



Office of Temporary and Disability Assistance

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Administrative Directive Memorandum

Section 1

Transmittal:	21-ADM-07
To:	Social Services District Commissioners
Issuing Division/Office:	Child Support Services
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Subject:	Undistributed Collections
Suggested Distribution:	Child Support Enforcement Coordinators Support Collection Unit Supervisors Accounting Staff IV-D Attorneys DSS Attorneys Staff Development Coordinators
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Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
18-ADM-06 99 ADM-1		18 NYCRR §§ 346.6, 347.7, 347.13(c)	SSL § 111-h(1); 42 U.S.C. §§ 654b(a), 657, 664(a)(3)(B); 45 CFR §§ 302.15, 302.32(a), 302.51, 303.72(h)(4) – (6), 303.100(a)(8); 303.102(c)(2)		Federal Action Transmittal AT-97-17; Federal Action Transmittal AT-16-03; <i>Dear Colleague</i> letter issued May 23, 2011 <i>Dear Colleague</i> letter issued March 11, 2013 <i>Dear Colleague</i> letter issued October 3, 2018

Section 2

I. Summary

This Administrative Directive (ADM) sets forth procedures and references guidance documents to facilitate the search for the payee of funds paid to the district Support Collection Unit (SCU) pursuant to an order of support under the provisions of article four, five, five-A, five-B, or five-C of the Family Court Act. In addition, the ADM defines diligent efforts to locate the payee of undistributed collections. The ADM also addresses practices to reduce and prevent the accumulation of undistributed collections. Finally, the ADM provides procedures to refund payments to noncustodial parents (NCPs), when appropriate.

II. Purpose

The purpose of this ADM is to facilitate the resolution, and prevent the accumulation, of identifiable undistributed collections paid to the SCU through the use of procedures, practices, and guidance documents.

III. Background

Undistributed Collections: Undistributed support accrues for a variety of reasons, including but not limited to:

- The location of a party is unknown;
- Payments exceed the support obligation amount;
- Overpayments are made by a payor or the NCP;
- Payments are received but not distributed pending further legal action;
- The proper child support account cannot be identified; and
- Tax refund intercepts from joint tax returns are placed on hold for six (6) months.

Pursuant to 45 CFR § 302.15, IV-D agencies must maintain fiscal records necessary for reporting and accountability required by the Secretary of Health and Human Services. As a part of that, states are required to categorize and age their undistributed collections on *Form OCSE-34: Child Support Enforcement Program Quarterly Collection Report*.

Whenever money collected pursuant to an order of support is unclaimed for a period of four (4) months or more, the SCU shall commence diligent efforts to locate the payee pursuant to Title 18 New York Codes, Rules and Regulations (NYCRR) § 346.6.

Distribution of Child Support and Future Payments: Federal Action Transmittal AT-97-17 provides instructions for the distribution of child support pursuant to 42 U.S.C. § 657. Future payments are discussed in Section I(f) of the AT, which provides that states may deem an undesignated payment as a “future payment” where such amount is more than the support obligation for the current month and all obligations for past months have been satisfied. A future payment is intended as support for an upcoming month. That is, it is expected that the future payment will be applied and disbursed, as opposed to merely holding those funds until a time when the NCP defaults.

For purposes of distribution, except for federal tax refund offsets (FTROs), 18 NYCRR § 347.13(c) provides if the amount collected exceeds the amount required to satisfy the support obligation for the current month and previous months, such amount shall be retained to apply to future months. In general, future payments should not exceed an amount equal to the current support amount for one (1) obligation frequency.

Improperly Withheld Amounts and Tax Refund Offset Overpayments: Federal regulations provide that amounts improperly withheld and overpayments (one type of future payment) attributable to certain types of enforcement action must be refunded in a timely manner. 45 CFR § 303.100(a)(8) provides that the IV-D agency must have procedures for promptly refunding to the NCP amounts that have been improperly withheld through the income withholding process. Such withheld amounts may be a result, in part, of continuing to receive the additional amount toward the reduction of arrears after the support arrears/past due support are paid in full; failing to make timely account adjustments when the support obligation has been modified; or failing to promptly terminate the *Income Withholding Order/Notice for Support (IWO)*.

