noncustodial parents seeking our assistance with their child support cases. The majority of child support cases handled by the family law practitioner fall into the last category.

Non-IV-D child support cases: In non-IV-D cases, federal and state law require DOR to perform limited functions, even though the cases involve custodial parents who are not receiving public assistance and neither parent has applied for DOR's services. These cases fall into two categories: "income withholding-only cases" and "state case registry-only cases."

- **Non-IV-D income withholding-only cases:** Since October, 1998, federal law has required that all child support paid by income withholding be paid through DOR, even if the family wants no involvement by DOR. We call these "income withholding-only cases." The only service DOR provides in these cases is collecting and disbursing the payments made by income withholding, keeping track of the payments as they come in and go out. We do not keep track of arrearages, assess interest and penalty or take any steps to find a new employer or initiate enforcement actions if arrears accrue.
- **State case registry-only cases:** All cases with a child support order established or modified after October 1, 1998, must be included in the state case registry, even if there is no income withholding order and no DOR involvement. We call these "state case registry-only cases" and we do not provide any services on these cases.

Tip 2: Make sure your client fills out the Child Support Intake Form & Application for Full Child Support Services as completely and accurately as possible.

Every party to a child support case, whether IV-D or non-IV-D, must provide certain identifying information to the state case registry and update that information as necessary. In any subsequent child support proceeding, the court can find proper service if the notice of the proceeding was sent to the most recent residential or employer address filed with the state case registry. DOR uses one form, the Child Support Intake Form & Application for Full Child Support Services, to collect information about child support orders and process requests for services. Therefore, it is important to make sure your client whether the custodial or noncustodial parent fills out the intake and application form completely and accurately, even if the client is not seeking child support services from DOR. Customers can visit [DOR's website](#) to either complete and submit an application on line or print the form, complete it and mail it in.

Tip 3: Advise your clients to inform DOR about changes to their Social Security number, contact information or employment immediately.

Practitioners should advise their clients of their legal obligation to inform DOR of any changes to information about their identity, location, or employer. G.L. c. 119A, § 4. Clients should inform DOR of any changes to their Social Security number, residential and mailing addresses, telephone number, driver's license number, and the name, address and telephone number of their employer immediately. Clients can report changes to their information by contacting DOR's Customer Service Bureau at 800-332-2733 or 617-660-1234 (for callers in Boston).

If your client fails to update their information with DOR, your client may not receive timely notice of actions taken to modify or enforce their court order, or DOR could close their case. In subsequent child support proceedings, if your client fails to keep their information with DOR current, the court could also find proper service if DOR sends notice to the most recent residential or employer address filed with the state case registry.

Tip 4: Before leaving court, place all child support related documents in the "DOR box" in the courthouse.

Every probate court has a "DOR box," usually located in the register's office, into which you can place documents related to a specific child support case. DOR collects these documents daily. Before you leave court, remember to put all child support related documents, including the Child Support Intake Form & Application for Full Child Support Services, copies of signed court orders and any related stipulations or separation agreements relating to child support, into the DOR box. Placing child support related documents in the DOR box ensures that the documents can be transmitted to DOR quickly.

Tip 5: Make sure the amount of the current child support obligation is stated as a dollar figure to be paid at a regular interval and that the terms of the court order or stipulation are clear, legible and unambiguous.

Practitioners should make sure that the terms of the court order and any stipulations are clear, legible and unambiguous and that the amount of the support obligation is reduced to a sum certain, payable at regular, stated intervals (e.g., "\$100 per week"). If the child support order includes seasonal adjustments to the amount of child support, practitioners should be sure the order clearly states the exact date on which the change in the amount of child support is to take place, as well as the exact amount of support to be paid both before and after the adjustment (e.g., "Child support shall be \$100 per week from September 1st through June 30th each year and \$250 per week from July 1st through August 31st each year"). DOR cannot process orders that are based on a percentage of income or bonuses, unless the amount is reduced to a sum certain, either by agreement of the parties or order of the court (e.g., "50% of the \$1,000 holiday bonus"). When the child support obligation is stated as a specific dollar amount to be paid at a regular interval and the order is written in clear, unambiguous terms, the potential for error and confusion about the correct amount of support due is greatly reduced.

