

MAIL COVER LETTER

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DATE: 10/14/94 TIME: 12:11:31
SUBJ: PRO LCM:Review and Adjustmen

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COMMENTS:

The attached LCM is approved. Please process for distribution.

BJW

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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 94 LCM-126

Date: October 18, 1994

Division: Economic Security

TO: Local District Commissioners

SUBJECT: Review and Adjustment Process

ATTACHMENTS: Attachment I - Chart of Number of Cases Eligible for
Review and Adjustment - not available
on-line
Attachment II - Federal Timeframes for Review and
Adjustment Processing - not available
on-line

This is to advise local social services districts of the status of the Department's implementation of the review and adjustment process for child support orders, and to advise districts of steps they should take to prepare for implementation of the process.

I. Department Activity To Implement Review and Adjustment

The Department is engaged in a number of activities which are necessary to implement the federal and State requirements for the review and adjustment process for child support orders. These activities include:

- A. developing a process that utilizes the Child Support Management System (CSMS) to identify eligible cases; identifying cases for referral to NYS Department of Taxation and Finance to obtain income information; analyzing income information for both parties and determine whether an order calculated in accordance with the Child Support Standards Act (CSSA), using current income information, would deviate by at least ten percent from the existing order; producing documents including system-generated documents and enhancements to the CSMS Document Generation Module; and, developing concomitant reporting functions;

B. drafting forms in support of review and adjustment:

Notice of Right to Request a Review,
Notice of Intent to Review,
Net Worth Affidavit,
Affidavit with Findings in Support of Adjustment,
Notice of Results of Review,
Notice of Adjustment Findings and Rights of the Parties,
Affidavit of Service,
Proposed Adjusted Order, and
Notice of Findings in Support of Adjustment/Non-Adjustment;

C. developing regulations which will be promulgated as 18 NYCRR 347.26;

D. developing local district operating procedures which will be included in and disseminated as a revision to CSEM Vol. I, Operating Procedures Manual;

E. developing training materials for delivery to local district staff;

F. finalizing administrative arrangements with the Office of Court Administration related to the implementation of the court system's role in the process; and,

G. finalizing discussions with the federal government regarding the Department's implementation of the process.

II. Timetable for Implementation

A. The Department will complete the CSMS changes with an anticipated implementation date of January 1995;

B. department regulations will be published for public comment in November 1994, and will be effective when published;

C. procedures for the review and adjustment process will be disseminated as a revision to the CSEM Vol. I, Operating Procedures Manual in December 1994; and,

D. OCSE will provide local district training prior to the system implementation of the review and adjustment process through regional training venues; we anticipate that training will occur in November 1994.

III. What districts need to do to prepare for implementation:

- A. Districts should review the charts enclosed with this letter which provide the number of child support orders eligible for review and adjustment as of January 1, 1995 and for the four quarters of 1995, and consider the discussion set forth regarding: staffing, space and equipment, costs of mailing, and overall budgetary impact of this new process.
- B. Districts should carefully review any lists of orders which will be sent under separate cover for possible "corrective action", e.g., correcting court order effective dates, ledger statuses, etc., with the necessary changes to be made prior to initiating review and adjustment on any case.
- C. Districts should review the summary of the process outlined below to assess impact on current operations:
 - 1. Initial Notification: OCSE, through the CSMS, will provide to all parties to IV-D child support cases (AFDC, non-AFDC and Title IV-E Foster Care) with court orders of support, a "Notice of Right to Request a Review". This notice will advise the parties that the review is for purposes of determining the appropriateness of adjusting the order to reflect the correct amount of child support as calculated by the CSSA, and to provide for the inclusion of health insurance. OCSE will stagger mailing of the initial notification over a four month period with the first mailing scheduled to coincide with the start up of review and adjustment process in CSMS. Local districts should expect an influx of telephone calls inquiring about review and adjustment, and should be prepared to enter eligible cases into the process.
 - 2. Identification of Eligible Cases: OCSE, through CSMS, will identify cases for which a review is required and generate CSMS reports to local districts. All AFDC or Title IV-E cases (except those for which a good cause determination has been made) and non-AFDC cases for which a review has been requested by one of the parties, which meet the following criteria, are eligible for review:
 - | thirty-six months have elapsed since either the issuance of the order of support (original, modified or adjusted), or the last review, whichever is later.
 - 3. Notice of Intent to Review: Local districts will review CSMS reports and select cases for which they will commence the review and adjustment process. Local districts must complete the review and adjustment process for any case in accordance with the federal timeframes. (See federal timetable chart

enclosed with this letter.) For district-selected cases, CSMS will generate and send, by regular mail, a "Notice of Intent to Review" and a blank copy of the "Net Worth Affidavit" to all parties advising that within 30 days of the date of the notice, each party must submit to the CSEU all requested information, including a completed "Net Worth Affidavit" signed and notarized, copies of State and federal income tax returns, current and representative paystubs, and other supporting documentation (e.g., child care bills), if appropriate. In addition, the "Notice of Intent to Review" will advise the parties that they may schedule a conference with the CSEU regarding review and adjustment.

