



MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2018 ANNUAL CONFERENCE

2016 Final Rule


What's Done and What's Yet to Come?

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2016 Final Rule- Presenters

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Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs a/k/a The Final Rule

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What we will cover



- Case Closure
- Medical Support
- Incarceration- Not Voluntary Unemployment
- 2022 Quadrennial Review
- Contempt
- SSI & FIDM
- Private Collection Agencies
- Items under consideration
- No changes needed



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Case Closure

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Case Closure

- Most case closure criteria is permissive
- The state may elect to close a case if the case meets the criteria

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Case Closure- What's New?

- § 303.11(b)(2) – No current support and all arrears assigned to the state.
- § 303.11(b)(3) – No current support; NCP receives long-term care, children reached age of majority, NCP has no income or assets above the subsistence level.
- § 303.11(b)(5) – NCP is now primary caregiver or in an intact two-parent household.

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Case Closure- What's New?

- § 303.11(b)(9)(i)-(ii) – NCP sole income from SSI or SSI and SSDI.
- § 303.11(b)(20) – Case referred inappropriately from another assistance program.
- § 303.11(b)(7) – Locate criteria changed.

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Case Closure- What's amended?

- § 303.11(b)(8) – NCP cannot pay while child is a minor or after child reaches age of majority and has no support potential in addition to no income or assets above the subsistence level.

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Case Closure Workgroup

- State & County partnership
- Input from MCAA
- Draft policy
- Approved by CSD
- Waiting for MNIT prioritization
- Wait for the policy & PRISM codes

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Case Closure- Public Assistance Arrears Only

- § 303.11(b)(2) – No current support and all arrears assigned to the state.
- Consistent with current CSD policy “No Current Support and All Children Emancipated and the Arrears are Unenforceable
- Minnesota Statute §518A.60
- PRISM closing reason 920

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Case Closure- Public Assistance Arrears Only

- Arrears are under \$500, or
- Unenforceable
- 3 years of no payment
- 60-day notice to CP (because it can also be used for NPA)
- Keep open if CP responds with information that could reasonably lead to collections
- Not a blanket approach

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Case Closure- Long-Term Care Arrangement



- § 303.11(b)(3) – No current support; NCP receives long-term care, children reached age of majority, NCP has no income or assets above the subsistence level.
- No current support
- Children have emancipated
- Income or assets below the 120% of FPG
- Broad definition of long-term care
- Doesn't matter if it's PA or NPA

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Case Closure- Long-Term Care Arrangement



- Long-term care
 - Services and supports to meet personal care needs
 - Chronic mental or physical illness, injury or disability
 - Expected to last at least 6 months
 - Residential care facility
 - Home health care
 - Assisted living
- Not solely due to chemical dependency or homelessness

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Case Closure- Long-Term Care Arrangement



- Treatment of Arrears
- Forgive arrears if appropriate
- If arrears remain, the case can still be closed
- Notice to CP, CP's objection should not stop closure unless new information is provided and indicates closure is not warranted
- Maintain confidentiality!
- Good CAAD notes!

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Case Closure- Intact Family or NCP is Primary Caregiver



- § 303.11(b)(5) – NCP is now primary caregiver or in an intact two-parent household.
- Confirm information with CP, if not able to contact CP;
- A court order, or
- CHIPS placed children with NCP
- Children removed from CP's public assistance case, or
- Children added to NCP's public assistance case, or
- NCP added to CP's public assistance case, or
- NCP provides evidence

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Case Closure- Intact Family or NCP is Primary Caregiver



- CP could request closure, use 908
- CP may forgive NPA arrears
- County may forgive PA arrears, consider financial impact on the household if NCP is required to pay arrears
- If arrears are not all forgiven, do not close the case
- Determine appropriate arrears payment, proceed with stipulation or motion

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Case Closure- Intact Family or NCP is Primary Caregiver



Best Practice:
 Court ordered current support obligations are not automatically terminated/suspended by case closure. Counties should strongly consider drafting stipulations or filing motions for satisfaction/suspension/setting to \$0.

