

GENERAL INFORMATION

If you need language assistance, please visit the local Child Support Enforcement Unit so that language translation and/or interpretation services can be provided.

INFORMATION ABOUT CHILD SUPPORT SERVICES

This document provides individuals interested in child support services with important information about the program (**Sections 1-6**) and includes a detachable application/referral for child support services. **Section 1** identifies who is eligible to receive child support services, explains the assignment of support rights and cooperation, and provides a summary of child support services and the basic child support obligation. **Section 2** discusses rights and responsibilities resulting from paternity establishment and right to notice of legal proceedings. **Section 3** provides the State's child support policies. **Section 4** discusses legal services and cost recovery. **Section 5** discusses the annual service fee and **Section 6** provides payment and contact information.

This information must be provided to all applicants for child support services and to applicants and recipients of Temporary Assistance for Needy Families (TANF), Medicaid and Title IV-E Foster Care who are referred to the Child Support Enforcement Unit. If the child is in foster care, the applicant or recipient is the Commissioner or Designee of the social services district or the Commissioner or Designee of the Office of Children and Family Services.

SECTION 1 – ELIGIBILITY, ASSIGNMENT, AND AVAILABLE SERVICES

ELIGIBILITY FOR CHILD SUPPORT SERVICES

Any parent or nonparent caregiver acting as guardian of at least one child under the age of 21 is eligible to apply for child support services. Such person is considered the custodial parent in the child support case. If you are applying for, or receiving, Temporary Assistance (officially termed “Family Assistance” or “Safety Net Assistance”) for the child, child support services may be provided to you based on your application for this program. Child support services may also be provided if you are applying for Medicaid for yourself and the child and you complete an application/referral for child support services. Child support services will continue after you stop receiving Temporary Assistance or Medicaid unless you request your child support case be closed. Child support services are also provided for a child placed in foster care and may continue after the foster care placement ends. If the child returns to you after being discharged from foster care, child support services will continue unless you request otherwise. A child under the age of 21 or a noncustodial parent or putative (alleged) father may also apply or be eligible for child support services.

ASSIGNMENT AND COOPERATION WITH CHILD SUPPORT

If you are an applicant/recipient of Temporary Assistance for the child, or Medicaid for yourself and the child, or your child is in Title IV-E Foster Care, you are required to assign to the social services district rights you have to support on your own behalf and any rights to support on behalf of any family member for whom you are applying for, or receiving assistance. For Medicaid applicants/recipients, this assignment is limited to medical support only. When applying for, or receiving Temporary Assistance, your assignment of support rights is limited to support that accrues during the period that you or the family member receives assistance. You are required to assign these support rights and, unless you claim good cause or domestic violence for not doing so, cooperate with the Child Support Enforcement Unit to:

- Locate noncustodial parents and putative fathers, including biological parents or stepparents;
- Establish paternity for each child born out-of-wedlock for whom you are applying for, or receiving Temporary Assistance, Medicaid, or Title IV-E Foster Care;
- Establish, modify, or adjust orders of support; and
- Collect and enforce orders of support through the Support Collection Unit.

If you are receiving Temporary Assistance for the child or Medicaid for yourself and the child, you will be sanctioned for failing to cooperate absent a determination of good cause or domestic violence, if applicable.

CHILD SUPPORT SERVICES PROVIDED

The following services are provided by the Child Support Enforcement Unit as appropriate, with your cooperation:

- Establishment of a case record.

