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Executive Deputy Commissioner

Administrative Directive Memorandum

Section 1

Transmittal:	21-ADM-08
To:	Social Services District Commissioners
Issuing Division/Office:	Child Support Services
Date:	December 20, 2021
Subject:	Unclaimed Support Funds
Suggested Distribution:	Child Support Coordinators Support Collection Unit Supervisors Accounting Staff IV-D Attorneys DSS Attorneys Staff Development Coordinators
Contact Person(s):	Child Support Services – County Representative: otda.sm.dcse.bpo@otda.ny.gov Office of Legal Affairs: (518) 474-9502
Attachments:	None

Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
18-ADM-06 21-INF-07	18-ADM-06	18 NYCRR § 346.6	SSL § 111-h; APL § 1318; 45 CFR § 302.51		

Section 2

I. Summary

This Administrative Directive (ADM) advises social services district (district) child support enforcement units and support collection units (collectively CSEUs) of new guidance resulting from the implementation of Chapter 316 of the Laws of 2021, which clarified and simplified the process by which the support collection unit transfers undisbursed funds to the Office of the State Comptroller, Office of Unclaimed Funds (OSC OUF, “state comptroller”).

These statutory changes require districts to transfer certain undistributed child or combined child and spousal support as unclaimed funds to the state comptroller annually in the month of April, on or before April 10. Accounts with unclaimed funds potentially eligible for inclusion in the annual transfer must be identified on or before January 1 as some accounts may require due diligence mailings, the first of which must occur on or before January 10, to confirm eligibility. Under limited

circumstances, a second due diligence mailing may be required on or before February 10. The funds must be accompanied by a verified written report that includes identifying information in such form as the state comptroller may require.

II. Purpose

This ADM describes the administrative process, including applicable dates, by which unclaimed child or combined child and spousal support funds are transferred annually to the state comptroller pursuant to Chapter 316 of the Laws of 2021.

This directive cancels 18-ADM-06, titled *Unclaimed Child Support Funds*, which introduced petitions and proposed orders for use in accordance with Social Services Law (SSL) § 111-h prior to July 30, 2021, the effective date of Chapter 316 of the Laws of 2021.

III. Background

Chapter 316 of the Laws of 2021 eliminated the requirement to make an application to the Family Court regarding the disposition of unclaimed funds paid to the support collection unit, where the Family Court could then enter an order which either 1) returned the funds to the individual who paid the funds pursuant to the order of support; or 2) directed that the funds be deposited with the county treasurer or commissioner of finance of the city of New York, who held and invested the funds for an additional five (5) years. When the five-year period expired, any funds remaining were transferred to the state comptroller.

The enactment of Chapter 316 of the Laws of 2021, pursuant to a newly enacted SSL § 111-h (5)–(7), institutes an administrative procedure for the annual transfer of unclaimed child or combined child and spousal support funds directly to the state comptroller. The procedure makes distinctions among funds with sufficient identifying information, collections with insufficient identifying information, and moneys owed to a deceased individual.

Where there is sufficient identifying information and the collection has been identified with the account of a specific individual, two (2) years of diligent efforts to locate the individual entitled to the funds are required.

Where the funds are owed to an individual who is deceased and an estate cannot be located or the estate does not claim the funds, there is no requirement to perform two (2) years of diligent efforts to locate the individual.

Where there is insufficient identifying information and such information cannot be determined to attribute the funds to a specific account, there is no requirement that two (2) years of diligent effort be performed to locate the individual entitled to the funds. These funds are immediately eligible for inclusion in the annual transfer to the state comptroller.

The funds must be delivered to the state comptroller annually in the month of April, on or before April 10, and be accompanied by a verified written report that includes identifying information in such form as the state comptroller may require.

Revisions to eliminate references to the Family Court from New York Codes, Rules and Regulations § 346.6, Unclaimed Funds, are forthcoming.

