



December 6, 2023

Child Support Program Manual Transmittal Letter (CSPMTL) No. 191

TO: All Child Support Program Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: Five Year Rule Review – Income Withholding, FV and other Rules

The Office of Child Support (OCS) is conducting a rule review in accordance with section 106.031 of the Revised Code, which requires the review of all state agency rules within a five-year period.

OCS has filed the following rules as **no change**. The effective date of the rules remains the same as the existing rules:

Rule Number	Rule Title	Effective Date
5101:12-1-53	Program Income	12/15/2021
	<p>This rule describes what is considered IV-D program income and that IV-D program income must be reported by the Child Support Enforcement Agency (CSEA) on the JFS 02750, "Child Support Enforcement Agency Quarterly Financial Certification."</p> <p>This rule is authorized by ORC section 3125.25 and amplifies sections 3119.27, 3121.59, 3123.17 and 3125.37 of the Revised Code.</p>	
5101:12-10-20	Family Violence Indicator	5/15/2008
	<p>This rule describes the family violence indicator (FVI). The FVI reflects that there is reasonable evidence that a case participant is subject to family violence or there is reason to believe that the release of information regarding a case participant may result in family violence.</p> <p>This rule is authorized by ORC section 3125.25 and amplifies 3113.31</p>	
5101:12-10-20.1	Request for Override of Family Violence Indicator Restriction	5/15/2008
	<p>This rule describes the override process. The court may issue a one-time override of the family violence indicator when certain requirements are met; the rule also describes the CSEA responsibilities when handling child support case that have FVI.</p> <p>This rule is authorized by ORC section 3125.25 and amplifies 3113.31.</p>	
5101:12-10-30	Assignment of Support	1/15/2014
	<p>This rule describes when support is assigned to ODJFS due to the receipt of Ohio Works First (OWF), medical assistance, or Title IV-E foster care maintenance (FCM) benefits.</p> <p>This rule is authorized under ORC section 3125.25, and amplifies ORC sections 5160.35, 5160.38 and 5107.20.</p>	

Rule Number	Rule Title	Effective Date
5101:12-10-32	Good Cause Waiver of Cooperation	10/15/2018
	<p>This rule describes the good cause waiver process upon a request by the caretaker.</p> <p>This rule is authorized by ORC section 3125.25; and amplifies ORC sections 3125.03, 5160.38, 5107.02 and 5107.22.</p>	
5101:12-45-15	Grandparent’s Request for Child Support for Grandchild	10/15/2018
	<p>This rule describes the process for the CSEA to establish an administrative child support order for a child born to parents who are unmarried and unemancipated.</p> <p>This rule is authorized by ORC section 3125.25, and amplifies ORC sections 3109.19, 3125.03, and 3125.25.</p>	
5101:12-50-10.1	Income That May Be Withheld or Deducted	10/15/2018
	<p>This rule lists the sources of income that are or are not subject to withholding or deduction.</p> <p>This rule is authorized by ORC section 3125.25; and amplifies ORC section 3121.03.</p>	
5101:12-80-09	Unreimbursed Assistance	1/15/2014
	<p>This rule describes when OWF or FCM benefits are included in the unreimbursed assistance (URA); provides definitions of terms used when calculating the URA; and states that the IV-D program may only recover the amount of URA that does not exceed the assigned support obligation.</p> <p>This rule is authorized under ORC section 3125.25, and amplifies ORC sections 3125.03, and 5107.20.</p>	

OCS has **amended** the following rules:

Amended Rule	Amended Rule Title	Prior Effective Date of Rule	Effective Date of Amendment
5101:12-50-10	Income Withholding or Income Deduction	10/15/2018	01/01/2024
	<p>This rule describes the requirements for a CSEA to implement income withholding or income deduction. This rule is being revised to update the reference of JFS 04047 to rule 5101:12-50-99.</p> <p>This rule is authorized by ORC section 3125.25 and amplifies ORC sections 3121.01 and 3121.0310.</p>		
5101:12-50-10.2	CSEA’s Responsibility for Income Withholding and Income Deduction	10/15/2018	01/01/2024
	<p>This rule describes the CSEA’s responsibility when the CSEA determines that the obligor is receiving income from a payor. This rule is being revised to update the reference of JFS 04047 to rule 5101:12-50-99.</p> <p>This rule is authorized by ORC section 3125.25; and amplifies ORC sections 3121.03, 3121.032, 3121.033, 3121.035 and 3121.036.</p>		