45 CFR § 303.102(c)(2) provides for the prompt refunding of overpayments attributable to State income tax refund offset (State TRO) where the offset amount is found to be in error or to exceed the amount of support arrears/past due support. The IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the NCP. If the amount collected is more than the amounts required to be distributed pursuant to the federal distribution rules, the IV-D agency must repay the excess to the NCP whose State income tax refund was offset within a reasonable period in accordance with State law (refer to 45 CFR §303.102[g][2]).

Similarly, 45 CFR § 303.72(h)(4) provides for the prompt refunding of overpayments attributable to FTRO. If the amount collected is more than the amounts required to be distributed pursuant to the federal distribution rules, the IV-D agency must repay the excess to the NCP whose refund was offset or to the parties filing a joint return with a reasonable period in accordance with State law.

Federal law and regulation, Title 42 United States Code § 664(a)(3)(B) and 45 CFR § 303.72(h)(5), provide that the IV-D agency may delay distribution of a refund based on a joint return which is being made to satisfy non-IV-A support arrears/past due support. Distribution may be delayed until the IV-D agency is notified that the non-obligated spouse's proper share of the refund has been paid or for a period not to exceed six (6) months from notification of the FTRO, whichever is earlier. Federal Action Transmittal AT-16-03 provides that the IV-D agency may delay distribution of a suspicious FTRO referred to the Internal Revenue Service (IRS) for investigation. Distribution may be delayed for a period not to exceed six (6) months from receipt of the offset by the IV-D agency. The state must continue to have clear documentation on its system as to why the payment was held. If the IRS has not completed its investigation and/or reversed the offset after six (6) months, the IV-D agency must distribute the payment.

45 CFR § 303.72(h)(6) provides that FTRO collections may be applied only to child support cases that were being enforced by the IV-D agency at the time the pre-offset notice was issued. 18 NYCRR § 346.9(e)(1) further provides that if the NCP is certified for two (2) or more child support cases, each case will receive a pro rata share of the total amount offset, based on the amount of support arrears/past due support owed to that case as a percentage of the total past-due liability certified for the particular NCP.

IV. Program Implications

Timely and accurate processing of child support collections is mandated under Title IV-D of the Social Security Act. As a part of that, the SCU must determine the reason for an undistributed collection and take the next appropriate action to distribute the collection. The following procedures, practices, and referenced guidance documents must be utilized by districts to facilitate the disposition, and prevent the accumulation, of undistributed support collections.

V. Required Action

A. Locate the Party to the Order of Support

The SCU must **immediately** use appropriate resources to locate the payee when a support collection cannot be disbursed because the current address of the proper payee (i.e., the custodial parent [CP] or NCP) is unknown or the SCU is unable to contact the proper payee regarding a problematic disbursement (e.g., direct deposit rejected because the payee's bank account has been closed, or funds have been reversed from an unpinned debit card).

A guidance document titled *Search Checklist – Locating a Party to the Order of Support* will be made available on the *Undistributed Collections* page of the Electronic Resource System (ERS) under *Reference Materials*. The search checklist identifies various search efforts to be used by the SCU, as reasonable and appropriate, and includes columns to document the date of the search effort and the results, including any follow-up actions taken.

The SCU must retain the completed search checklist(s) in the case records associated with the payee of the undistributed funds and document the date when search efforts commence in the remarks of the case record.

- 1. Search Efforts Successful:** If the search effort is successful, the SCU must disburse the funds as appropriate. The SCU must also remove any tickler date associated with the search efforts and any value in the *UDC Ind* field on the *Account Information* record in the Automated State Support Enforcement and Tracking System (ASSETS), if applicable (refer to Section V.C.3. for more information about values in the *UDC Ind* field).
- 2. Search Efforts Unsuccessful:** If the search effort is unsuccessful, the SCU must repeat search attempts either immediately upon receipt of new information, or quarterly, whichever occurs sooner (18 NYCRR § 347.7[b][6]). Therefore, the SCU must set a tickler date to serve as a reminder to perform further search attempts if the funds remain undistributed. The SCU must update the value in the *UDC Ind* field as appropriate.