IV. Program Implications

This directive provides guidance regarding the identification of accounts with unclaimed support funds that are potentially eligible for inclusion in the annual transfer to the state comptroller and how to fulfill the due diligence mailing requirements to confirm the eligibility of certain funds for transfer. The CSEU must input information into the required Report of Abandoned Property for timely submission along with the transfer of the unclaimed funds to the state comptroller. Accounts with

collections eligible for transfer to the state comptroller must be reviewed by the CSEU and any necessary account maintenance must be performed.

V. Required Action

A. Overview of Annual Transfer of Unclaimed Funds to the State Comptroller

The reporting year for the annual transfer of unclaimed funds to the state comptroller runs from January 2 through the following January 1, the cut-off date or ending date. To prepare for the annual transfer of unclaimed funds in the month of April, on or before April 10, the CSEU must take the following actions during the specified times:

- 1. Prior to January 2:** Build an administrative account to hold unclaimed funds (“holding account”) that may be transferred to the state comptroller on or before April 10 and review accounts to identify those with unclaimed funds that are, or may be, eligible for the annual transfer to the state comptroller.
- 2. January 2 through January 31:** Enter information about these accounts into the Report of Abandoned Property Spreadsheet Excel template approved by OSC OUF. The preformatted Report of Abandoned Property Spreadsheet is available via a link on the *Undistributed Collections* page of the Electronic Resource System (ERS). Then remove the unclaimed funds from each listed account for placement into the holding account. Notably, the information entered into this spreadsheet may require updating prior to final submission of the Report of Abandoned Property Spreadsheet.
- 3. On or before January 10:** Fulfill the due diligence first-class mail requirement for any unclaimed funds with sufficient identifying information where there appears to be a valid address for the individual entitled to the funds. That is, there is no reason to believe that the address on the Automated State Support Enforcement and Tracking System (ASSETS) is incorrect.
- 4. January 11 through February 1:** Remove accounts from the Report of Abandoned Property Spreadsheet if the individual entitled to the funds returns the completed due diligence first-class mailing or otherwise claims the funds. Then disburse the funds associated with this account to the individual entitled to the funds.
- 5. On or before February 10:** Fulfill the due diligence certified mail, return receipt requested requirement only when the value of all the unclaimed funds for the individual entitled to the funds exceeds \$1,000; the last known address is in the United States; **and either** the individual has not responded to the first-class mailing, the individual has not otherwise claimed the funds, **or** the first-class mailing was not returned as undeliverable.
- 6. February 11 through March 31:** Remove accounts from the Report of Abandoned Property Spreadsheet if the individual entitled to the funds returns the completed due diligence certified mailing or otherwise claims the funds. Then disburse the funds associated with this account to the individual entitled to the funds.
- 7. April 1 through April 10:** Finalize the Report of Abandoned Property Spreadsheet, perform any required account maintenance, and arrange for payment. Submit the spreadsheet, any required verification and checklist, and payment by close of business on April 10. Then provide the Division of Child Support Services (DCSS) with confirmation of submission and payment.

The CSEU must allow sufficient time to perform the actions described in this section. CSEUs with larger caseloads may wish to begin this process sooner than CSEUs with smaller ones.

Upon completion of the annual transfer to the state comptroller, the CSEU must prepare the case for closure as appropriate, completing any necessary account maintenance.

B. Procedure Document

A procedure document, titled *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*, has been developed to assist CSEUs in the performance of the actions required to complete the annual transfer of unclaimed funds to the state comptroller. **This procedure document is to be used in conjunction with the information provided in Section V.C. through Section V.K. below.**

The *Procedures for the Transfer of Unclaimed Funds to the State Comptroller* will be made available on the *Undistributed Collections* page of ERS.

C. Build a Holding Account for Unclaimed Funds and Identify Accounts with Unclaimed Funds Potentially Eligible for Transfer to the State Comptroller

To build a holding account for unclaimed funds that may be transferred to the state comptroller, the CSEU must follow the instructions provided in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*.

To identify accounts with unclaimed funds potentially eligible for transfer to the state comptroller as described in item 1. below, the CSEU must examine the reports noted in item 2. below and take any necessary actions as described in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*.

