

# Important Information about Child Support Services

Please read and keep for your records.

## Definitions

**Child** – an individual under age 21 for whom support is sought.

**Custodial Parent (CP)** – the parent with primary care and custody of the child. In equal shared custody cases, this is the parent eligible to receive child support.

**Guardian (G)** – a nonparent caregiver with physical custody of at least one child under age 21. If the child lives with the guardian on a day-to-day basis, the guardian has physical custody of the child.

**Noncustodial Parent (NCP)** – the parent obligated to pay child support.

**Alleged Father (AF)** – the person who may be the child's father but who has not yet been legally declared to be the father.

## Eligibility

In New York State, both parents are required to support their child until the child is 21 years of age. Any **parent or guardian** of at least one child under age 21 can apply for child support services. A **child** under age 21 or a **noncustodial parent** or **alleged father** may also apply for child support services.

## Safeguarding Confidentiality

The Child Support Program is required to safeguard the privacy, integrity, access to, and use of your personal information (including case data kept in the computer system of the Child Support Program). We share your address and other identifying information with other State and federal agencies only for child support purposes or as otherwise permitted by law. **Information can only be released to authorized persons for reasons authorized by law.**

**Use of Social Security Numbers:** Federal law (42 USC § 666) requires that Social Security numbers be used only for locating parents, establishing paternity, and/or establishing, modifying, and enforcing an order of support; the administration of certain public benefit programs; or as otherwise permitted by law. In addition, Social Security numbers will be subject to verification through the Social Security Administration.

## Safety Concerns

**If you feel that your safety or the safety of your child is at risk because you are receiving Child Support Services, please contact your local Child Support Program Office** (for contact information, please see page 4). Your local Child Support Program office will discuss your concerns with you and can assist you with filing an Address Confidentiality Affidavit with the court. We can also assist in preventing your address from appearing on documents we send to the court. We will prohibit disclosure of location information **at your request**, or if we learn:

- You are residing in a domestic violence shelter;
- You have an order of protection involving the Other Party;
- You have a domestic violence referral or other written statement from a public or private service provider; or
- A court has determined that contact with the Other Party creates a risk of physical or emotional harm to you or the child.

## Services

The Child Support Program will provide the child support services appropriate for your case pursuant to federal and New York State law, regulation, and policy. With your assistance and cooperation, services may be provided to you for as long as child support payments are due and owing. The following services are provided, as appropriate:

- **Location** of the noncustodial parent or alleged father, including obtaining information about addresses, employment, other sources of income and assets, and health care coverage;
- **Establishment of Paternity** (legal fatherhood) for a child born to unmarried parents through the voluntary acknowledgment process or through a court-based process;
- **Establishment** and/or **Modification** of an order of support, including establishment of health insurance coverage or cash medical support, if available, from either parent;
- **Collection** and **Distribution** of child support or combined child and spousal support made payable through the Support Collection Unit, including educational expenses, child care expenses, and cash medical support;
- **Enforcement of Support Obligations** through income withholding from wages, benefits, or other income; federal and State tax refund intercept; seizure of assets and lottery winnings; credit bureau reporting; suspension of the noncustodial parent's New York State driver license; and referral to New York State Department of Taxation and Finance for collection. Court-ordered health insurance benefits are also enforced by the Child Support Program;
- Filing and prosecuting **Violation Petitions**; and
- Assistance with making an **existing order of support** payable through the Support Collection Unit.

All services listed above are also provided to parents who live in other counties, states, and some countries.

Your child support case may be closed for reasons including, but not limited to:

- Paternity cannot be established;
- The noncustodial parent/alleged father cannot be located after diligent effort or is incarcerated with no chance of parole, permanently disabled with no ability to pay support, or institutionalized;
- The recipient of services fails to cooperate or provide information that is essential to the next step in providing services;
- The recipient of services makes a written or verbal request to close the case; or
- The Child Support Program is unable to contact the recipient of services.

## Paternity Establishment

Paternity establishment is the process of determining the legal father of a child. If the parents are not married, the alleged father has no rights or responsibilities to the child until a legal father is determined. In order for the alleged father to be the legal father, the parents must establish paternity for the child. **By establishing paternity for the child, the parents are ensuring that the child has the same rights and benefits as children born to married parents.** In New York State, paternity may be established by either signing a voluntary Acknowledgment of Paternity form or filing a court petition to have the court determine paternity and issue an Order of Filiation.

## Child Support Obligations

The basic child support obligation includes a percentage-based obligation, a provision for health insurance coverage and/or cash medical support, child care expenses, and educational expenses for the child, if determined by the court (Family Court Act § 413 and Domestic Relations Law § 240).