B. Conduct Diligent Efforts When Party to the Order Cannot be Found

When the collection has been undistributed for four (4) months or more (e.g., because the search efforts noted above have not yet been successful), the SCU must make additional **diligent efforts** to locate the payee of the undistributed collection (18 NYCRR § 346.6).

Diligent efforts to locate the payee of the undistributed collection may consist of, but are not limited to, the SCU using the location resources listed in the *Search Checklist – Locating a Party to the Order of Support*.

When the collection remains undistributed for at least two (2) years from the date when the initial search efforts commenced, the SCU must initiate the unclaimed funds process.

C. Review and Work Reports and Worker Alerts Daily to Reduce and Prevent the Accumulation of Undistributed Collections

1. Guidance Documents:

Two (2) guidance documents have been developed to assist SCUs in their efforts to reduce and prevent the accumulation of undistributed collections. **These documents complement each other and are to be used in conjunction with the instructions in Section V.C.**

The first guidance document, titled *Overview of Reports and Worker Alerts Used to Reduce and Prevent the Accumulation of Undistributed Collections*, highlights the reports and worker alerts to be reviewed and acted upon daily. In addition, the overview identifies the parts of the reports and worker alerts that are specifically related to undistributed collections.

The second guidance document, titled *Use of Reports and Worker Alerts to Reduce and Prevent the Accumulation of Undistributed Collections*, identifies and describes the relevant reports, notes items to review and actions to take, and lists associated reference materials.

The guidance documents will be made available on the *Undistributed Collections* page of ERS under *Reference Materials*.

- 2. Prevention of Undistributed Collections:** To identify accounts needing review and assist in preventing the accumulation of undistributed collections, **the SCU must examine the reports, or types of reports, noted in items a – c below and take any necessary actions** as described in the guidance document titled *Use of Reports and Worker Alerts to Reduce and Prevent the Accumulation of Undistributed Collections*.

- a. **DAILYBATCHES Report:** This report includes a listing of the previous day's batch transactions and their statuses. Section A, *Daily Sorted Batch Report*, and Section C, *Daily Report of Rejected Transactions*, are especially helpful in the prevention of undistributed collections.
 - b. **ASSETS Worker Alerts:** The ASSETS Worker Alert feature permits the SCU to query and review information from a number of reports related to caseload management, including undistributed collections. The following reports are relevant to case management in relation to undistributed collections: *Warnings*, *Ticklers*, and *Parent Locator Service (PLS)*.
 - c. **Electronic Communication System Correspondence and Reports:** The Electronic Communication System (ECS) provides districts with an electronic method for interacting with the New York State Child Support Processing Center (CSPC), including district correspondence and reports specific to location and disbursement activity. The following ECS documents must be reviewed and worked as noted in the guidance document titled *Use of Reports and Worker Alerts to Reduce and Prevent the Accumulation of Undistributed Collections*: *Imaged Local District Correspondence*, *Operational Reports*, and *Processing Center Services special reports*.
3. **Review and Resolution of Undistributed Collections:** To address accounts reporting undistributed collections, the SCU must review Section A of the MUNDISTRIBUTED report, which is available on the Computer Output to Laser Disk (COLD) system. Alternatively, the SCU may utilize the *Undistributed Collections Report* in the Child Support Data Mart (CSDM) to review accounts with undistributed collections. The *Undistributed Collections Report* lists additional data elements that are not available on the COLD Report (e.g., UDC Indicator Date, Direct Deposit Account Type). The CSDM *Distribution Switch Report*, which provides details of the accounts with ledger distribution switch "3" (*No monies are disbursed*), is to be used in conjunction with these reports.