1. Funds Potentially Eligible for Transfer to the State Comptroller

Pursuant to Chapter 316 of the Laws of 2021, the following funds must be delivered to the state comptroller annually in the month of April, on or before April 10, as appropriate:

- a. Funds with sufficient identifying information:** Two (2) years of diligent efforts to locate the individual entitled to the funds are required in cases where the collection has been identified with a specific individual's account. Diligent efforts may commence prior to the receipt of all the funds; that is, receipt of a payment or additional payments due to the individual entitled to the funds does not restart the two-year due diligence period.

If the CSEU contacts the individual entitled to the unclaimed funds (e.g., through phone call or email) and the person indicates they do not want the money, the CSEU should attempt to obtain a written statement indicating the individual does not intend to claim the funds. If, prior to the end of the two-year period set forth in Social Services Law § 111-h(5), the individual entitled to the unclaimed funds provides the CSEU with a written statement indicating they are relinquishing their right to claim such funds, the unclaimed funds may be transferred to the state comptroller once two years have elapsed without any further due diligence. In instances where the CSEU is unable to obtain a written statement as described above, the CSEU must carefully note the interaction with the individual in the case remarks. There is no need to complete an additional two years of due diligence efforts from the time of that communication; the original date to calculate the onset of due diligence location efforts, and the two-year due diligence period, should be used to determine when to report the funds.

- b. **Funds owed to a deceased individual:** Where the funds are owed to an individual who is deceased and an estate cannot be located, the estate reports it will not claim the funds, or the estate does not claim the funds within two (2) months of receiving notification from the CSEU, there is no requirement to wait two (2) years before transferring the funds.
- c. **Funds with insufficient identifying information:** There is no requirement that two (2) years of diligent effort be performed to locate the individual entitled to the funds in cases where a payment has been received with insufficient information to attribute the funds to a specific account and such information cannot be determined. These funds are transferrable immediately.

2. Reports to Identify Funds Potentially Eligible for Transfer to the State Comptroller

The CSEU must regularly review the following reports to identify accounts with unclaimed funds potentially eligible for transfer to the state comptroller:

- a. **Undistributed Collections Report:** The *Undistributed Collections Report* in the Child Support Data Mart (CSDM) is updated monthly and includes data elements for the undistributed collections (UDC) Indicator Date and the Direct Deposit Account Type.
- b. **Monthly Reconciliation Report:** The monthly reconciliation report, which may be locally kept or viewed in the Bank Reconciliation feature of ASSETS, is used to reconcile the end-of-month undisbursed CSEU book balance with the month end CSEU bank account balance. Information about stale-dated checks is included in the monthly reconciliation report.
- c. **Suspense Log Report:** The Suspense Log report in ECS is a daily ECS Operational Report that provides a detailed listing followed by imaged copies of documentation for payments that have been posted to suspense from the previous day's processing.

D. Prepare Preliminary Report of Abandoned Property Spreadsheet with Unclaimed Funds Potentially Eligible for Inclusion in the Annual Transfer to the State Comptroller

The CSEU must enter information about accounts with unclaimed funds that are, or may be, eligible for the annual transfer to the state comptroller using a copy of the Report of Abandoned Property Spreadsheet that is available via a link on the *Undistributed Collections* page of ERS.

The CSEU must use the exact format described. Changes in the Excel File Format will not be accepted by the state comptroller. In addition to the instructions about required fields, entry instructions, formatting rules, and the maximum spreadsheet size provided in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*, refer to the *Electronic Reporting* page of the OSC website, www.osc.state.ny.us.

The CSEU may need to update entries in their spreadsheet prior to April 10 based on responses to due diligence mailings (see Section V.F. below), other claims made for the funds, or the receipt of additional funds.

E. Remove the Unclaimed Funds from Accounts

The CSEU must remove the unclaimed funds from each of the accounts listed on the uploaded Report of Abandoned Property Spreadsheet, place those funds in the holding account, and document the reason for batching out the unclaimed funds (i.e., in the remarks of the account record or case record, as appropriate). Detailed instructions are provided in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*.