Amended Rule	Amended Rule Title	Prior Effective Date of Rule	Effective Date of Amendment
5101:12-50-10.8	Withholding from Unemployment Compensation Benefits Initiated by a Child Support Enforcement Agency	10/15/2018	01/01/2024
	<p>This rule describes the requirements for withholding from unemployment compensation benefits received by an obligor. This rule is being revised to update the reference of JFS 04047 to rule 5101:12-50-99.</p> <p>This rule is authorized by ORC section 3125.25; and amplifies ORC sections 3121.07 and 4141.284.</p>		

INSTRUCTIONS:

When the CSPMTL is published, the CSPM will be updated as follows:

- A No Change rule will continue with the same effective date
- An Amended rule will be inserted, and the previous version will be moved to the OAC Archive section of the eManuals

The rules and forms in the CSPM can be accessed at: <http://emanuals.jfs.ohio.gov/>

INSTRUCTIONS for CSEA INTERNAL PROCEDURAL HANDBOOK:

Paragraph (J)(1) of OAC rule 5101:12-1-01 states that, whenever a program change requires modification of local procedures, the CSEA is required to revise its internal procedural handbook and submit the revision to OCS within thirty days of the revision. The CSEA should carefully review the amended rules contained in this CSPMTL to determine whether they require the CSEA to update its internal procedural handbook.

5101:12-1-53 **Program income.**

- (A) Revenues resulting from Title IV-D case activity shall be considered IV-D program income and shall not be used as any portion of the nonfederal share of program funding. Revenues resulting from Title IV-D case activity are deducted from expenditures presented for federal reimbursement. IV-D program income revenue shall be used for the operation of the IV-D child support program.
- (B) Only revenues resulting from Title IV-D case activity shall be considered IV-D program income. Revenues resulting from non-IV-D case activity may be used at the discretion of the child support enforcement agency (CSEA) or the Ohio department of job and family services (ODJFS), including being used to provide the nonfederal share of funds for the child support program.
- (C) The CSEA must report as revenue on the JFS 02750, "Child Support Enforcement Agency Quarterly Financial Certification" (effective or revised effective date as identified in rule 5101:12-1-99 of the Administrative Code) all program income described in this rule that is allocated to the CSEA and income the CSEA collects and retains. The CSEA must complete the JFS 02750 as described in rule 5101:9-7-29 of the Administrative Code.
- (D) Paragraphs (D)(1) to (D)(8) of this rule identify the various forms of program income.
- (1) The processing charge collected on Title IV-D cases shall be considered IV-D program income to the CSEA.
 - (2) Any amount earned through investment of IV-D collections, such as interest earned from collections made on behalf of child support obligees, shall be considered IV-D program income. If a CSEA or ODJFS pays service fees on an income-producing account, only the net amount (investment income less service fees) shall be reported. The CSEA or ODJFS shall maintain a record of investment revenue and service fees relative to the depository account. There is no net investment income to report nor transfer if the service fees exceed investment income.
 - (3) Recovered IV-D allowable payments such as IV-D allowable clerk of court fees, court costs, and genetic testing fees for paternity determination made by the CSEA shall be considered IV-D program income. If any of these items are returned to ODJFS, it is program income to ODJFS. If any is retained at the CSEA, it becomes program income to the CSEA through the administrative fund.
 - (4) When the CSEA does not absorb the IV-D application fee, the fee shall be considered IV-D program income to the CSEA.