D. Refund Overpayments to NCPs

A central component of preventing the accumulation of undistributed collections is to ensure payments exceeding the amount due on the child support account are refunded to the NCP, if appropriate. When an NCP requests a refund, or upon the SCU identifying an overpayment on the account, the SCU must promptly review the account and take the appropriate action, depending on the type of overpayment (see Section V.D.1. through Section V.D.5. below).

1. General Principles Applicable to Overpayments:

- a. **Retention of Current Support Amount for One (1) Obligation Frequency:** The SCU may determine it is appropriate to retain an overpayment on the account, not to exceed the current support amount for one (1) obligation frequency.
- b. **IWO Overpayment and Multiple Accounts:** When an account has an overpayment from an IWO and the NCP has support arrears/past due support on at least one (1) other account, the SCU must review the other account(s).
 - i. **Payments on Other Accounts Not Remitted in Accordance with IWO(s):** If the employer is not remitting payments on the other account(s) in accordance with the total amount to be withheld per the IWO(s), the SCU may apply the overpayment pro rata to those accounts, giving priority to current support. It is not necessary to contact the NCP for permission to do so.

The SCU must then contact the employer to resolve any employer issues associated with the income withholding. The SCU must advise the employer, if appropriate, to provide the following information along with the payment: the payment date, the New York Case Identifier(s) associated with each IWO for the NCP, and the amount of payment for each account.

- ii. **Payments on Other Account(s) Remitted in Accordance with IWO(s):** If the employer is remitting payments on the other account(s) in accordance with the total amount to be withheld per the IWO(s), the SCU must contact the NCP, preferably by phone, to obtain permission to apply any overpayment to the other account(s).
- c. **Overpayment Received from the Enforcing Jurisdiction:** When an overpayment is received for a child support case that is currently being enforced in a jurisdiction other than the jurisdiction where the order of support and the child support case originated, the IV-D agencies must reconcile the dues to ensure the overpayment is appropriate. At a minimum, a semi-annual account reconciliation with the enforcing jurisdiction is recommended.
- d. **Document the Account:** The SCU must document the actions taken in the remarks of the case record and update the UDC Indicator as appropriate.

2. Specific Procedures for Overpayments

- a. **FTRO Payments:** Where the NCP has a single account with support arrears/past due support, the SCU must refund to the NCP any FTRO collections more than the total amount of the ledger floors and past due support on tax offset eligible ledgers **unless** the NCP is contacted, preferably by phone, and approves of the application of the excess to future payments or application to any past due support on non-tax offset eligible ledgers. For more information, refer to the DCL dated May 23, 2011, concerning procedural changes to rejected FTRO collections.

However, when an account has a FTRO overpayment and the NCP has multiple accounts with support arrears/past due support on at least one (1) other account, the SCU may apply the overpayment to any other account with support arrears/past due support on tax offset eligible ledgers, provided the account was being enforced by the SCU at the time the pre-offset notice was issued. The application of the overpayment must be prorated among those other accounts. This can be done without further notice to the NCP. If the SCU wishes to apply the FTRO overpayment to future payments or any past due support on non-tax offset eligible ledgers, however, the SCU must contact the NCP as described above.

- b. **State TRO Payments:** Overpayments attributable to State TRO where the offset amount is found to be in error or to exceed the amount of support arrears/past due support must be refunded to an NCP having a single account with support arrears/past due support **unless** the NCP is contacted, preferably by phone, and approves of the application of the excess to future payments or to any past due support on non-tax offset eligible ledgers.

Similarly, when an account has an overpayment from a State TRO and the NCP has support arrears/past due support on at least one (1) other account, the SCU may prorate the overpayment among any other accounts with support arrears/past due support on tax offset eligible ledgers, provided the accounts involved were being enforced by the SCU at the time the pre-offset notice was issued. This can be done without further notice to the NCP. If the SCU wishes to apply the State TRO overpayment to future payments or any past due support on non-tax offset eligible ledgers, however, the SCU must contact the NCP, preferably by phone, to obtain permission to apply any overpayment to the other account(s).