4. Determination of Income: Districts should expect to maintain a paper file of documented financial information provided by the parties which the CSEU will use to conduct the review. If either party fails to provide the requested information, the CSEU will take the following action:
 - a. If the party requesting the review in a non-AFDC case fails to provide documented financial information, the CSEU will terminate the review, and input the appropriate status on CSMS which will generate to the parties a "Notice of Results of Review and Notice of Findings in Support of Adjustment/Non-Adjustment."
 - b. If the non-custodial parent in an AFDC or Title IV-E case or the non-requesting party in a non-AFDC case fails to provide documented financial information, the CSEU, through CSMS, will access files of the NYS Department of Taxation and Finance for the purpose of obtaining the missing financial information. Financial information for AFDC, Title IV-E or other public assistance clients should be obtained from WMS.
 - c. If no information for the non-custodial parent is disclosed through the review of Tax and Finance records, the CSEU, through CSMS, will apply the consumer price index, compounded annually, to the amount of the child support in the last permanent order of support and require the non-custodial parent to be responsible for 75% of the total amount of reasonable child care expenses and 75% of the total amount of future reasonable health care expenses attributable to any child not covered by insurance. If the obligation amount on the last permanent order of support is \$0.00, the CSEU, through CSMS, will use the average support obligation for all support orders issued in the county during a twelve month period payable to the CSEU as updated every year to determine the new order amount and shall require in the proposed adjusted order that the non-custodial parent be responsible for 75% of the total amount of reasonable child care expenses and 75% of the total amount of future reasonable health care expenses attributable to any child not covered by insurance.

5. Review Process: Upon receipt of financial information from the parties, the local district will determine income and whether there are child care expenses. This information should be input into the CSMS CSSA Module which will compute the correct amount of support pursuant to the CSSA and compare the result to the amount of the current order. A 10% difference in the two amounts (either higher or lower) establishes a legal basis for the adjustment of the order. The CSEU will also review the availability of health insurance to determine if provisions for same must be added to the order.

6. Upward Adjustment of the Order: When the result of the CSEU review indicates an upward adjustment of the amount of an order is appropriate:
 - a. The district will prepare, through the CSMS Document Generation Module, the following documents, file the originals with the court, and send, by regular mail, copies to all parties:
 - "Notice of Adjustment of Findings and Rights of the Parties";

 - "Notice of Results of Review";

 - "Affidavit With Findings In Support Of Adjustment" (which must be signed and notarized);

 - "Affidavit of Service" (which must be signed and notarized); and,

 - "Proposed Adjusted Order of Support".

 - b. If, after 35 days of receipt of a proposed adjusted order, no objection has been filed by either party, the clerk of the court will immediately issue the order without change and transmit copies of the order to the CSEU and to the parties.

 - c. If an objection is received by the court within 35 days of a party receiving a proposed adjusted order, a hearing will be scheduled by the court.

7. Downward Adjustment or No Change: When the result of the CSEU's review indicates a downward adjustment of the amount of a support order is indicated, or that there is no deviation of at least ten percent, the district will enter this information on CSMS which will cause the issuance of a "Notice of Results of Review", and a "Notice of Findings in

Support of Adjustment/Non-Adjustment" to be generated in and mailed from Albany. Parties will be advised that if they still wish to pursue an adjustment, they may seek assistance by obtaining the appropriate forms directly from the court which issued the original support order. District staff will be required to appear in court relative to their involvement with review and adjustment.

- C. Local districts will be responsible for interacting with CSMS, making decisions concerning the initiation of review and adjustment on each case, determining income, conferring with parties, filing documents with the court and sending documents to the parties, and appearing in court on objections to adjusted orders or downward adjustments. In addition, staff involved with review and adjustment should be thoroughly familiar with CSSA, Section 413 of the Family Court Act, which outlines requirements for determining income, considering child care and health care expenses in computation of CSSA basic support obligation, and, for orders made after September 15, 1989 in which application of the CSSA was found to be unjust or inappropriate, determining whether the deviation factors still apply.
- D. Costs of mailing the documents listed above in cases where an upward adjustment is appropriate are estimated to be no less than \$0.75 per set of documents to be stuffed and mailed to each party, with the originals filed with the court.
- E. Districts may need additional space to support increases in staff. Paper documents received from the parties will require storage and should be filed with other court related documents. Since districts may have to confer with parties, current interviewing space allocated to child support should be assessed for the impact of review and adjustment processing. Districts may also need additional space to house additional equipment.
- F. Districts may need additional equipment including additional mainframe terminals and printers to support document generation, photocopying machines, desks, and chairs. With respect to computer equipment, refer to 93 LCM-173 regarding purchasing additional equipment, and discuss district computer needs with your WMS Coordinator or other appropriate local systems liaison. Districts should consider purchasing equipment immediately for the January 1995 implementation of the process. Terminals cost \$200 (\$34 local share) and printers cost \$1,000 (\$170 local share). OCSE is investigating the compatibility of high speed laser printers interacting with the mainframe at a cost of \$5,300 (\$901 local share). OCSE will advise districts further on the issue of high speed printers.

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If you have any questions concerning this LCM, please contact your OCSE County Representative at 1-800 342-3012.

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Deputy Commissioner
Division of Economic Security