

Maintaining County: Beyond the Nuts and Bolts

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What is a maintaining county?

The county responsible for providing the full scope of IV-D services on the case.

Maintaining County

Carrie Briones
Policy Analyst, Policy Development Unit
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Why is this Policy Needed?

- Difficult to determine which of 2 or more counties is best suited to provide services on cases
- Cases present complex administrative and legal issues that affect the interests of:
 - Parties
 - Counties
 - CSED

Why Policy is Needed, continued

- Multiple interests may not be consistent with one another
- Lack of uniformity in how cases are treated

Consistency in what?

- Establishing, maintaining, and enforcing orders
- Identifying and evaluating all pertinent legal and administrative factors to determine:
 - The county **best suited** to provide the full scope of IV-D services to the parties

Intent of the Policy

CONSISTENCY

Consistency in what? continued

- Assure integrity of court orders
- Increase county communication and collaboration to resolve maintaining county issues
- Reliable dispute resolution process

When there is a disagreement

The Issue Resolution Process

Supervisors

- Communicate with each other
- Seek areas for compromise
- Consult your county attorney
- Make a decision within 10 days that they are unable to resolve the issues

Child Support Officers

- Communicate with each other
- Seek areas for compromise
- If there is no agreement:
 - Refer unresolved issue to respective supervisors within 5 days of determining there is no resolution

County Attorneys

- Communicate with each other
- Make a determination within 15 days of talking to the supervisor
- If there is an agreement, that agreement is final and must be implemented

What happens if the issue needs to go to CSED?

Refer the disagreement to the CSED Help Desk via DHS-SIR using the useform

Contents of the useform, continued

Which county is currently maintaining the case?

Court Orders: *[Date, county of order, type (MES, DSS, PAT, etc.) , relevant provisions , etc.] If more than one case is involved, make it is clear which order(s) is/are on which case.*

Court Order(s) ever registered for Enforcement and/or Modification?

Chronology of other relevant facts: *[e.g. date when a party moved to a different county or state, date when CP died, dates of public assistance for whom, in which county, etc.]*

Relevant IPP, and why it does not resolve the issue *[e.g., Are there facts that are not addressed in published policy? Is it a role reversal situation and the MCAA guidelines – which are not incorporated into our published policy yet – conflict with IPP?]*

Please see each county's position below. *[Make sure the County Attorneys' names and phone numbers are included.]*

What legal action needs to be taken?

Contents of the useform

Date

Incident Numbers:

Case No. *[list all applicable cases and the parties on each] – OPEN or CLOSED*

Case Status: open or closed

CP Name

CP Relationship to Child:

CP County of residence currently:

CP County of residence at the time of the order:

NCP Name:

NCP Relationship to Child:

NCP County of residence currently:

NCP County of residence at the time of the order:

CHILD Name:

Child County of residence currently:

Child County of residence at the time of the order:

Who decides?

- All maintaining county issue questions submitted to the CSED Help Desk are forwarded onto the legal and policy unit.

Important Legal Concepts

Melissa Rossow
Assistant Director
Ramsey County Attorney's Office

Jurisdiction

- The power of a court to decide a case.
- The court must have both:
 - subject matter jurisdiction and
 - personal jurisdiction

Jurisdiction and Venue

- It is vitally important to distinguish these two terms.
Generally:
 - Jurisdiction = Power
 - Venue = Place

Subject Matter Jurisdiction

- The court's power and authority to decide certain types of cases or issues as granted by the Constitution, statutes, and rules.
- Parties cannot agree to give the court subject matter jurisdiction over their case or issues.

Personal Jurisdiction

- The court's power and authority over a person rather than a type of case or particular issue.
- Personal jurisdiction may be gained by service of process upon the party while physically present in the state in which the court is located, but may also be gained through long-arm jurisdiction.
- A party may consent to personal jurisdiction.

Remedy for Lack of Jurisdiction

- If the court recognizes that it lacks jurisdiction, the court can dismiss the case.
- If the court issues an order when it does not have jurisdiction, the order or judgment is void. The remedy is to vacate the order.