- c. **Payments Other Than FTRO or State TRO:** For overpayments other than FTRO or State TRO, the SCU must take the following actions:
 - i. **Verify Payments Have Been Remitted in Accordance with the Obligation, Frequency, and Remittance Frequency:** The SCU must determine if the payment is the correct amount based upon the order of support and the remittance frequency. The SCU must also review the associated payment images to confirm that the payments were intended for the account and were not misapplied. The SCU should

not issue a refund if the account will charge, and the overpayment will be disbursed, prior to the date of the next anticipated payment.

(a) **Example 1:** The NCP has requested a refund of the \$150 credit on their account. The order of support provides that the \$150 support obligation is due weekly. However, the employer utilizes a biweekly pay cycle, remitting payments of \$300 at the end of each two (2) week period. The monthly support obligation is \$650 ($[\$150 \times 52] / 12$), and the monthly amount remitted by the employer is \$650 ($[\$300 \times 26] / 12$). Because the employer is remitting the correct amount based on a biweekly remittance frequency, **it is not appropriate to issue a refund to the NCP.**

(b) **Example 2:** The NCP has requested a refund of the \$75 credit on their account. The order of support provides that the \$150 current support obligation is due weekly. The additional amount payable toward support arrears/past due support is \$75. The employer utilizes a weekly pay cycle and remits payments of \$225 at the end of each week. Several weeks ago, however, the support arrears/past due support was paid in full. Although an amended IWO for \$150 weekly current support was issued, the employer has not yet implemented it. The monthly support obligation is \$650 (see Example 1) and the employer is remitting \$975 ($[\$225 \times 52] / 12$) monthly. Because the employer is remitting more than the correct amount based on a weekly remittance frequency, **it is appropriate to issue a refund to the NCP.**

(c) **Example 3:** The NCP has requested a refund of the \$480 credit on their account. The order of support provides that the \$160 current support obligation is due weekly. The employer utilizes a weekly pay cycle, remitting payments of \$160 at the end of each week. The order of support was terminated by operation of law upon the twenty-first (21st) birthday of the youngest child, and the IWO was systematically terminated. Because there is no longer a current support obligation and the account is paid in full, **it is appropriate to issue a refund to the NCP.**

(d) **Example 4:** The NCP has requested a refund of the \$65 credit on their account. The order of support provides that the \$90 current support obligation is due biweekly. Recently the NCP has been remitting payments of \$30 weekly directly to the CSPC. The monthly support obligation is \$195 (see Example 1) and the NCP is remitting \$130 ($[\$30 \times 52] / 12$) monthly. Because the NCP is remitting less than the correct amount based on a weekly remittance frequency, **it is not appropriate to issue a refund to the NCP.** That is, the \$65 credit will be needed to fulfill the current support obligation.

ii. **Determine if Payments Continue to be Remitted:** If it is appropriate to issue a refund to the NCP, the SCU must then review the *ASSETS Account Information* record to determine if payments continue to be remitted (e.g., through income withholding or payments sent directly to the CSPC by the NCP).

(a) **Payments No Longer Being Remitted:** If the payments are no longer being remitted, the SCU should contact the employer, and the NCP as appropriate, to determine the status of the NCP's employment. If the NCP is no longer employed, the SCU must update the employer record(s) as necessary. If the NCP is still employed, the SCU needs to resolve any employer issues associated with the income withholding. If payments from the employer will not be received before the next charge date or the NCP is no longer employed, **it is not appropriate to issue the refund to the NCP.**

(b) Payments Continue to be Remitted: If payments greater than or equal to the correct amount (i.e., in accordance with the obligation, frequency, and remittance frequency) continue to be remitted, **it is appropriate to issue a refund to the NCP.**

If payments continue to be remitted, but in an amount less than the correct amount, **it is *not* appropriate to issue a refund to the NCP.**

iii. Determine Whether the NCP has Other Accounts with Support Arrears/Past Due Support: If payments continue to be remitted in an amount greater than or equal to the correct amount, then the SCU must review ASSETS to determine if the NCP has other accounts with support arrears/past due support.