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Case Closure- SSI or SSI/RSDI Combination

- § 303.11(b)(9)(i)-(ii) – NCP sole income from SSI or SSI and SSDI.
- PA and NPA
- Pre-order
 - If paternity is established, simply close
 - If paternity is not established, attempt to establish paternity
- Post-order
 - If existing order is reserved/suspended/\$0, simply close
 - Best practice to modify to \$0
 - Arrears forgiveness can be done, but is not required

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Case Closure- Inappropriate Referral

- § 303.11(b)(20) – Case referred inappropriately from another assistance program.
- Don't use if there is an NPA application
- Medical assistance open in NCP's household and children open MA in CP's household
- Public assistance case has already closed, referral delayed

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Case Closure- Inappropriate Referral

- IV-E Foster Care
- Working toward reunification
- Redirection or Establishment
- All income is needed to maintain CP's household

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Case Closure- Locate

- § 303.11(b)(7) – Locate criteria changed.
- 2 years when there is sufficient information for automated locate effort
- 6 months when there is not sufficient information for automated locate effort
- 1 year when there is sufficient information, but locate interface unable to verify Social Security number

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Case Closure- Incarcerated, Institutionalized, Permanently Disabled

- § 303.11(b)(8) – NCP cannot pay while child is a minor **or after child reaches age of majority** and has no support potential in addition to no income or assets above the subsistence level.
- Pre-order and paternity established, simply close
- Pre-order and paternity is not established, attempt to establish paternity



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Case Closure- Incarcerated, Institutionalized, Permanently Disabled

- Post-order
- Simply close, or
- Obtain a \$0 order
- PRISM codes
 - 904 Institutionalized/Incarcerated
 - 902 Totally and Permanently Disabled
- Address the arrears

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Questions on Case Closure

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Final Rule: Medical Support & Other Changes
Jessica Raymond, CSD Policy Analyst

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2016 Final Rule Changes to Medical Support

- Section 303.31:
 - Health care coverage now includes public coverage and private insurance
 - Requirement that the cost of health insurance be measured based on the cost to add the child was removed
 - States have an expanded ability to seek out both private and public health care coverage options



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2016 Final Rule Changes to Medical Support



- Section 302.56:
 - State plan must address how parents will provide for the child's health care through private or public coverage and/or cash medical support
- Section 303.8:
 - Provision that Medicaid cannot be considered to meet the child's health care needs was removed

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Creation of Medical Work Group




State and County Work Group composed of:

- County Attorneys
- Child Support Officer
- Child Support and Collections Supervisors
- Child Support Area Manager
- Economic Assistance Director
- CSD Attorneys
- CSD Policy Analyst


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Medical Work Group



Medical Work Group had representation from:

- Anoka County
- Dakota County
- DHS-Child Support Division
- Hennepin County
- Morrison County
- Ramsey County
- Sherburne County



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Medical Work Group Process

- Met 5 times from February through July of 2018
- Presented potential recommendations to the Minnesota County Attorneys Association in June of 2018
- Presented its legislative proposal at Stakeholder Engagement Meeting in July of 2018

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The Medical Work Group's Recommendation

SIRA.41 MEDICAL SUPPORT.

Subdivision 1. Definitions.
 The definitions in this subdivision apply to this chapter and chapter 518.

(4) "Health care coverage" ~~includes for an active health maintenance organization, preferred provider organization, and other types of private health insurance coverage and public coverage under which medical or dental services could be provided to the dependent children,~~ ~~means medical or dental health care benefits that are provided by one or more health plans. Health care coverage does not include any form of public coverage.~~

(5) ~~Public coverage includes health care benefits provided by any form of medical assistance under chapter 256B. Public coverage does not include MinnesotaCare or health plans subsidized by federal premium tax credits or federal cost-sharing reductions.~~

~~the "health care" means a carrier as defined in sections 62A.041 and 62A.042 and~~

~~(6) Private coverage includes a "health plan" ~~means~~ which is a plan other than any former public coverage that provides medical, dental, or other health care benefits and is:~~

(1) provided on an individual or group basis;

(2) provided by an employer or union;

(3) purchased in the private market; or

(4) available to a person eligible to carry insurance for the joint child, including a party's spouse or parent.