- (5) The CSEA may charge miscellaneous fees, such as photocopy charges, provided the fee charged is sufficient to cover costs yet nominal enough not to discourage the right of access to information in the files. The fees charged for services on IV-D cases shall be considered IV-D program income to the CSEA through the administrative fund.
- (6) Unclaimed funds.
 - (a) A IV-D payment that becomes unclaimed pursuant to rule 5101:12-80-25 of the Administrative Code shall be reported as program income. At such time that the payment is claimed by its owner, unclaimed funds collected by the owner shall be reported as a reduction to program income.
 - (b) A IV-D payment that loses unclaimed status pursuant to former rule 5101:1-29-71.2 of the Administrative Code shall be reported as program income.
- (7) Interest paid pursuant to section 3123.17 of the Revised Code on assigned arrears shall be considered IV-D program income to ODJFS.
- (8) Any fine imposed in a IV-D case that the CSEA or ODJFS has retained shall be considered IV-D program income.

Five Year Review (FYR) Dates: 9/21/2023 and 09/21/2028

CERTIFIED ELECTRONICALLY

Certification

09/21/2023

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 3119.27, 3121.59, 3123.17, 3125.37
Prior Effective Dates: 01/01/1991, 04/01/1992, 01/01/1993, 06/01/1996,
10/30/1997, 01/01/1998, 04/24/2000 (Emer.),
07/10/2000, 10/15/2001, 01/01/2005, 05/15/2008,
07/15/2013, 10/15/2018, 12/15/2021

5101:12-10-20 **Family violence indicator.**

- (A) This rule and its supplemental rule describe the family violence indicator (FVI). The FVI reflects that there is reasonable evidence that a case participant is subject to family violence or there is reason to believe that the release of information regarding a case participant may result in family violence.
- (B) The office of child support (OCS) within the Ohio department of job and family services (ODJFS) is required to:
- (1) Identify and maintain information that indicates whether a case participant is subject to family violence or child abuse; and
 - (2) Send information regarding whether a case participant is subject to family violence as part of a referral to the federal case registry (FCR).
- (C) When the child support enforcement agency (CSEA) determines that there is reasonable evidence that a case participant is subject to family violence or has reason to believe that the release of information about a case participant may result in family violence to the case participant, the CSEA shall display an FVI for the case participant in the support enforcement tracking system (SETS). "Reasonable evidence" includes but is not limited to:
- (1) A civil protection order under section 3113.31 of the Revised Code or a criminal temporary protection order under section 2919.26 of the Revised Code has been issued to protect the case participant.
 - (2) Written documentation from a third party that indicates a case participant is being subjected to domestic violence, as defined in rule 5101:12-10-32 of the Administrative Code. A third party includes but is not limited to:
 - (a) Police, courts, and other governmental entities;
 - (b) Shelters and legal, religious, medical, and other professionals from whom a case participant sought assistance in dealing with domestic violence;
 - (c) County departments of job and family services (CDJFS); or
 - (d) Other persons with knowledge of the domestic violence.

When the case participant is unable to provide written documentation regarding domestic violence from a third party, the CSEA shall accept a written statement from the case participant, unless the CSEA has an independent, reasonable basis to find the allegation in the case participant's written statement not credible.

- (3) Written documentation from a medical professional, law enforcement agency, or vital records agency that indicates that the child was conceived as a result of incest or rape.
- (D) The CSEA shall maintain documentation regarding the family violence in the case record.
- (E) The FVI should remain effective as long as the circumstances leading to the determination of the existence of family violence continue to exist.
- (F) The CSEA shall establish and maintain a confidential caseload in SETS. When a case displays an FVI, the CSEA shall transfer the case to and retain the case in a confidential caseload.
- (G) The CSEA shall ensure that a contractor who provides location or collection services does not have responsibility for a case that displays an FVI. The CSEA shall require the contractor to return a case displaying an FVI.
- (H) The FCR will not return information regarding a case participant who has an FVI on the SETS case.
- (I) SETS will suppress the case participant's address and social security number on forms generated by SETS when the case participant displays an FVI.