Practitioners should refer to [CSE Directive 09-1: Child Support Orders that are Unclear, Illegible, Ambiguous or Lack Information Necessary to Collect and Enforce the Order](#) (November 4, 2009) for more information on the types of problems that will prevent DOR from enforcing an order.

Tip 6: State the termination date for the child support obligation clearly in the court order, separation agreement or stipulation.

Because a child support order may terminate years in the future, make sure that the order reflects the parties' intentions by stating the exact termination date, including the month, day and year, in the order or separation agreement. DOR must have a specific date indicating when the order will terminate so that we can enter it in our computer system. If the court order is silent as to the termination date, we will select the date of the youngest child's twenty-first birthday, unless otherwise ordered by the court. Some separation agreements base the termination of the support obligation on several contingencies that are subject to interpretation (*e.g.*, child support will be paid while the child is enrolled full-time in college). If the termination date is based on contingencies and one contingency is the child's twenty-third birthday, we will select the date of the youngest child's twenty-third birthday as the termination date, unless either party provides DOR with a new court order that states the specific month, day and year of the termination date.

For more information, practitioners should refer to [CSE Directive 09-1: Child Support Orders that are Unclear, Illegible, Ambiguous or Lack Information Necessary to Collect and Enforce the Order](#) (November 4, 2009).

Tip 7: Understand the difference between an income withholding order that is effective immediately and one that is "suspended."

All child support orders in the Commonwealth must include a provision for payments to be made by income withholding. The court can order immediate implementation of the income withholding order or suspend implementation. Practitioners should make sure that the court order clearly states whether the income withholding is effective immediately or is suspended. If the order is implemented, DOR will send the notice of the income withholding order to the employer or other source of periodic income, once we have all of the necessary information (including a copy of the court order). All states must use the federally mandated income withholding notice so that all employers in the country receive the same income withholding notice.

If income withholding is suspended and DOR is providing full services, we will implement the withholding at the request of either parent or if the obligor becomes delinquent in payments. If the order is silent on the issue of income withholding, does not clearly indicate whether the income withholding is immediate or suspended or states that income withholding is not ordered (for which there is no statutory authority), DOR will treat the income withholding order as suspended.

Tip 8: Advise clients not to make or receive direct payments.

If DOR is providing full child support services, it is important that all payments be made through DOR and not directly between the parties. Direct payments are guaranteed to cause arrears balance problems. Payments made directly to the custodial parent are not known to DOR and DOR's computer system treats them as missed payments. This causes an arrearage to accrue, which in turn leads to enforcement actions to collect past-due support.

If your client is ordered to pay child support, you should advise your client to **make payments directly to DOR** and not to make direct payments to the other parent. It can take several weeks after issuance of a court order for the employer to begin deducting child support from a noncustodial parent's paycheck. Until the income withholding begins, your client can avoid problems by using the [payment stubs](#) available on this website and in the probate and family courthouses throughout the Commonwealth and by following these instructions:

- Until the employer begins withholding the support payments, make payments by check or money order payable to the Commonwealth of Massachusetts (never send cash).
- Print the noncustodial parent's name and Social Security number on the check or money order to ensure proper credit and attach the completed payment stub to the check or money order.
- Mail payments to DOR, P.O. Box 55144, Boston, MA 02205-5244.

If your client is the recipient of child support in a case where DOR is providing full child support services, you should advise your client **not to accept direct payments** from the other parent. If a custodial parent repeatedly accepts direct payments, it may be appropriate for the parent to terminate DOR services.

If your client has already made direct payments, we will give credit for the payments if certain criteria are met, but it is important for you and your client to understand that it takes several weeks for DOR to verify that the direct payments were made. The noncustodial parent must submit credible documentation, such as copies of cancelled checks (front and back) or money orders, showing that payments for child support due pursuant to a court order were made directly to the other parent. DOR then sends copies of those checks or other documentation to the custodial parent to verify that the payments were received and confirm that the payments were for child support. This is a cumbersome and time-consuming process for all involved, and, if there is a dispute about the direct payments, your client may need to return to court to obtain credit for the payments. Therefore, as noted above, **advise clients not to make or receive direct payments.**

Tip 9: Obtain an appropriate order for health care coverage.