Health plan includes, but is not limited to, a plan meeting the definition under section 62A.041, subdivision 3, except that the exclusion of coverage designed solely to provide

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Definition of Health Care Coverage

Currently

- Minnesota's definition specifically excludes public coverage
- Expanding definition is the only mandatory change Minnesota must make to comply with federal law

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Definition of Health Care Coverage




Recommendation

- Proposed definition mirrors federal definition in 303.31
- Terms "private coverage" and "public coverage" used throughout statute when necessary to distinguish between these types of coverage

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Public Coverage Presumed Appropriate




Currently

- Public coverage not considered to be an appropriate form of health care coverage
- If public coverage is in place, the court must still analyze other forms of private health care coverage that may be available
- Public coverage only ordered when no appropriate health care coverage is available

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Public Coverage Presumed Appropriate




Recommendation

- Public coverage is presumed to be appropriate coverage
- If public coverage is already in place for child(ren), court shall order it to continue
- Analysis of private coverage that may be available no longer required
- Streamlines medical support establishment process
- Less disruption for families

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Affordability




Currently

- "Affordability" not explicitly defined in statute
- CSD policy states that health care coverage is affordable if cost to add child does not exceed 5% of parents' combined PICS
- Orders outside of child support program vary from case to case
- Parents often must enroll themselves in order to comply with the obligation to provide health care coverage for their child

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Affordability




Recommendation

- Define "affordability" in statute
- Determine that private coverage is affordable in cost if the total cost of health care coverage premium does not exceed 5% of the individual parent's PICS

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Suspension and Reinstatement of Medical Support Contribution




Currently

- Minnesota law allows for administrative removal of custodial parent's medical support contribution when noncustodial parent no longer provides health care coverage
- Same is not true when roles are reversed, there is no way to administratively suspend the noncustodial parent's medical support contribution when the other parent's coverage lapses

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Suspension and Reinstatement of Medical Support Contribution




Recommendation

- Statutory provision that provides an administrative removal of a noncustodial parent's medical support contribution when the custodial parent fails to provide court-ordered health care coverage
- Provision would also provide for an administrative reinstatement of the contribution when health care coverage resumes

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Determining NCP's Eligibility for Public Coverage




Currently

- If the noncustodial parent's PICS meets the eligibility requirement for public coverage, he or she is not be ordered to contribute to cost of public coverage
- True eligibility standards for Medical Assistance are not used
- Minnesota Child Support Calculator is programmed to use noncustodial parent's PICS on the Medical Assistance Eligibility Chart for a household of one

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Determining NCP's Eligibility for Public Coverage



Recommendation

- Replace "eligibility" language with an income amount that is easily determined
- "If the noncustodial parent's PICS is less than 200 percent of the federal poverty guideline for one person...the noncustodial parent must not be ordered to contribute toward the cost of public coverage."

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What's Next?

- Legislative proposal to be presented to DHS leadership and may undergo further changes
- 2019 legislative session begins January 8, 2019





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Q & A


Questions on Medical Support

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Final Rule: An Update on other Changes




CODE OF FEDERAL REGULATIONS



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Incarceration Not Voluntary Unemployment

- Final rule mandates that incarceration may not be treated as voluntary unemployment in establishing or modifying orders
- Minnesota has exception if incarceration is due to failure to pay support



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Incarceration Not Voluntary Unemployment

- Sponsored legislation during 2018 session to remove current exception that allows a noncustodial parent to be considered voluntarily unemployed if incarcerated due to nonpayment of support.
- Legislation did not pass last session, but proposal removing that exception will go forward in the 2019 session

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Modifications for Incarcerated Parents


- Final rule holds that a state must elect one of three options:
 1. The State may elect to initiate review of an order after learning that the NCP will be incarcerated more than 180 calendar days.