Five Year Review (FYR) Dates: 9/21/2023 and 09/21/2028

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Certification

09/21/2023

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 3113.31
Prior Effective Dates: 10/14/2001, 02/01/2005, 05/15/2008

5101:12-10-20.1 **Request for override of family violence indicator restriction.**

- (A) When a person listed in the federal case registry (FCR) has a family violence indicator (FVI), the child support enforcement agency (CSEA) shall ensure that no information about a case participant will be released in response to a locate request, an FCR query, or as part of the proactive matching functionality. Courts have the ability to order a one-time override of the FVI if certain requirements are met. Should a court be asked to consider an override of the FVI, a CSEA shall, upon request, provide the court with evidence it maintained regarding the family violence. If the court determines that information can be released by the FCR, the court will submit a request for the release of information for forwarding to the federal parent locator service (FPLS).
- (B) When, in response to a request for locate processing or an FCR query, the FCR notifies the office of child support (OCS) that disclosure is prohibited in a case, OCS shall notify the CSEA. If the CSEA decides to pursue the restricted information, the CSEA must request a court in its county to authorize OCS to commence the process to obtain a one-time override of the FVI. Should the court order an override of the FVI, the CSEA shall submit the order to OCS, which shall submit the request to FCR.
- (C) Following receipt and approval of an FVI override request, the federal office of child support enforcement (OCSE) will return the locate information via specialized delivery service to OCS. The returned information will include detailed locate information from each requested locate source and the identity of the state(s) that placed the FVI. The identity of the state(s) placing the indicator may assist the requesting state's court in making its decision about whether to release the information to the requester.
- (D) The OCS shall not release or retain a copy of any of the FVI override information. Upon receipt, OCS must submit the information to the court that authorized the override or, pending the court's final determination regarding the release of the information, follow that court's instructions regarding the maintenance of the information. The court must make the determination as to whether further disclosure could be harmful to the parent or child. If the court determines that further disclosure could be harmful, the court is not to disclose the information to the requester.
- (E) When the requester is a CSEA or the FCR and the court makes the determination to disclose the information, the court will return the information to the CSEA. The CSEA must ensure that the information received for the protected person is safeguarded and used solely for child support purposes.

Five Year Review (FYR) Dates: 9/21/2023 and 09/21/2028

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Certification

09/21/2023

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 3113.31
Prior Effective Dates: 10/14/2001, 02/01/2005, 05/15/2008

5101:12-10-30 **Assignment of support.**

(A) This rule describes when support is assigned to the Ohio department of job and family services (ODJFS) due to the receipt of Ohio works first (OWF), medical assistance, or Title IV-E foster care maintenance (FCM) benefits.

(B) The following definition applies to rules in division 5101:12 of the Administrative Code:

"Assigns" means the transfer of rights or property from a person to ODJFS.

(C) The following definitions are specific to this rule:

(1) "Assistance group" means, in accordance with section 5107.02 of the Revised Code, a group of individuals treated as a unit for purposes of determining eligibility for and the amount of assistance provided under Ohio works first.

(2) "Authorized representative" means, in accordance with rule 5101:1-2-01 of the Administrative Code, an individual who is age eighteen or older who stands in the place of and acts on behalf of the members of an OWF assistance group.

(3) "Medical assistance" includes, in accordance with section 5160.35 of the Revised Code, medicaid and the children's health insurance program.

(4) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency, which includes:

(a) Current cash medical support;

(b) Current medical support obligations;

(c) Cash medical support arrears that accrued while the person received medical assistance; and

(d) Medical support arrears that accrued while the person received medical assistance.

(5) "Minor child" means, in accordance with section 5107.02 of the Revised Code:

(a) An individual who has not attained the age of eighteen; or

(b) An individual who has not attained the age of nineteen and is a full-time student in a secondary school or in the equivalent level of vocational or technical training.

- (6) "Obligee" means the person who is or may be entitled to receive support under the terms of a support order.
- (7) "Obligor" means the person who is or may be required to pay support under the terms of a support order.
- (8) "Person" means a parent, caretaker, authorized representative, or entity.

(D) Assignment of support in an OWF case.