### Child Support Percentages

1 child	17%
2 children	25%
3 children	29%
4 children	31%
5 or more	at least 35%

The percentage guideline is applied to combined parental income up to \$148,000. Above \$148,000 (which will increase in 2020 and every two years thereafter with changes in the Consumer Price Index for All Urban Consumers [CPI-U]) the court determines whether to use the percentage guideline. The court may deviate from the percentage-based obligation based on the factors set forth in Family Court Act § 413(1)(f) and Domestic Relations Law § 240(1-b)(f).

**Low Income Obligation:** If the noncustodial parent's income is determined to be at or below the federal poverty level for a single person, the presumptive support amount is \$25 per month. When income is at or below the self-support reserve (135% of the federal poverty level), but above the federal poverty level, the presumptive support amount is \$50 per month.

**Cost of Living Adjustment (COLA):** An order is eligible for COLA when it is at least two (2) years old and the sum of the average annual percentage change in the CPI-U is equal to or greater than ten (10) percent since the order was issued, last modified, or last adjusted. Every two years your account will be reviewed to determine whether your order is eligible for a COLA. COLA adjustments are made without going to court. A notice is sent to both parties when an order is eligible for a COLA, and either party may request the adjustment.

**Modification of Orders:** The Child Support Program can assist you in filing a petition to modify your order of support, if needed. Either party has the right to seek a modification of the order of support based upon a showing of a substantial change in circumstances or other conditions provided in Family Court Act § 451 (2)(b).

**Rights to Information Regarding Legal Proceedings:** You have the right to be kept informed of the time, date, and place of any court proceedings involving you. You will be provided with a copy of any order establishing, modifying, adjusting, or enforcing an order of support, or any order dismissing the petition.

## Distribution of Payments

Support payments are distributed according to federal and New York State distribution rules.

- **If the custodial parent has never received Temporary Assistance**, they will receive all support that is collected and due, except for the Annual Service Fee and the recovery of costs for legal services, if applicable.
- **If the custodial parent formerly received Temporary Assistance**, child support collections received will first be used to pay current support followed by payments for support arrears/past due support owed to the custodial parent and then to support arrears/past due support due to the social services district. Collections received from federal tax refund offset will first be paid to satisfy any support arrears/past due support due the social services district and then to support arrears/past due support owed to the custodial parent.

## Recoupment of Overpayments

The Child Support Program collects child support payments on your behalf and sends them to you. In rare instances, an overpayment may occur due to a misdirected payment (money is sent to the wrong person) or an unfunded payment (payment is returned unpaid by the remitter's bank), among other reasons. If these situations occur:

- It is your responsibility to return or repay these funds.
- We will contact you to arrange for repayment of the amount overpaid, either in a lump sum payment or, at your request by withholding twenty-five (25) percent of collections until the overpayment is repaid.

## Legal Services

Applicants may request legal services to establish paternity or to establish, modify, or enforce a child support order. If you request legal services, you will be advised by the Child Support Program of the cost of such services, which vary by local Child Support Program office (see next section).

- The attorney assigned to your case is the legal representative of the Commissioner of the social services district and **does not represent you personally**.
- Matters of custody, visitation, or other issues not related to child support **will not** be handled by the attorney of the social services district.
- Any information, written or oral, which you provide to the social services district's attorney or staff **may not remain confidential**, including information indicating welfare fraud or child abuse.

## Cost Recovery for Legal Services

Legal services are provided to applicants upon completion of the *Right to Recovery Agreement for Legal Services* (LDSS-4920).

- Costs for legal services will be recovered from support collected by the Child Support Program at the rate of 25% of your current support obligation.
- If you are the noncustodial parent, the cost for legal services will be recovered at the rate of 25% of the current support obligation or payment you are required to make, and will be added to the support obligation that you pay until the cost is reimbursed.
- All support arrears/past due support will be paid in full before costs for legal services are settled.

## Annual Service Fee

If the custodial parent is receiving child support services and has never received assistance through the Temporary Assistance for Needy Families (TANF) program in New York State or any other state, and child support is being paid to the family, an annual service fee of \$35 will be assessed if more than \$550 of support is collected during the federal fiscal year (October 1 – September 30). If the custodial parent has child support accounts with more than one noncustodial parent on which more than \$550 is collected, separate \$35 fees will be assessed for each account.

## Customer Service

You may obtain additional information about child support as well as payment and account information online at [childsupport.ny.gov](http://childsupport.ny.gov) or by calling the **New York State Child Support Helpline at 888-208-4485 (TTY: 866-875-9975 – Relay Service <http://www.fcc.gov/encyclopedia/trs-providers>)**. A personal identification number (PIN) is required to set up your online child support account. You will receive your PIN by mail when your child support account is established.

It is in your best interest to regularly check your account to ensure that your payments are received on time and in full. **You must keep your address and contact information up to date**, which you may do by calling the Child Support Helpline or by contacting your local Child Support Program office. The contact information for your local Child Support Program office, including an email link, can be found at

<https://www.childsupport.ny.gov/DCSE/LocalOffices>.