- Location of the noncustodial parent or putative father, including obtaining information about addresses, employment, other sources of income and assets, and health care coverage.
- Assistance to establish paternity (legal fatherhood) for a child born to unmarried parents by voluntary acknowledgment of paternity or by filing a petition with the court.
- Assistance with filing court petitions to establish and modify an order of support according to the New York State child support guidelines, including obtaining health insurance benefits, if available, from either parent.
- Assistance in making an order of support payable to the Support Collection Unit.
- Collection and distribution of support payments. This may include collection and distribution of child support; child and spousal support; educational expenses; child care expenses; and cash medical support, if any of these are included in the order of support made payable through the Support Collection Unit.
- Enforcement of support obligations using all available administrative remedies including, but not limited to: income withholding from employment, benefits, or other income; interception of federal and New York State tax refunds; seizure of assets; credit reporting of support debt; suspension of the noncustodial parent’s New York State driving privileges; and referral to the New York State Department of Taxation and Finance for collection. Court ordered health insurance benefits are also enforced by the Child Support Enforcement Unit.
- Filing and prosecuting violation petitions to enforce an order of support through court when administrative remedies are unsuccessful.
- Legal services (optional to the applicant) upon signing a *Right to Recovery Agreement for Legal Services* (LDSS-4920) for court proceedings. Costs will be recovered for legal services.
- Child support services listed above where parents live in other counties, states, or countries.
- Continuation of child support services listed above when a family is no longer eligible for Temporary Assistance, Medicaid, or foster care.
- New York State Child Support Website: **childsupport.ny.gov**
- New York State Child Support Customer Service Helpline at **888-208-4485**.

INFORMATION ABOUT BASIC CHILD SUPPORT OBLIGATIONS

The Child Support Enforcement Unit can help you establish or modify a child support order based on New York State’s child support guidelines. The basic child support obligation (BCSO) 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 (refer to Family Court Act Section 413).

Percentage-Based Obligation: The base calculation paid by the noncustodial parent is determined using a fixed percentage of combined parental income, based on the number of children involved.

1 child.....	17%	Example: The noncustodial parent’s pro rata share of income available for support is \$25,000. For one child, application of the guidelines percentage yields an annual percentage-based obligation of \$4,250 (i.e., 17% of \$25,000).
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 \$136,000 (minus Medicare, Social Security, New York City or Yonkers tax, certain unreimbursed employee business expenses, certain alimony or maintenance paid or to be paid, and certain child support actually paid). “Income” means such income as reported on the federal income tax return and, to the extent not reported on the tax return, workers’ compensation benefits, disability payments, unemployment benefits, social security benefits, veteran’s benefits, pensions and other forms of income. Above \$136,000 (which will increase in 2014 and every two years thereafter with changes in the Consumer Price Index for All Urban Consumers) the court determines whether or not to use the percentage guidelines. The court may deviate from the percentage-based obligation based on the factors set forth in Family Court Act Section 413(1)(f).

Low Income Obligation: When the noncustodial parent’s income is determined by the court 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.

Additional Elements of Support: The court must determine the parties' obligation to provide health insurance benefits, pay cash medical support toward the cost of health insurance or public coverage, and pay for other health care expenses not covered by insurance. Health care coverage may be provided through a public entity or by a parent through an employer or organization, or through other available health insurance or health care coverage plans. The BCSO must also be increased to cover reasonable child care expenses if the custodial parent is working, in school, or in a vocational training program. If the custodial parent is looking for work and incurs child care expenses, the court may determine the noncustodial parent's share of these expenses. In addition, the court may increase the BCSO to cover the reasonable educational expenses of the child.

Foster Care and Child Support Obligations: In foster care cases, both parents are noncustodial parents with an obligation to pay support based on the child support guidelines. However, where the amount of support determined under the guidelines exceeds the costs of foster care, the Child Support Enforcement Unit may argue to the court that the amount of support is unjust or inappropriate and that the amount of support ordered to be paid should not exceed the actual costs of foster care plus any costs attributable to the costs of medical assistance paid on behalf of the child.

