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Department of Health Care Services



ARNOLD SCHWARZENEGGER
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March 9, 2010

To: ALL COUNTY WELFARE DIRECTORS Letter No.: 10-07
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL COUNTY MEDI-CAL PROGRAM SPECIALISTS/LIAISONS
ALL COUNTY HEALTH EXECUTIVES
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL COUNTY PICKLE COORDINATORS

SUBJECT: TREATMENT OF CHILD SUPPORT DISREGARDS FOR CURRENT,
DELAYED, AND ARREARAGE PAYMENTS RECEIVED BY THE
BENEFICIARY

The purpose of this All County Welfare Directors letter is to clarify the difference in treatment of current, delayed, and arrearage (past due) child support payments to be no more restrictive than Supplemental Security Income, Aid to Families with Dependent Children and CalWorks. The letter describes what disregards are allowed for each type of payment, and how to treat child support arrearage payments received after the child turns 18 years of age. This is not a change of the current procedure regarding the current treatment of child support payments, nor does it change how income is to be verified. This clarification applies to all Federal and State Medi-Cal programs.

All current, delayed, and arrearage non-exempt child support payments provided either voluntarily or by court order is to be considered unearned income per California Code of Regulations, Title 22, Division 3, Section 50507 (a) (14). Child support is not considered to be a nonrecurring lump sum social insurance payment as described in California Code of Regulations, Title 22, Division 3, Section 50455.

DISREGARDS FOR CURRENT CHILD SUPPORT PAYMENTS (NOT ARREARAGES)

A current month child support payment that is received timely is considered income to the child.

- A \$50 disregard is allowed from current child support payments.

- One-third of the current child support payment made to a disabled child shall be disregarded pursuant to California Code of Regulation, Title 22, Division 3, Section 50549.1.

DISREGARDS FOR DELAYED (PAST MONTH) PAYMENTS PAID TIMELY BUT RECEIVED IN A SUBSEQUENT MONTH (NOT ARREARAGES)

Past month child support payments that were paid timely but received in a subsequent month for a child under 18 years of age are considered income to the child.

In order for a disregard to be applied for past month payments, both of the criteria listed below must be met:

1. The payments for past months are received by the Medi-Cal Family Budget (MFBU) family member in the current month, and
2. The past month payment was made by the absent parent in the month the payment was due. (See example below.)

Per California Code of Regulations, Title 22, Division 3, Section 50554.5, child support payments shall be considered to meet the two conditions, described above. This shall occur only in cases where the absent parent makes payment as described and required in a court ordered agreement with the district attorney (child support agency), voluntary payment schedule, or other such document which establishes a duty to pay child support and includes but is not limited to cases where one of the following conditions is met:

1. The agreement or court order specifies a payment schedule which requires annual, semi-annual, quarterly or other multiple month payments for reasons other than payment of past due amounts.
2. Payment is made but not received due to circumstances beyond the control of both the absent parent and the MFBU family member. Such circumstances include, but are not limited to the following:
 - Payment is made timely to the district attorney (child support agency) or court and not passed on to the MFBU family member until a subsequent month.
 - Payment for each month is made through payroll deduction or garnishment of wages and is not forwarded to the MFBU family member until a subsequent month.

Disregards are not to be allowed on delayed past month payments unless the above criteria are met.

For a child over 18 years of age, whether living with parent or not, child support payments are to be treated as stated below:

- Any amount of the payment that the parent receives and does not give to the child is income to the parent.
- Any amount of the payment that the parent gives to the child is income to the child in the month given, and is not income to the parent.
- When a child receives a delayed, past month child support payment directly from the absent parent, the past month payment is income to the child.
- A \$50 child support deduction would apply if the above criteria are met, unless the child is disabled, then one-third of the child support payment may be disregarded.

EXAMPLE: In June the MFBU family member receives a child support payment for May. The absent parent made a direct payment to the child support agency on May 25, however, the payment was not sent to the family by the child support agency until June 3. This would be considered a delayed, past month payment, not arrearages, so the disregard would be allowed.

TREATMENT OF ARREARAGE PAYMENTS FOR A CHILD 18 YEARS OF AGE OR OLDER

Child support payments that are not paid on time are to be treated as stated below when paid on behalf of a child 18 years of age or older:

- Any amount of the payment that the parent receives and does not give to the child is income to the parent.
- Any amount of the payment that the parent gives to the child is income to the child in the month given, and is not income to the parent, unless given to the child in a later month.
- When a child receives a child support arrearage payment directly from the absent parent, the arrearage payment is income to the child.
- The \$50 or one-third child support deduction does **not** apply.

EXAMPLE: A non-custodial father pays child support arrearages to his ex-wife, on behalf of their 19 year old son who still lives with his mother. She receives a \$300 child support arrearage payment in July 2008. The arrearage payment was supposed to be paid in January 2007. The mother keeps \$100, and gives her son \$200 of the child support payment in the same month she receives the payment. The \$100 the mother keeps is counted as income for her, and the \$200 given to the son is counted as income for the child. Because the payment was made in July 2008 instead of January 2007, this was not a current or delayed, past month payment so no disregard amount would be allowed.

Arrearages paid on behalf of a child under 18 years of age are considered income when received by the parent or child and no disregards are allowed.

If you have any questions regarding the treatment of child support arrearages, please contact Mr. Craig Yagi at (916) 552-9548 or Mr. Harold Higgins at (916) 552-9522.

Original Signed By

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Medi-Cal Eligibility Division