Every child support order must include an order for health care coverage, unless the payor and recipient agree in writing that coverage will be provided by other means. G.L. c. 119A, § 12 (a); Child Support Guidelines II.H.2. What constitutes an appropriate order for health care coverage in a particular case depends on whether or not health care coverage is available at a reasonable cost, and whether the provision of health care coverage would cause the payor an undue hardship.

Practitioners should seek health care coverage orders consistent with the Child Support Guidelines and the following guidance:

- If health care coverage is available at a reasonable cost without causing undue hardship:
 - Ask the judge to include a requirement that the payor obtain or maintain health care coverage for the child in the child support order.
- If health care coverage is not available at a reasonable cost or would cause the payor undue hardship, and
 - DOR is providing full services: Ask the judge to enter an order requiring that the payor notify DOR if access to health care coverage for the child becomes available.
 - DOR is not providing full services: Ask the judge to enter an order requiring that the payor notify the recipient if access to health care coverage for the child becomes available.

Tip 10: Address child support when custody changes are made.

When custody changes from one parent to another, make sure that the issue of child support is addressed in the new custody order and that DOR gets a copy of the new order. If the order is silent on the matter of child support or if we do not receive notice of the change, we will assume that the child support order continues to be in effect. If no payments are made, the case will accrue arrearages, with the attendant enforcement actions. Parents often assume DOR will terminate their order automatically if custody changes, but Massachusetts case law has held that custody changes do not automatically terminate support obligations. Absent a court order, we cannot terminate the order and will stop assessing support only if we receive a copy of a court order to that effect.

Tip 11: Notify DOR if the child support order is modified or terminated.

As ability to pay changes, parents sometimes obtain modifications of child support orders, either *pro se* or with counsel, without notifying DOR that the order has changed. Until we receive a new court order, we will continue to assess and enforce child support according to the court order information in our records. Make sure to put copies of any orders modifying child support in the DOR box, even if your clients do not currently receive DOR services. If it is a “non-IV-D income withholding-only” case, we notify the employer or other payor of income of the change in the amount of the order. Countless times, the cause of payment mishaps and account problems is traced to the fact that parties changed the order without telling DOR.

If your client is seeking a modification of his or her child support obligation, be sure to explain that child support orders are not subject to retroactive modification. A child support order becomes a judgment by operation of law on or after the date it is due and cannot be modified, upwards or downwards, except with respect to any period during

which a complaint for modification is pending and only from the date that notice of the complaint has been given. G.L. c. 119A, § 13(a).

Tip 12: Know what to do if you have concerns about your client's safety.

DOR takes steps to enforce support safely in cases that involve domestic violence. If you are concerned that child support enforcement could put your client or your client's children at risk, contact us at 800-332-2733 or 617-660-1234 (for callers in Boston). Our domestic violence specialists can work with the client to review options and make referrals as appropriate to other service providers.

Tip 13: Understand how payments are allocated to child support cases.

Federal law guides how child support payments are distributed. Payments are allocated to current support before arrears and to arrears owed to the family before arrears owed to the Commonwealth, with one exception. Federal tax refund intercepts cannot be allocated to current support and are allocated first to any arrears owed to the Commonwealth and then to arrears owed to the family. If support is owed to more than one case and less than the full amount is received, amounts for current support are prorated among the cases in proportion to the amount of current support due. Collections on arrears are prorated among the cases in proportion to the amount of arrears due, unless the arrearage collection is the result of a contempt action requiring a lump sum payment to a specific case.

If there are multiple cases and, pursuant to a contempt judgment in an action brought by or on behalf of one custodial parent, the court orders the noncustodial parent to make a lump sum payment on arrears for that one case, DOR can allocate that payment to the case, **provided we receive proper documentation with the payment**. This is an exception to the general rule for prorating payments and counsel should make sure that DOR staff stationed at the court are notified of these payments immediately, so that they can ensure the payment is posted correctly. If the payment is not accompanied by the necessary paperwork, DOR will allocate the payment to all cases.

Tip 14: Become familiar with the enforcement remedies DOR can use to collect past-due child support.