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Venue

- The particular place (county) in which a court may hear and determine a case.
- Sometimes there is more than one proper venue for a case.
- The court has state wide jurisdiction over child support and family law. An order resulting from a case that is improperly venued is not void.

Venue Statutes

- Paternity – § 257.59 – County where ALF or child resides or is found.
- Dissolution – § 518.09 – County of either spouse.
- Establishment of Support – § 256.87 and § 542.09 – County of either party.

Talking about the Case

- What “case” are you talking about?
 - Program or PRISM case?
 - Court case?

Change of Venue

- Relocating a court case due to improper venue or another reason.
- Motion and affidavit required.
- Can be based on an agreement of the parties.
- CSMs can sign orders to change venue if all parties agree.

Scope of the Original Legal Action

- What is the scope of the original action when a subsequent motion is needed?
 - Were the parties in their same roles?
 - Are there additional parties (foster care, relative caretaker)?
 - Did the original action contemplate the relief the subsequent motion is requesting?

Scope of the Original Action

- **Establishment:**
 - Sometimes limited to support from one party to the other party in their specific roles, especially if PRISM forms are used.
- **Paternity:**
 - Limited to the named children (not subsequently born children).
- **Dissolution:**
 - Often broad, generally stating to establish support, not just for Petitioner to pay Respondent support as is true in some establishment actions. May be followed with a more specific motion.

Top 5 Things to Remember

Becky Bliley
Line Worker's Perspective

Scope of the Original Action, continued

- **Order for Protection (OFP):**
 - Similar to an establishment action, but is limited in duration. If the OFP lasts for 1 year, the support ordered therein lasts for 1 year.
- **Custody:**
 - Similar to a dissolution action, but also may omit any reference to support.

1) Communicate between Counties

- **A change of venue should not take place unless there has been prior communication between the counties.**
 - A County Attorney or authorized representative must be involved in the discussion to determine if the change of venue is appropriate.
 - Once the change of venue order has been obtained, the county to which the venue was changed should become the maintaining county.

2) Interstate Cases can be Complicated

- **Interstate cases can be complicated, especially when the child begins residing with a relative caretaker or is placed in foster care.**
 - Remember to check the Intergovernmental Referral Guide (IRG) for questions F.17, F.17.1, & F17.2 to determine if the other state's order allows for redirection.
 - If redirection of the order is not permitted, then a new establishment action is required. It is important to inform the primary caseworker that the child is no longer in that household.

4) Check for Court Orders

- **Don't forget to check MNCIS/Odyssey for court orders before you make a request for maintaining county.**

3) One County should Maintain Cases

- **If possible, one county should maintain all cases involving the same parties.**
 - Remember to take a look at the non-custodial parent's county of residency when reviewing role reversal cases.

5) Communication and Compromise

- **Maintaining county requires communication and compromise.**
- **Let's remember that we should be working together to provide the best services on a case!**

Top 5 Things to Remember

Susan Reardon
Supervisor's Perspective

2) Review and Apply Policy

- Lots of resources on DHS SIR on the Maintaining County Policy topic.
- Review case in-depth to try to see both sides, you are the fresh set of eyes.
- Are there legal considerations?
- Still unresolved – conflicted – questioning what to do – talk to your County Attorney.

1) Communicate!

- Ask questions of worker and other county to understand their positions. Get all the facts.
- Realize the maintaining county presents complex administrative and legal issues that affect not only the counties but also the parties.

3) Are there legal considerations?

- Still unresolved – conflicted – questioning what to do? Talk to your County Attorney.

4) Refer to County Attorney

- If the issue has a legal consideration, work with your County Attorney to determine the available legal options and then to determine what is best for the case. Sometimes this step will answer the maintaining county question.

Top 5 Attorney Considerations

Sandra Torgerson
Attorney's Perspective

5) If No Resolution by County Supervisors

- If no resolution by County Supervisors, refer to the respective County Attorney.

1) No Questions are Stupid!

- There is no such thing as a stupid question!