Modification of Orders: The Child Support Enforcement Unit 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. If the order was effective on or after October 13, 2010, incarceration shall not be a bar to finding a substantial change in circumstances provided such incarceration is not the result of non-payment of a child support order, or an offense against the custodial parent or child who is the subject of the order or judgment. Additionally, under certain conditions pursuant to Family Court Act Section 451(2)(b), an order of support can be modified based upon: (1) the passage of three years since the order was entered, last modified or adjusted; or (2) a change in either party's gross income by fifteen percent or more since the order was entered, last modified or adjusted. Bases (1) and (2) for seeking a modification of the order of support do not apply if the:

- Original order of support was entered prior to October 13, 2010; or
- Parties entered into a validly executed agreement or stipulation prior to October 13, 2010 which was incorporated into the original order of support; or
- Parties have specifically opted out of the bases provided in (1) and/or (2) in a validly executed agreement or stipulation entered into on or after October 13, 2010.

Cost of Living Adjustment: Every two years the Child Support Enforcement Unit will review the account to determine whether the account is eligible for a cost of living adjustment (COLA). An order of support is eligible for a COLA if: (1) it has been at least two years since the order was issued or modified by the court, or last received a COLA; and (2) the sum of the annual average changes in the Consumer Price Index for All Urban Consumers is 10% or greater since the entry of the last order. The COLA adjustments are made without going to court. In non-Temporary Assistance cases, a notice is sent to both parties when an account is eligible for a COLA, and either parent may request the adjustment. For cases where the custodial parent or child is on Temporary Assistance, the COLA is automatically made when the account becomes eligible — without either parent requesting the adjustment.

UNDERSTANDING THE CHILD SUPPORT SERVICES PROVIDED

The Child Support Enforcement Unit will provide all child support services considered proper for your case as defined under federal and New York State law and rules. With your assistance and cooperation, services may be provided to you for as long as child support payments are due and owing. However, if the recipient of services is not receiving Temporary Assistance or Medicaid, the child support case may be closed for a number of reasons including:

- Paternity cannot be established;
- The noncustodial parent/putative father cannot be located after diligent effort or is incarcerated with no chance of parole, institutionalized, or permanently disabled with no ability to pay support;
- 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 request to close the case; or
- The Child Support Enforcement Unit is unable to contact the recipient of services by telephone or mail.

In order for the Child Support Enforcement Unit to continue to provide you with effective service, you must contact the Child Support Enforcement Unit to report any change in your address or telephone number, or to report any new information on the other parent of the child for whom you are seeking child support.

SECTION 2 – RIGHTS AND CONSEQUENCES RESULTING FROM PATERNITY ESTABLISHMENT AND RIGHT TO NOTICE OF LEGAL PROCEEDINGS

RIGHTS AND CONSEQUENCES OF ESTABLISHING PATERNITY

Paternity is established when parents sign a voluntary Acknowledgment of Paternity or when the court determines the father of the child and issues an “order of filiation.”

- Under New York State law, the noncustodial parent will be chargeable by the court to pay support until the child is 21 years of age.
- The child gains rights to inheritance from his or her parents. Parents also may have rights of inheritance from their child.
- The child may be entitled to receive death or disability benefits if either parent dies or becomes permanently disabled.
- The noncustodial parent has the right to ask the court for visitation with and/or custody of the child.
- The noncustodial parent will also generally have the right to notice to adoption and foster care proceedings.

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.

SECTION 3 – CHILD SUPPORT POLICIES

SAFETY CONCERNS

If you have concerns that seeking to establish or enforce an order of support will create a risk of harm to yourself or the child, contact the Child Support Enforcement Unit to discuss these concerns. The Child Support Enforcement Unit can assist you in preventing your address or other personal identifying information from appearing on court documents or other documents pertaining to your child support case.

The Child Support Enforcement Unit shall prohibit disclosure of location information if requested by any person, where that person provides evidence that:

- The person resides in a domestic violence shelter;
- An order of protection has been entered;
- A court has determined that contact with the noncustodial parent creates a risk of physical or emotional harm to a child or custodial parent;
- A good cause determination has been made by the Temporary Assistance or Medicaid worker; or
- A domestic violence liaison has determined that there is reason to believe that disclosure of location information may result in physical or emotional harm to the custodial parent or child.