DOR is authorized to use a variety of enforcement actions to collect past-due support in IV-D cases. These enforcement actions, available **only for cases enforced by DOR**, are initiated when the relevant selection criteria are met. Many remain active until past-due support is paid in full, even if payments on current support are made by income withholding. Most are fully automated and rely on data matches conducted by our computers. The administrative enforcement remedies used by DOR to collect past-due support include:

- Using income withholding orders to collect both current and past-due support from salaries and wages, as well as workers' compensation, unemployment and disability benefits and any other regular periodic income;
- Levying accounts in banks and other financial institutions;
- Placing liens on real estate, insurance settlements, workers' compensation lump sum settlements, public pension accounts, abandoned property, lottery winnings and casino winnings;
- Referring cases to the U.S. Department of State for denial or non-renewal of passports;
- Revoking or suspending professional, recreational, occupational and drivers' licenses and motor vehicle registrations;
- Assessing interest and penalties on past-due child support;
- Intercepting federal and state tax refunds;
- Referring cases of delinquent child support obligors to credit reporting bureaus and collection agencies; and
- Bringing actions for contempt of court or criminal contempt.

More detailed information about DOR's use of administrative enforcement remedies is available in the [Administrative Enforcement](#) brochure available on this website.

Tip 15: Understand how payments are disbursed to custodial parents.

Custodial parents must receive child support payments from DOR either through direct deposit into their bank accounts or through deposits made by DOR onto their Massachusetts Debit Card. See [DOR's website](#) for more information about options for receiving child support payments.

Electronic payments, whether by direct deposit or the Massachusetts Debit Card, get payments to families faster than checks delivered by mail. Electronic payments also eliminate excessive check cashing fees and provide an electronic audit trail that ensures payments can always be located. More information about mandatory electronic payment delivery options and the limited exemptions from mandatory electronic payment can be found in [CSE Directive 04-1: Mandatory Electronic Delivery of Child Support](#) (December 22, 2004).

Tip 16: Evaluate whether an administrative review is necessary to resolve a question or dispute about your client's child support account.

Most questions or disputes about the amount of child support due can be resolved after discussion between a parent (or his or her attorney) and a DOR representative. Often, the problem or dispute arises because DOR is missing information about a court order that the parties obtained on their own (without notice to DOR) or direct payments between the parties. Such issues can be resolved without the need for filing an administrative review. Before filing a request for an administrative review, contact us at 800-332-2733 or 617-660-1234 (for Boston callers) – you might be able to resolve the dispute with just a phone call.

If your client disputes an enforcement action taken by DOR, it is important to explain that child support becomes a judgment by operation of law as it becomes due and unpaid and is therefore enforceable like any other judgment in the state. G.L. c. 119A, § 6. There are few defenses to enforcement – limited to challenging the validity of the underlying court order or proving a mistake of fact, such as wrong person or no past-due support owed. If your client has a valid basis to object to DOR's enforcement action, make sure that a request for administrative review is filed timely and is accompanied by credible documentation. If your client claims that the enforcement action will cause a severe financial hardship, be sure to submit documentation substantiating the nature and extent of the hardship. Most requests for administrative review must be filed within 15 days of the date the enforcement action was taken.

A noncustodial parent who is not satisfied with the result of DOR's review may, within 45 days of the issuance of DOR's final determination letter, seek judicial review in the court that issued the order. DOR's final determination letter indicating that administrative remedies have been exhausted must accompany the request for judicial review. Judicial review is limited to correcting any mistakes of fact. G.L. c. 119A, §§ 6(c), 13(a), 17. You must give notice to DOR of the date and time of the hearing on your client's complaint for judicial review.

Tip 17: Advise clients that they can prevent assessment of interest and penalties by paying their child support on time and in full each month.

DOR charges interest and penalties on the last day of every month in which the noncustodial parent owes more than \$500 in past-due child support. The monthly interest rate is 0.5 percent and the monthly penalty rate is also 0.5 percent. Prior to July 1, 2010, the monthly interest rate was 1 percent (the monthly penalty rate did not change). To encourage payment of current support, noncustodial parents who pay the total current support obligation due for the month will not be charged interest and penalties in that month. If the case does not have a current support order (an "arrear-only" case), DOR will not charge interest and penalties in any month in which the noncustodial parent pays the total monthly amount of the court ordered arrears payment, most recent court order or income levy. When noncustodial parents have more than one case, DOR looks at each case separately to see whether the total payments allocated to each case were enough to prevent charges of interest and penalties in each particular case. It is, therefore, possible for a noncustodial parent to be charged interest and penalties in one case and not another.

For more information, practitioners should refer to [830CMR 119A.6.1](#).