2) Investigate and Inform

- Investigate and Inform

4) Jurisdiction and Venue

- Consider the impact of personal jurisdiction vs. venue
 - Personal Jurisdiction – Does a **Minnesota** court have **power**?
 - ✦ Failure to properly obtain a personal jurisdiction can be fatal to the action.
 - ✦ Watch for in rem jurisdiction in dissolution actions.
 - Venue– Which **county** should be the **place** where the court case is filed?
 - ✦ Improper venue may result in demand for transfer. Minn. Stat. §542.10.
- Change of Venue
 - Consider the impact upon all parties, the court system, and the ability to process the case now and in the future.

3) Know the Scope

- Know the scope of all current actions.

5) Avoid Multiple Actions

- Avoid multiple actions regarding the same obligor and child.
 - Only the most recent income withholding order regarding the same obligor and child can be enforced. Minn. Stat. § 518A.53, subd. 9(b).

Top 5 Things to Remember

Melissa Rossow
Manager's Perspective

2) Avoid Unnecessary Venue Changes

- Our population is increasingly mobile.
- Improper venue is not “fatal” – can continue unless/until someone objects to the inconvenient location.

1) Limit the Number of Orders per Family

- One county should maintain all cases involving the same parties.

3) Two or More Counties with Venue

- If two or more counties have venue, consider:
 - Which county is providing the PA?
 - Where does the child reside?
 - Which parent has the more stable address?

4) The Best County to Maintain the Case

- Whichever county is best for the customer for efficiency and ease in case management.

Top 5 Things to Remember

Carrie Briones
DHS's Perspective

5) Don't Dump

- Seek agreement through communication and compromise.
- If the court orders it without notice to the other county, call the other county right away and explain the situation.

1) Responsibilities

- Must continue to provide services while working to resolve disagreements
- Disputes and delays are costly to participants, counties and CSED

2) When Questions go to the CSED Help Desk

- The useform needs to be complete for CSED to resolve the question
 - Follow and document in CAAD the Issue Resolution Process outlined in SIR-MILO

4) After Resolution

- Once determination of maintaining county has been made, the maintaining county must continue to maintain the case until:
 - There is a change in circumstances in the case or for the parties

3) Complete Information is Essential

- Both counties must submit:
 - Explanation of the unresolved issue
 - Legal opinion from county attorney stating why the case cannot proceed in that county
 - Copies of all court orders

5) Keep up the good work!

- The number of maintaining county questions has significantly declined since the last policy revision
 - Very few questions go to the legal and policy unit

Scenarios

Fun with Clickers

Which county has venue?

1. County A
2. County B
3. Both County A & B

Option	Percentage
1	0%
2	0%
3	0%

FACTS:

- Ann and Bob sign a ROP for Charlie in 2008.
- Ann and Bob split up in 2010.
- Ann lives in the family home in Minnesota County A and goes on public assistance with Charlie.
- Bob lives in a rental home in Minnesota County B.

SAME FACTS, but:

- County A establishes a court order for Bob to pay Ann child support in 2010.
- Ann and Charlie move to County C.
- Bob moves to County D.
- Bob loses his job in a huge factory layoff and requests a modification. A modification is appropriate.

Which county has venue?

1. County A
2. County B
3. County C
4. County D

County	Percentage
1	0%
2	0%
3	0%
4	0%

Which county maintains?

1. County A
2. County B
3. Neither County
(The kids no longer reside in Minnesota)

Option	Percentage
1	0%
2	0%
3	0%

FACTS:

- Diane and Edward divorce in Minnesota County A in 2008. They have two kids born in the marriage.
- Diane and the two kids move to Illinois in 2009.
- Edward moves to Minnesota County B in 2010.
- Illinois petitions Minnesota to enforce the dissolution J&D in 2012.
- Minnesota Central Registry assigns case to County B in 2012.

SAME FACTS, but:

- Diane and the kids visit Edward in Minnesota County B, and after on magical encounter, Diane and Edward conceive a baby during that visit in 2012.
- Diane and the kids return to Illinois and Diane gives birth to the new baby in Illinois in 2013.
- Illinois petitions Minnesota to adjudicate paternity and establish child support in 2013.
- Minnesota Central Registry assigns the case to County B.

Which county has venue to adjudicate paternity?