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Modifications for Incarcerated Parents


2. Within 15 business days of learning that the NCP will be incarcerated more than 180 calendar days, the state must have a law or policy in place that notifies both parents of their right to request a review.



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Modifications for Incarcerated Parents


3. The state has or enacts a law or rule that modifies a child support obligation upon incarceration by operation of law.



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Modifications for Incarcerated Parents

- Minnesota has chosen the first option and made the [Streamlined Review and Modification Process for Incarcerated NCPs](#) mandatory, this process is laid out in User Docs on DHS-SIR
- County Message communicating this change was issued on April 30, 2018



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2022 Quadrennial Review

The new final rule adds to the scope of the child support guidelines review that is required to be conducted every four years:

- Additional data is to be gathered and considered including:
 - Detailed labor market data
 - Impact on low-income participants
 - Effects on employment rates of participants

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2022 Quadrennial Review

- Additional types of child support case data is to be examined including:
 - Default orders
 - Use of imputed income
 - Application of the self-support reserve

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2022 Quadrennial Review

- Meaningful opportunity for public input on child support guidelines during the Quadrennial Review process must be provided



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2022 Quadrennial Review


- CSD currently working on the 2018 Quadrennial Review
- CSD will form an internal group dedicated to the 2022 Quadrennial Review
- Group will determine the appropriate size and structure of the process and the formation of the team needed for next review

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Due Process in Civil Contempt Proceedings

Final rule requires a review of the state's contempt process in referring and pleading out civil contempt cases and the Child Support Agency must:

- Have a screening process with emphasis on the noncustodial parent's "actual and present ability to pay"




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Due Process in Civil Contempt Proceedings


Final rule requires a review of the state's contempt process in referring and pleading out civil contempt cases and the Child Support Agency must:

- Give clear notice to the noncustodial parent that his or her ability to pay is the crucial question in the action




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Due Process in Civil Contempt Proceedings




Final rule requires a review of the state's contempt process in referring and pleading out civil contempt cases and the Child Support Agency must:

- Inform the court as to noncustodial parent's ability to pay



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Due Process in Civil Contempt Proceedings




Comprehensive Legal Vision Enforcement Group formed a Contempt Subgroup in April of 2018 and they are in the process of examining the following questions:

- Are counties looking at the inability to pay?
- Are noncustodial parents provided with notice that ability to pay is the crucial question?

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Due Process in Civil Contempt Proceedings



- Do court documents need to be revised?
- Does the court have appropriate information?
- When information is lacking, when, if ever, is contempt appropriate?
- How can modification be used alongside contempt?

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SSI Benefits and FIDM

- The final rule requires that statewide child support systems identify cases in which the obligor receives SSI, and that any SSI funds seized in error be returned within five business days
- PRISM already identified cases in which the obligor is a recipient of SSI

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SSI Benefits and FIDM

- PRISM's Financial Institution Account Detail (FIAD) screen was updated to also include this information
- A County Message communicating this change, and the fact that SSI funds seized via FIDM levies must be returned within 5 business days, was issued on June 2, 2018


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Payments Directly to the Family

- The final rule mandates that custodial parents can no longer claim an exemption for having a contract with a private collection agency
- Direct deposit exception policy was updated to exclude private collectors as an exception reason
- This option has been removed from the relevant DORD documents
- A County Message communicating these changes was issued on June 2, 2018

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Miscellaneous Items



Item Still Under Consideration


- Limited Paternity-Only Services

Items With No Changes Needed for Minnesota

- Income Withholding
- Notice of Continued Services
- State Plan Exemptions
- Federal Financial Participation

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Q & A



Questions on Other Final Rule Changes


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Thank You!

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