Tip 18: Notify DOR if your client meets the criteria for exemption from interest and penalty charges.

Noncustodial parents may be eligible for an exemption from interest and penalty charges if they satisfy and provide documentation of one of the criteria listed below. It is the noncustodial parent's responsibility to notify DOR of the existence of any of the exemption criteria:

- Receipt of benefits from a needs-based program, such as Supplemental Security Income (SSI), Transitional Assistance to Needy Families (TANF) or State Veterans' benefits;
- Residing with the minor child for whom support is owed, either because the noncustodial parent has physical custody of the child or the parents are cohabiting and the current support order has been terminated;
- Unemployed, but participating in a job training or seek work program;
- Support is being withheld from workers' compensation or unemployment compensation benefits, but amount of withholding is insufficient to satisfy the minimum monthly support obligation;
- Hospitalized in a facility and unable to otherwise pay support;
- Disabled and unable to pay support due to disability, except that if the noncustodial parent is receiving SSDI or other disability benefits, he or she qualifies for exemption only if support is being withheld from SSDI or disability benefits, but amount of withholding is insufficient to satisfy the minimum monthly support obligation;
- Incarcerated, but participating in approved counseling, job training or self-improvement program (GED, responsible parenthood, AA, etc.);
- Active military duty and paying through income withholding through DFAS, but amount of withholding is not sufficient to satisfy the minimum monthly support order;
- Court order prohibiting assessment of interest and penalties or the noncustodial parent obtained a downward modification (except if modification resulted from a contempt action); and
- Approved hardship exemption according to DOR's hardship policy.

For more information, practitioners should refer to [830CMR 119A.6.1](#).

Tip 19: Learn how your client can qualify for a waiver of interest and penalties owed to the Commonwealth.

Noncustodial parents may qualify for a waiver of interest and penalties owed to the Commonwealth if they meet certain payment conditions. DOR cannot waive interest that is owed to the custodial parent – only the custodial parent can do that. However, noncustodial parents who pay in full the arrears principal owed to the custodial parent and the Commonwealth and any interest owed to the custodial parent may be eligible for waiver of interest owed to the Commonwealth, as well as waiver of penalties – an incentive designed to encourage payment of past-due support. Parents who cannot afford to make a lump sum payment to qualify for waiver of interest and penalties should contact DOR to discuss the possibility of making installment payments.

Tip 20: Recognize cases that might be appropriate for DOR's Arrears Management program.

DOR has developed a comprehensive arrears management program to help deal with increasing arrears balances and their detrimental effects on noncustodial parents, custodial parents and the Commonwealth's child support program. The Commissioner of Revenue promulgated an arrears management regulation, found at [830 CMR 119A.6.2](#), which outlines the arrears management program. DOR may accept an offer in settlement of all or a portion of the arrears owed to the Commonwealth where there is serious doubt as to liability or collectability. DOR may also equitably adjust the amount of child support arrears owed to the Commonwealth when the noncustodial parent has no present or future ability to pay the full arrearages. The arrears management program is limited to those arrears owed to the Commonwealth as a result of a custodial parent's assignment of support rights. DOR cannot settle or equitably adjust any child support arrears, including interest, owed to a custodial parent.

DOR will enter into a settlement or equitable adjustment agreement only if we determine that such an agreement is in the best interest of the Commonwealth and furthers the public policy of the Commonwealth that dependent children be maintained, as completely as possible, from the resources of their parents. DOR's authority to settle or equitably adjust arrears owed to the Commonwealth is wholly discretionary and no noncustodial parent has a right to a settlement or equitable adjustment. DOR will not enter into agreements with noncustodial parents who willfully try, or have tried, to evade their duty to support their children, act with intent to defraud or intentionally conceal

assets or financial history from DOR. DOR may also void any agreement that we entered into based upon fraudulent information.

To begin the process, a noncustodial parent must submit a completed Offer in Settlement or Request for Equitable Adjustment application and a Statement of Financial Condition. Contact DOR's Customer Service Bureau at 800-332-2733 or 617-660-1234 (for Boston callers) to request the appropriate forms.

Tip 21: Know that information about your client's case is available to your client online.

Your clients can obtain specific information about their child support cases by using our interactive [Case Manager](#). This information includes payment history, checks issued, and distribution of payments.