1. County A
2. County B
3. Illinois should do their own paternity adjudication as Diane and the baby live in Illinois

What action and which county?

1. County A redirects support to grandma
2. County A establishes a new support order for grandma
3. County B establishes a new support order for grandma
4. County C establishes a new support order for grandma
5. Both 3 and 4

FACTS:

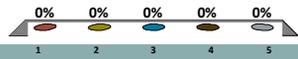
- Frannie and Greg divorce in Minnesota County A.
- Frannie gets sole legal custody of the child Hank and lives in Minnesota County A. There is a court order for Greg to pay Frannie child support.
- Greg moves to Minnesota County B.
- Frannie gets sick and tragically dies.
- Grandma Imelda took care of Hank on and off during Frannie's illness, and has had the child the last several months since Frannie died.
- Grandma Imelda is on relative caretaker MFIP and has open MA for Hank in Minnesota County C.

SAME FACTS, but:

- Hank moves in with Greg after Frannie dies.
- Child Protection Petition filed in Minnesota County B that removes Hank from Greg's home.
- Child Protection Order for temporary legal and physical custody with the county, placement with Grandma Imelda in Minnesota County C. No permanency yet.
- Grandma is on relative caretaker MFIP and has open MA for Hank in Minnesota County C.

What action and which county?

1. County A redirects to grandma
2. County A establishes a new support order for grandma
3. County B establishes a new support order for grandma
4. County C establishes for support for grandma
5. Both County B and County C to establish are appropriate options



What action and which county?

1. County G establishes a reimbursement only order against both June and Kurt.
2. County G establishes a new support order against Kurt.
3. County A redirects the Kurt order to Aunt Mary in County G.
4. County A redirects the Kurt order to Aunt Mary in County G, and County G establishes a Court order against June for Aunt Mary.
5. Both answers 3 and 4 are appropriate options.



FACTS:

- June and Kurt get divorced in Minnesota County A in 2008.
- Sole legal and physical custody to June; Kurt ordered to pay child support for their joint child, Leslie. June has 3 other children living with her from a prior relationship. (Kurt is not the father of these 3 children.)
- June moves to Minnesota County B in 2009 and goes on MFIP and MA for herself and the child, Leslie, and the 3 other children.
- Kurt moves to Minnesota County C in 2010.
- June moves to Minnesota County D, E, and F in 2011 and 2012.
- Kurt moves to Texas in 2012.
- Child Leslie moves in with Aunt Mary in Minnesota County G in 2012.
- Aunt Mary goes on relative caretaker MFIP in County G.

FACTS:

- Nick lives in County A and lands in prison in County B in 2012. Nick has a release date in 3 years.
- Nick has 1 child with Octavia, and 2 children with Penelope.
- Octavia and her child live in County C. They filed a ROP for the child. Octavia and the child are on MFIP and MA. County C established an order for Nick to pay Octavia child support in 2008.
- Penelope and her children are on Medical Assistance and Child Care Assistance and up until recently, lived in County D. They filed a ROP for both children. County D established a support order for Nick to pay Penelope child support in 2011. Penelope and the children recently moved to County E.
- Octavia and Nick had a romantic moment before he landed in prison and Octavia gave birth to her second child with Nick in County C in 2013. Nick won't sign a ROP.
- Octavia moves to County E to live with her parents after the new baby is born and goes on MFIP for herself and the two children.

What action and which county?

1. County C modifies the Octavia vs. Nick order to \$0.00. County D modifies the Penelope vs. Nick order to \$0.00. County E adjudicates paternity and establishes a \$0.00 order for the Octavia vs. Nick case.
2. County E adjudicates paternity and establishes a \$0.00 order for the Octavia vs. Nick case. Nick can file his own modifications.
3. County E requests County C to change venue of the Octavia vs. Nick case to County E and adjudicates paternity and establishes a \$0.00 order for all of the children. County D modifies the Penelope vs. Nick order to \$0.00.
4. Same as 3, but County D modifies the Penelope vs. Nick case to \$0.00 and also requests a change of venue of the cases to County E so that Nick has both of his cases in 1 county when he is released.
5. Any of the above answers are reasonable.



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