

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 12: Enforcement</b>	<b>Effective Date: 03/22/2021</b>
	<b>Section 2.5: Insurance and Worker's Compensation Settlements</b>	<b>Version: 2 Revision Date: 03/22/2021</b>

<b>BACKGROUND</b>
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Title IV-D agencies are required to enact procedures for intercepting periodic or lump sum payments from insurance settlements and worker's compensation benefits as payment toward child support arrears.<sup>1</sup> Insurance claims may include life insurance or automobile accident payments, personal injury settlements, and property damage or liability payouts. A worker's compensation claim is a settlement made to an individual injured as a result of a work related incident.

The Centralized Enforcement Unit (CEU) of the Child Support Bureau (CSB) works with insurance providers, the Office of Child Support Enforcement (OCSE), and the Child Support Lien Network (CSLN) to secure payments from an obligor's insurance settlement or worker's compensation benefits.

OCSE maintains a debtor's file, which is used to identify delinquent obligors who may have submitted a claim for an insurance settlement or worker's compensation claim. CSLN is a data matching system that cross references delinquent obligors against potential claimants. A match between a delinquent obligor and claimant can be made by OCSE or CSLN. There are currently over 1,300 insurers and State worker's compensation agencies that participate in data matching with OCSE and CSLN.

<b>POLICY</b>
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When an obligor has an arrears owed to the State of at least \$150.00 or an arrears owed to the custodial party (CP) of at least \$500.00, the obligor will be added to the weekly debtor's file submitted to OCSE via the statewide child support system. The debtor's file includes the obligor's demographic information, as well as the arrears listed on the statewide child support system.

The statewide child support system transmits, on a monthly basis, the debtor's file to CSLN to match claimants and obligors with arrears of at least \$2,000.00. This arrears amount includes both the arrears owed to the State and CP. The file sent to CSLN includes the obligor's demographic information, as well as the arrears listed on the statewide child support system.

OCSE and CSLN use these files to cross reference obligors who have submitted a worker's compensation or insurance claim. OCSE and CSLN send a daily report to CEU of all matches made between claimants and obligors.

<b>REFERENCES</b>
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<sup>1</sup> 42 U.S.C. § 666(c)(1)(G)(i)

- [IC 31-16-15-3.5](#): Notice to withhold income
- [IC 31-16-15-4.3](#): Income withholding order; contesting implementation
- [465 IAC 3-3-3](#): Request for hearing
- [15 U.S.C. § 1673](#): Restriction on garnishment
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R. § 303.2](#): Establishment of cases and maintenance of case records
- [45 C.F.R. § 303.100](#): Procedures for income withholding

## PROCEDURE

### 1. Claimant Match

When OCSE or CSLN discovers a match between a claimant and an obligor listed on the debtor's file, the obligor will be added to a daily report sent to CEU. This report includes, but is not limited to:

- a. Date of injury;
- b. Obligor's demographic information;
- c. Attorney contact information; and
- d. Claim number.

CEU will verify that the obligor's demographic information and arrears listed on the debtor's report matches the data in the statewide child support system. If the arrears amount on the debtor's report does not match the arrears amount on the statewide child support system, CEU emails the Title IV-D Prosecutor's Office asking for verification of the obligor's demographic information and arrears amount.

### 2. Issuance of Income Withholding Order (IWO) by Title IV-D Prosecutor's Office

The Title IV-D Prosecutor's Office may independently learn of an obligor's personal injury or worker's compensation settlement. CEU prefers that, in this situation, the Title IV-D Prosecutor's Office contacts CEU for CEU to issue the insurance claim IWO and monitor the payment. However, the Title IV-D Prosecutor's Office may issue an insurance claim IWO. If the Title IV-D Prosecutor's Office issues the insurance claim IWO, a Notice to Withhold Income (NOW) is also automatically generated to be sent to the obligor.<sup>2</sup> The Title IV-D Prosecutor's Office is strongly encouraged to create a lien entry in the statewide child support system to ensure multiple or duplicate insurance claim IWOs are not sent to an insurance company.<sup>3</sup>

### 3. Match from OCSE; Issuance of IWO

When an obligor files a claim for either an insurance settlement or worker's compensation benefit and is identified by OCSE through the debtor's report as having child support arrears, CEU prepares and issues the insurance claim IWO. CEU also prepares and issues the NOW that is sent to the obligor.

<sup>2</sup> IC 31-16-15-3.5(a)

<sup>3</sup> 45 C.F.R. § 303.2(c)

A case event is created when CEU generates the insurance claim IWO. CEU follows up with the insurance company regarding all insurance claim IWOs that CEU issues, as well as monitor the status of the claim, the potential settlement amount, and the status of payment remittance.

#### 4. Match from CSLN; Issuance of IWO

When an obligor files a claim for either an insurance settlement or worker's compensation benefit and is identified by CSLN through the debtor's report as having child support arrears, CSLN prepares and issues an insurance claim IWO. In addition to the IWO, CSLN also prepares and issues a NOW that is sent to the obligor.

Once CSLN generates the insurance claim IWO, CEU will create a case event indicating an insurance claim IWO was issued by CSLN to the insurance company.<sup>4</sup> CSLN tracks the insurance claim IWOs CSLN issues, as well as monitor payment status and remittance.