- (1) In accordance with section 5107.20 of the Revised Code, an OWF applicant assigns the right to support of any obligee who participates in OWF as a result of that application for OWF benefits.
- (2) When a person applies for OWF benefits for a minor child who resides with that person or is temporarily absent from the home of that person, as defined in rule 5101:1-3-04 of the Administrative Code, and:
 - (a) Both the minor child and the person receive OWF benefits, then:
 - (i) Any child support for which that person is the obligee and the minor child is the subject of the support order is assigned.
 - (ii) Any spousal support for which that person is the obligee is assigned.
 - (iii) Any child support for which the minor child is the obligee and the minor child's child, who is receiving OWF benefits, is the subject of the support order is assigned.
 - (iv) Any spousal support for which the minor child is the obligee is assigned.
 - (b) Only the minor child receives OWF benefits, then:
 - (i) Any child support for which that person is the obligee and the minor child is the subject of the support order is assigned.
 - (ii) Any spousal support for which the person is the obligee is not assigned to ODJFS.
 - (iii) Any child support for which the minor child is the obligee and the minor child's child is the subject of the support order is assigned.
 - (iv) Any spousal support for which the minor child is the obligee is assigned.

(c) Only the person receives OWF benefits, then:

(i) Any child support for which that person is the obligee and the minor child is the subject of the support order is not assigned to ODJFS.

(ii) Any spousal support for which that person is the obligee is assigned.

(d) A parent of the person receives OWF benefits as a result of the person's application for OWF benefits, then:

(i) Any child support for which that parent of the person is the obligee and the person is the subject of the support order is assigned.

(ii) Any spousal support for which that parent of the person is the obligee is assigned.

(E) Assignment of medical support in a medical assistance case.

In accordance with section 5160.38 of the Revised Code, a medical assistance applicant assigns medical support upon application for or acceptance of medical assistance benefits.

(1) If a person does not receive medical assistance benefits for himself or herself but a child who resides with that person receives medical assistance benefits, then the medical support for which that person is the obligee and that child is the subject of the medical support order is assigned.

(2) If a person receives medical assistance benefits for himself or herself and a child who resides with that person receives medical assistance benefits, then the medical support for which that person is the obligee and the obligee or the child is the subject of the medical support order is assigned.

(3) If a person receives medical assistance benefits for himself or herself but a child who resides with that person does not receive medical assistance benefits, then the medical support for which that person is the obligee and that person is the subject of the medical support order is assigned to ODJFS.

(4) If a person receives medical assistance benefits for himself or herself but a child who resides with that person does not receive medical assistance benefits, then the medical support for which that person is the obligee and the child is the subject of the medical support order is not assigned to ODJFS.

(F) Assignment of support in an FCM case.

The Title IV-E agency assigns any child support for which the Title IV-E agency is the obligee and a child who is eligible to receive FCM benefits is the subject of the support order.

- (G) The rules and policies of the OWF, medical assistance, and IV-E programs describe the effective date of the assignment of support.

Five Year Review (FYR) Dates: 9/21/2023 and 09/21/2028

CERTIFIED ELECTRONICALLY

Certification

09/21/2023

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 5160.35, 5160.38, 5107.20
Prior Effective Dates: 08/01/1982, 05/01/1987, 12/01/1987, 07/15/1988,
04/01/1989, 08/01/1990, 04/11/1991 (Emer.),
07/01/1991, 07/01/1996, 10/01/1997 (Emer.),
12/30/1997, 02/01/2005, 12/01/2008, 01/15/2014

5101:12-10-32 **Good cause waiver of cooperation.**

(A) A caretaker of a child who has a requirement to cooperate with the child support enforcement agency (CSEA) due to the receipt of Ohio works first (OWF), medicaid, or Title IV-E foster care maintenance (FCM) benefits may request a good cause waiver of the requirement to cooperate with the CSEA. When the CSEA determines that cooperation from the caretaker is not in the best interests of the child or would make it more difficult for the caretaker or child to escape domestic violence, the CSEA shall approve a good cause waiver. This rule describes the good cause waiver process.