If your case is to be referred to the Child Support Enforcement Unit as a requirement for receipt of Temporary Assistance for the child and you fear that you or the child will be at risk of family or domestic violence if paternity or an order of support is established or enforced, you will be referred first to a domestic violence liaison by the Temporary Assistance worker. The domestic violence liaison may grant you a full or partial waiver from the requirement to cooperate with the Child Support Enforcement Unit. If you are applying for Medicaid for yourself and the child, you may claim good cause from cooperating with the Child Support Enforcement Unit to the Medicaid worker if:

- Cooperation is expected to result in physical or emotional harm of a serious nature to the child for whom support is sought;
- Cooperation is expected to result in physical or emotional harm of a serious nature to the parent, caretaker relative, or grantee sufficient to impair the caretaker’s ability to care for the child adequately;
- The child was conceived as a result of incest or forcible rape; or
- Adoption of the child is pending before a court, or the caretaker is receiving pre-adoption counseling services (for up to three months after the child’s birth).

In foster care cases, the foster care worker will determine the appropriateness of making a referral to the Child Support Enforcement Unit. The referral is legally prohibited under specific circumstances, including situations where the health, safety or welfare of the child or other children in the home will be adversely affected.

SAFEGUARDING AND CONFIDENTIALITY OF PERSONAL INFORMATION

The Child Support Enforcement Unit is required to safeguard the privacy, integrity, access to, and use of your personal information. This includes data obtained for a child support case that is kept in the child support program's computer system. Any information given by you can be released only to authorized persons for those reasons authorized by law.

Use of Social Security Numbers: Disclosure of the Social Security numbers of the custodial parent, noncustodial parent, putative father, and child are required by federal law (42 USC 666). The Child Support Enforcement Unit will use Social Security numbers only for the purpose of locating parents, establishing paternity, and/or establishing, modifying, and enforcing an order of support; for the administration of certain public benefit programs; or as otherwise permitted by law. In addition, these Social Security numbers will be subject to verification through the Social Security Administration.

DISTRIBUTION POLICY

Support payments are distributed according to federal and New York State distribution rules. The distribution of support payments is based on the payment receipt date and as follows:

- **If the custodial parent is receiving Temporary Assistance**, child support collections received will be paid to the State and to the social services district for reimbursement of up to the total amount of Temporary Assistance that has been paid to the custodial parent. The custodial parent will be paid a child support "pass-through" from the current support collected each month in addition to the Temporary Assistance. The pass-through is an amount up to \$100 per month of current support collected or up to the current support obligation amount, whichever is less, for any household with one individual under the age of 21 active on the Temporary Assistance case. The pass-through paid to the family increases to up to \$200 per month of current support collected or up to the current support obligation amount, whichever is less, for Temporary Assistance families with two or more individuals under the age of 21 active on the Temporary Assistance case. The custodial parent will be paid any support collected after the total Temporary Assistance paid to the custodial parent has been reimbursed.
- **If the custodial parent formerly received Temporary Assistance**, child support collections received will first be used to pay current support to the custodial parent 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 for reimbursement of past assistance granted. However, collections received from federal tax refund offset will first be paid to satisfy any support arrears/past due support due the social services district for reimbursement of past assistance granted and then to support arrears/past due support owed to the custodial parent. The custodial parent will be paid any support collected after the total Temporary Assistance paid to the custodial parent has been reimbursed.
- **If the custodial parent has never received Temporary Assistance**, the custodial parent will receive all support that is collected and due, with the exception of the annual service fee and the recovery of costs for legal services, if applicable.
- **If the custodial parent is in receipt of Medicaid**, medical support payments will be paid to the State and to the social services district for reimbursement of up to the total amount of Medicaid that has been paid to a provider.
- **If the child is in receipt of foster care**, support collected will be paid to the social services district. Any support collected exceeding the foster care maintenance payments will be paid to the social services district supervising the child's placement and foster care to use in the manner it determines will serve the child's best interests.