#### 5. Notice to Withhold Income (NOW) and Opportunity to Appeal<sup>5</sup>

The NOW provides notice to the child support obligor of the following:

- a. Income withholding has commenced and that an IWO will be sent to all current and future income payors;
- b. The amount of child support arrears that exists on the case;
- c. The amount of income to be withheld as the sum of the following:
  - i. The amount of the obligor's current child support obligation;
  - ii. The amount of any court ordered payments toward arrears;
  - iii. The amount of any statutory payment toward unadjudicated arrears; and
  - iv. A \$2.00 fee to be paid by the obligor, at the income payor's option, for each payment forwarded by the income payor to the Indiana State Central Collection Unit (INSCCU); and
- d. How to contest the initial IWO, due to a mistake of fact, via written request to CSB no more than 20 days after the NOW is issued.<sup>6</sup>

The only basis for contesting an IWO is that a "mistake of fact" has occurred. A mistake of fact, for the purposes of contesting an IWO, is either:

- a. An error in the amount of current or past due support listed in the NOW; or
- b. Mistaken identity of the obligor.<sup>7</sup>

#### 6. Payment Distribution

Indiana allows an obligor's medical and attorney fees to be deducted from the obligor's total settlement amount before funds are sent to the Indiana State Central Collection Unit (INSCCU) for payment on the child support arrears. If medical or attorney fees will be deducted, the insurance adjuster or attorney will provide CEU a breakdown of the settlement, including the obligor's total medical and attorney fees. CEU will review these fees and follow up as needed on any questionable fees.

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<sup>4</sup> 45 C.F.R. § 303.2(c)

<sup>5</sup> Chapter 12: Enforcement, Section 6: Administrative Hearings

<sup>6</sup> IC 31-16-15-3.5(b); 45 C.F.R. § 303.100(d)

<sup>7</sup> IC 31-16-15-4.3; 465 IAC 3-3-3(k); 45 C.F.R. § 303.100(c)(2)

Before a payment posts to the statewide child support system, the statewide child support system will perform a check to see if there is an open appeal for the case. If there is an open appeal, then a HOLD is automatically placed on the payment. When the disposition for the appeal is entered, the HOLD is removed. If the obligor prevails on the appeal, the funds are returned to the obligor. If the State prevails on the appeal, the funds are applied to the obligor's case(s). If there is not an open appeal in the statewide child support system, then the payment will be processed according to the normal payment distribution rules.<sup>8</sup>

## 7. Withholding Limits

Withholding limits under the Federal Consumer Credit Protection Act (CCPA) do not generally apply to insurance settlements, as those limits are only applicable to withholding of an individual's earnings.<sup>9</sup> If the lump sum or recurring payment is for a worker's compensation claim, the income payor is directed to withhold no more than 50% of the obligor's funds up to the amount of the total arrears.

## FORMS AND TOOLS

1. [Administrative Enforcement Matrix](#)
2. [Appeals Processing: How to Process Appeals in ISETS](#)
3. [Entering an Insurance Lien in ISETS](#)
4. [ISETS Income Withholding Complete Guide](#)

## FREQUENTLY ASKED QUESTIONS

1. Q. What happens if an insurer ignores the insurance claim IWO?
  - A. A considerable amount of time may pass from the time the IWO is sent and funds are available for payment. If CEU sends the IWO, CEU follows up with the insurer approximately every 45 days unless the insurer informs CEU of a specific payment or court date. CEU then follows up after the specific payment or court date if funds have not yet been received. If the Title IV-D Prosecutor's Office sends the IWO, then it is the Title IV-D Prosecutor's Office's responsibility to follow up on the IWO.
2. Q. What happens to the settlement if the obligor becomes deceased during the process of filing a claim for benefits?
  - A. After confirming the obligor's date of death, the Title IV-D Prosecutor's Office is strongly encouraged to contact CEU to determine next steps.
3. Q. If the Title IV-D Prosecutor's Office negotiates a payment directly with the insurance company, how will the payment be distributed once received by the Indiana State Central Collection Unit (INSCCU)?

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<sup>8</sup> Chapter 14: Payment Processing, Section 3: Distribution and Disbursement of Support Payments Collected

<sup>9</sup> 15 U.S.C. § 1673(b)

- A. If the Title IV-D Prosecutor’s Office negotiates a payment directly with the insurance company, the Title IV-D Prosecutor’s Office shall note the terms of the settlement in the statewide child support system and notify CEU of the terms of the settlement.<sup>10</sup> If the Title IV-D Prosecutor’s Office does not note the negotiated settlement and inform CEU, any payments received from the insurance company will be processed according to the normal distribution rules which includes prorating payments across all of the obligor’s Title IV-D cases.

<b>RELATED INFORMATION</b>
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1. Chapter 12: Enforcement, Section 6: Administrative Hearings
2. Chapter 14: Payment Processing, Section 3: Distribution and Disbursement of Support Payments Collected

<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	11/09/2019	Final Approved Version
Version 2	03/22/2021	Updated for consistency with other parts of Section 2. Clarified Procedure #2. Revised FAQ #1. Added FAQ #3.

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<sup>10</sup> 45 C.F.R. § 303.2(c)