(B) The following terms and definitions apply to this rule:

(1) "Caretaker" means:

- (a) The parent, adult, or minor head of household with whom a child who receives OWF or medicaid resides; or
- (b) The Title IV-E agency who has custody of a child who receives FCM benefits.

(2) "Domestic violence" means, in accordance with section 5107.02 of the Revised Code, a caretaker or child is being subjected to any of the following:

- (a) Physical acts that resulted in, or threatened to result in, physical injury to the individual;
- (b) Sexual abuse;
- (c) Sexual activity involving a dependent child;
- (d) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
- (e) Threats of, or attempts at, physical or sexual abuse;
- (f) Mental abuse, including emotional harm; or
- (g) Neglect or deprivation of medical care.

(3) "Permanent good cause waiver" means that no CSEA will require a caretaker to cooperate with the CSEA as long as the CSEA has administrative responsibility for the case.

- (4) "Temporary good cause waiver" means that the CSEA will not require a caretaker to cooperate with the CSEA for a specified period of time.
 - (5) "Third party" includes but is not limited to:
 - (a) Police, courts, and other governmental entities;
 - (b) Shelters and legal, religious, medical, and other professionals from whom a caretaker sought assistance in dealing with domestic violence;
 - (c) County departments of job and family services (CDJFS); or
 - (d) Other persons with knowledge of the domestic violence.
- (C) The caretaker may request a good cause waiver from the CSEA by:
- (1) Completing the JFS 07092, "Notice to Individuals Applying for or Participating in Ohio Works First (OWF) Regarding Cooperation with the Child Support Enforcement Agency (CSEA)" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) provided by the CDJFS and submitting it to the CSEA; or
 - (2) Completing the JFS 04008, "Request for Good Cause Waiver" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) provided by the CSEA and submitting it to the CSEA.
- (D) When the CSEA receives an oral or a written request for a good cause waiver from the caretaker, the CSEA shall issue the JFS 04008 to the caretaker.
- (E) When the CSEA receives a JFS 07092 or JFS 04008, the CSEA shall determine whether to approve or deny a good cause waiver.
- (F) When the caretaker provides an alternate address or telephone number on the JFS 07092, JFS 04008, or JFS 04011, "Good Cause Waiver Renewal" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) the CSEA shall send all written correspondence regarding the good cause waiver to the alternate address and contact the caretaker at the alternate phone number as specified on the JFS 07092, JFS 04008, or JFS 04011.
- (G) Written documentation.

When written documentation is not received within forty-five days of the date the CSEA received the JFS 07092 or JFS 04008, the CSEA shall deny the good cause waiver and shall issue the JFS 04010, "Denial of Good Cause Waiver" (effective or

revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) to the caretaker.

(H) Permanent good cause waiver.

Upon receipt of a completed JFS 07092 or JFS 04008 and acceptable written documentation, the CSEA shall approve a permanent good cause waiver and shall issue the JFS 04009, "Approval of Good Cause Waiver" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) to the caretaker when the child was conceived as a result of incest or rape and the CSEA determines that requiring cooperation from the caretaker would not be in the best interests of the child.

Written documentation is acceptable when the source of the written documentation is a medical professional, law enforcement agency, or vital records agency.

(I) Temporary good cause waiver.

Upon receipt of a completed JFS 07092 or JFS 04008 and acceptable written documentation, the CSEA shall approve a temporary good cause waiver and shall issue the JFS 04009 to the caretaker when:

- (1) The caretaker or child is being subjected to domestic violence and the CSEA determines that requiring cooperation from the caretaker would not be in the best interests of the child or would make it more difficult for the caretaker or child to escape domestic violence.
 - (a) Written documentation is acceptable when the source of the written documentation is a third party. When the caretaker is unable to provide acceptable written documentation from a third party, the CSEA shall accept a written statement from the caretaker, unless the CSEA has an independent, reasonable basis to find the allegation in the caretaker's written statement not credible.
 - (b) A temporary good cause waiver based on domestic violence is for a period not to exceed twelve months. The CSEA may approve a temporary good cause waiver for longer than twelve months when a legal document exists that justifies the extension.
- (2) Legal adoption proceedings regarding the child are pending before a court and the CSEA determines that requiring cooperation from the caretaker would not be in the best interests of the child.