F. Perform Due Diligence Mailings to Confirm Eligibility for Transfer to the State Comptroller

To confirm unclaimed funds with sufficient identifying information and a valid address are eligible for transfer to the state comptroller, the CSEU must complete the first class and certified mail, return receipt requested, due diligence mailings as required pursuant to Abandoned Property Law § 1422 and described in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*. The CSEU must monitor for a reply to the due diligence mailing and take the next appropriate action based on the response received or the lack of a response.

Importantly, a due diligence mailing is not required when the CSEU: 1) has confirmation that none of the addresses on file for the individual entitled to the funds are up-to-date, or 2) there is no address on file. That is, if two (2) years of location efforts have not produced a valid address for the individual entitled to the funds, then the due diligence mailing requirements are waived.

For administrative ease, there will be no offset of the costs associated with the secondary certified mailing from the individual accounts involved, although permitted pursuant to APL § 1422(5). Notably, recovery of the costs associated with the first-class mailings is not statutorily authorized.

Notes: Telephone or verbal contact from the individual entitled to the funds does **not** eliminate the need to complete and return the due diligence mailing. Signature on a due diligence notice or certified mailing return receipt constitutes contact.

If an account is inadvertently omitted from the due diligence mailing process, refer to APL § 1422(d) for information about the next appropriate actions.

G. Finalize and Upload the Report of Abandoned Property Spreadsheet

Until the time of submission (e.g., by April 10), the CSEU must continue to update the Report of Abandoned Property Spreadsheet entries as appropriate, based on responses to due diligence mailings, other claims made for the funds, or the receipt of additional funds.

The CSEU must upload the Report of Abandoned Property Spreadsheet to the OSC website, www.osc.state.ny.us. In addition to the instructions provided in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*, refer to the *Excel Secure File Upload Instructions* that are available via a link on the *Undistributed Collections* page of ERS.

H. Transfer the Funds to the State Comptroller

The unclaimed funds identified on the uploaded Report of Abandoned Property Spreadsheet must be remitted to the state comptroller via check or electronic funds transfer. Additional Information, including the template to be used for the wire transfer through Bank of America CashPro, is provided in the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller* and the *Electronic Fund Transfer Instructions* available via a link on the *Undistributed Collections* page of ERS.

I. Fiscal and Claiming Impact

Pursuant to SSL § 111-h(7), the unclaimed funds referenced in SSL § 111-h(5) and (6) shall be transferred to the state comptroller pursuant to the provisions of APL § 1318.

The unclaimed funds must be reported on Section 2, Line 19, *Escheated Funds*, of the LDSS-2547, Schedule D-8 Allocation for Claiming Title IV-D Child Support Activities & Support Collection Unit Expenditures. Funds reported as escheated will have no negative fiscal impact to the district.

J. Provide DCSS with Confirmation of Annual Transfer

If the CSEU transferred unclaimed funds to the state comptroller, the CSEU must provide DCSS with confirmation of the annual transfer. If the CSEU did not transfer unclaimed funds to the state comptroller, the CSEU must also so advise DCSS on or before April 10. For more information, refer to the *Procedures for the Transfer of Unclaimed Funds to the State Comptroller*.

K. Perform Account Maintenance and Prepare Case for Closure

If case closure is appropriate, the SCU must complete any necessary account maintenance before the account is prepared for case closure. For further guidance about case closure, refer to 13-ADM-01, issued January 16, 2013, titled *Automated Case Closure and Closure of Administrative Cases*.

VI. Systems Implications

There are no current systems implications.

VII. Additional Information (Optional)

The CSEU must retain records relating to abandoned property they are remitting to the state comptroller for six (6) years following December 31 of the year for which an abandoned property report was filed.

VIII. Effective Date

The ADM is effective immediately.

Issued By:

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Title: Deputy Commissioner

Division/Office: Child Support Services