SECTION 4 – LEGAL SERVICES AND COST RECOVERY

LEGAL SERVICES

If your child does not receive Temporary Assistance or Medicaid, or your child is not in foster care, you may request legal services to establish paternity or to establish, modify, or enforce a child support order. Please note that the services of an attorney are not necessarily required to proceed with a child support case. However, if you request legal services, you will be advised by the Child Support Enforcement Unit of the cost of such services. The attorney assigned to your case is the legal representative of the Commissioner of the social services district and does not

represent you personally. The attorney's representation in this matter is limited to the establishment of paternity and the establishment, modification, adjustment, and enforcement of support obligations. 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 that must be reported to appropriate officials.

If you have any questions concerning legal services, speak to a child support worker. If you wish to have your own legal representation, contact a legal services or legal aid organization for assistance or obtain the services of a private attorney of your own choosing at your own expense.

COST RECOVERY FOR LEGAL SERVICES

Costs will be recovered by the Child Support Enforcement Unit for legal services that are provided upon completion of the *Right to Recovery Agreement for Legal Services* (LDSS-4920).

The Child Support Enforcement Unit will recover the cost at the rate of 25% of your current support obligation from support collected, or if you are the noncustodial parent, the cost 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. Each payment received by the Support Collection Unit will be credited to the account based on the distribution hierarchy described in Section 3 under *Distribution Policy*. This means that all support arrears/past due support will be paid in full before costs for legal services are settled.

SECTION 5 – ANNUAL SERVICE FEE

If the custodial parent is receiving child support services and has never received assistance through the TANF program (formerly Aid to Families with Dependent Children [AFDC]), in New York State or any other state and child support is being paid to the family, an annual service fee of \$25 will be imposed if more than \$500 of support is collected during the federal fiscal year (October 1 – September 30). When \$500 of support has been collected, the Support Collection Unit will automatically withhold the next \$25 received during the federal fiscal year to pay the fee. If the custodial parent has accounts with more than one noncustodial parent and both noncustodial parents have paid in excess of \$500, separate \$25 fees will be imposed for each account. Applicants/recipients do not have to pay the \$25 fee for child support services received in regard to Medicaid or Safety Net Assistance, or for services provided for children placed in foster care, where child support is not paid to the family.

SECTION 6 – PAYMENT AND CONTACT INFORMATION

PAYMENT OPTIONS

Noncustodial parents primarily make child support payments through income withholding. However, noncustodial parents can make payments directly to the New York State Child Support Processing Center under certain circumstances (e.g., support order is newly established and income withholding has not yet taken effect, or the noncustodial parent is self-employed or does not have an employer). Payments can be made with cashier's checks, certified checks, and money orders. In addition, payments can be made through electronic funds transfer and by credit card. The Processing Center does not accept cash payments. Visit the New York State child support website at childsupport.ny.gov or call the New York State Child Support Customer Service Helpline at 888-208-4485 (TTY: 866-875-9975) for further information on these payment methods. **All payments must include the New York Case Identifier and be made payable to and sent to the: New York State Child Support Processing Center, PO Box 15363, Albany NY 12212-5363.**

CUSTOMER SERVICE/ACCOUNT INFORMATION

You may obtain answers to general child support related questions or your account information by calling the **New York State Child Support Customer Service Helpline at 888-208-4485** (TTY: 866-875-9975 – **Relay Service** <http://www.fcc.gov/encyclopedia/trs-providers>) or online at childsupport.ny.gov. A personal identification number (PIN) is needed for the website and the New York State Child Support Customer Service Helpline. You can request a PIN by contacting the New York State Child Support Customer Service Helpline.

RETAIN PAGE 1 THROUGH PAGE 6 FOR YOUR RECORDS.