- (a) Written documentation is acceptable when the source of the written documentation is a court, child protective or social services agency, or an attorney for one of the parties involved in the adoption proceedings.
 - (b) A temporary good cause waiver based on pending adoption is for the period during which the adoption is pending before the court.
 - (c) If the adoption proceedings are finalized or dismissed, the CSEA shall terminate the temporary good cause waiver and shall issue the JFS 04012, "Termination of Good Cause Waiver" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code) to the caretaker.
- (3) The question of whether to place the child for adoption is under active consideration and the CSEA determines that requiring cooperation from the caretaker would not be in the best interests of the child.
- (a) Written documentation is acceptable when the source of the written documentation is a child protective or social services agency or an attorney for one of the parties involved in the adoption proceedings.
 - (b) A temporary good cause waiver based on active consideration of adoption is for a period not to exceed three months. The CSEA may renew a temporary good cause waiver after three months when the written documentation verifies that the adoption is still under active consideration.
 - (c) If the adoption discussions are terminated, the CSEA shall terminate the temporary good cause waiver and shall issue the JFS 04012 to the caretaker.

(J) Renewing a temporary good cause waiver.

At least forty-five days before the expiration of the temporary good cause waiver, the CSEA shall issue the JFS 04011 to the caretaker.

- (1) When the caretaker submits the JFS 04011 requesting a renewal of the good cause waiver to the CSEA and the CSEA receives acceptable written documentation within forty-five days of the date the JFS 04011 was issued by the CSEA, as described in paragraph (H) or (I) of this rule, the CSEA shall renew the good cause waiver and shall issue a JFS 04009 to the caretaker.

- (2) When the caretaker submits the JFS 04011 requesting a renewal of the good cause waiver to the CSEA, the CSEA shall deny the good cause waiver and shall issue a JFS 04010 to the caretaker when:
 - (a) Acceptable written documentation is not received by the CSEA within forty-five days of the date the JFS 04011 was issued; or
 - (b) The CSEA receives written documentation within forty-five days of the date the JFS 04011 was issued and determines that the written documentation is not acceptable, as described in paragraph (H) or (I) of this rule.
- (3) The CSEA shall terminate the temporary good cause waiver and shall issue the JFS 04012 to the caretaker when:
 - (a) The caretaker fails to complete and submit the JFS 04011 to the CSEA within forty-five days of the date the JFS 04011 was issued; or
 - (b) The caretaker submits the JFS 04011 to the CSEA and the JFS 04011 indicates that the caretaker no longer wants a good cause waiver.
- (K) When the caretaker or child receives OWF benefits, the CSEA shall notify the CDJFS, either electronically or in writing, within five days of the CSEA issuing the JFS 04009, JFS 04010, or JFS 04012 to the caretaker. When the caretaker or child receives medicaid or FCM benefits, the CSEA may notify the CDJFS or public children services agency (PCSA) when the CSEA issues a JFS 04009 to the caretaker.

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5101:12-45-15

Grandparent's request for child support for grandchild.