(a) NCP Does *Not* Have Other Account(s) With Support Arrears/Past Due Support: If the NCP does not have any other account(s) with support arrears/past due support, **it is appropriate to issue the refund to the NCP.**

The SCU must perform the required actions as described under Section V.D.3, below.

(b) NCP Does Have Other Account(s) With Support Arrears/Past Due Support: If the NCP has at least one (1) other account with support arrears/past due support, **it is *not* appropriate to issue the refund to NCP.**

The SCU must perform the required actions as described under Section V.D.4, below, unless IWO payments are **not** being received on the other accounts (see Section V.D.1.b.i.).

- 3. Refunds Deemed Appropriate:** If the SCU has determined that it is appropriate to issue a refund to the NCP for the payment types described in Section V.D.2. (e.g., FTRO, State TRO, etc.), the SCU must promptly issue the refund. The SCU must utilize the *Refund to Respondent* feature of ASSETS to build or update an administrative account and refund an overpayment to the NCP. The SCU does not need to verify the address of the NCP prior to mailing the refund if the NCP called the Child Support Helpline (CSH) to request a refund because the CSH verifies the NCP's mailing address during its validation process. If the NCP contacts the SCU directly to request a refund, however, the SCU must verify the NCP's mailing address prior to issuing the refund (preferably by calling the NCP). Refunds should be processed within five (5) business days after the creation date of the original referral (refer to the DCL dated October 3, 2018).
- 4. Refunds Deemed Inappropriate:** If the SCU has determined that it is not appropriate to issue a refund to the NCP for the payment types described in Section V.D.2. (e.g., FTRO, State TRO, etc.), the SCU must contact the NCP to discuss the refund request. If appropriate, the SCU should explain the point-in-time nature of the payments and disbursements (e.g., the interaction between the obligation amount and frequency). If the NCP has other accounts with support arrears/past due support **or** the NCP is no longer employed, the SCU should ask the NCP for permission to leave monies on the account or to apply the excess funds to the other active accounts.
 - a. NCP rescinds refund request:** If the NCP rescinds the refund request and gives the SCU permission to apply the overpayment to the other account(s), the SCU must prorate the overpayment among all accounts with support arrears/past due support in accordance with the federal distribution rules. That is, the SCU must first determine the total amount of support arrears/past due support for all the NCP's accounts. Each pro-rata share shall be equal to the amount of support arrears/past due support owed on that account as a percentage of the total amount of support arrears/past due support owed on all the NCP's accounts.

Example: The NCP has an account with an overpayment of \$300 along with two (2) other accounts. The first account has support arrears/past due support of \$2,000. The second account has support arrears/past due support of \$500. The total amount of support arrears/past due support is \$2,500. The amount of the overpayment applied to the first account is equal to \$240 $([\$2000/\$2500] \times \$300)$. The amount of the overpayment applied to the second account is \$60 $([\$500/2500] \times \$300)$.

b. NCP continues refund request: If the NCP does *not* give the SCU permission to retain the overpayment, then the SCU must promptly issue the refund.

5. Document the actions taken: The SCU must document the actions taken in the remarks of the case record including, but not limited to, phone contact made or attempted with the NCP.

E. Retain Future Payments Upon Request of NCP

An NCP may request that the SCU retain on the account an amount greater than the current support amount for one (1) obligation frequency (e.g., when the NCP works seasonally). Should the NCP request that a greater amount be retained on the account, the SCU must categorize the UDC by manually setting the value in the *UDC Ind* field to “**4J**” (*Income withholding order overpayment; noncustodial parent requests hold for future payments*) or “**5A**” (*Noncustodial parent pays in advance, no income withholding order; overpayment held for future payment*). In addition, a tickler date must be set for follow-up.

VI. Systems Implications

There are no systems implications.

VII. Additional Information (Optional)

VIII. Effective Date

This ADM is effective immediately.

Issued By:

Name: Eileen Stack

Title: Deputy Commissioner

Division/Office: Child Support Services