- (A) This rule describes the process for the child support enforcement agency (CSEA) to establish an administrative child support order for a child born to parents who are unmarried and unemancipated.
- (B) For the purposes of rules in division 5101:12 of the Administrative Code, "minor" means an individual under the age of eighteen years.
- (C) In accordance with section 3109.19 of the Revised Code, when a child (hereafter child) is born to parents who are unmarried and unemancipated (hereafter minors) and a parent of one of the minors (hereafter grandparent) is providing support for the child, the grandparent who is providing support for the child may request the CSEA in the county in which the child resides to:
- (1) Determine the existence of a parent and child relationship, if necessary; and
 - (2) Issue an administrative child support order, pursuant to rules 5101:12-45-05 to 5101:12-45-05.3 of the Administrative Code, requiring all of the grandparents to pay child support for the child.
- (D) On receipt of a request, the CSEA shall schedule an administrative child support hearing to determine, in accordance with Chapters 3119., 3121., 3123., and 3125. of the Revised Code, the amount of child support the grandparents are required to pay, the method of paying the child support, and the method of providing for the child's health care needs.
- (1) The CSEA shall hold the administrative child support hearing no later than sixty days from the date the request is received.
 - (2) The CSEA shall issue a notice of administrative hearing to establish a child support order to the grandparents, in accordance with rule 5101:12-30-10 of the Administrative Code, at least thirty days before the date the administrative child support hearing is to be held.
- (E) In accordance with division (C)(1) of section 3109.19 of the Revised Code, the CSEA shall calculate the child support amount using the income of all the grandparents instead of the income of the minors.
- (1) When the maternal or paternal grandparents are divorced or were never married, the CSEA shall calculate their income as if they were married to one another and then order each grandparent to pay his or her respective percentage of the child support imposed, based on his or her percentage of income.

- (2) When a child support order issued pursuant to section 2151.23, 2151.231, 2151.232, 3111.13, or 3111.81 of the Revised Code requires one of the minors to pay child support for the child, the amount the minor is required to pay shall be deducted from any amount that the grandparents are required to pay.
- (F) The CSEA shall issue an administrative child support order to require the grandparents to pay child support. The administrative order shall also provide for the health care needs of the child.
- (1) In accordance with section 3111.81 of the Revised Code, the administrative child support order shall:
- (a) Require periodic payments of child support that may vary in amount, except that, if it is in the best interest of the child, the administrative officer may order the purchase of an annuity in lieu of periodic payments of child support if the purchase agreement provides that any remaining principal will be transferred to the ownership and control of the child on the child's attainment of the age of majority; and
 - (b) Require the grandparents to provide for the health care needs of the child in accordance with sections 3119.29 to 3119.56 of the Revised Code.
- (2) In accordance with division (C)(2) of section 3109.19 of the Revised Code, the CSEA shall include the following paragraph in the administrative child support order:
- The grandparents may object to the administrative child support order by filing a complaint pursuant to division (B)(2) of section 3109.19 of the Revised Code with the court requesting that the court issue an order requiring the grandparents to pay child support for the child and provide for the child's health care needs; the complaint may be filed no later than thirty days after the date of the issuance of the administrative child support order; and, if none of the grandparents file a complaint pursuant to division (B)(2) of section 3109.19 of the Revised Code, the administrative child support order is final and enforceable by a court and may be modified and enforced only in accordance with Chapters 3119., 3121., 3123., and 3125. of the Revised Code.
- (3) The CSEA shall include in the administrative child support order the provisions contained in divisions (D) and (E) of section 3109.19 and section 3121.29 of the Revised Code.

- (G) When the CSEA receives notice that the administrative child support order should terminate, as described in division (D) of section 3109.19 of the Revised Code, the CSEA shall comply with rule 5101:12-60-50 of the Administrative Code.

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5101:12-50-10 **Income withholding or income deduction.**

- (A) This rule and its supplemental rules describe the requirements for a child support enforcement agency (CSEA) to implement income withholding or income deduction.
- (B) The following definitions apply to this rule and other rules in Chapters 5101:12-50 and 5101:12-55 of the Administrative Code:
- (1) "Income" means, pursuant to section 3121.01 of the Revised Code, any form of monetary payment, including personal earnings; workers' compensation payments; unemployment compensation benefits to the extent permitted by, and in accordance with, sections 3121.07 and 4141.284 of the Revised Code, and federal law governing the Ohio department of job and family services; pensions; annuities; allowances; private or governmental retirement benefits; disability or sick pay; insurance proceeds; lottery prize awards; federal, state, or local government benefits to the extent that the benefits can be withheld or deducted under the law governing the benefits; any form of trust fund or endowment; lump sum payments, including a one-time pay supplement of one hundred fifty dollars or more paid under section 124.183 of the Revised Code; and any other payment in money.
 - (2) "Financial institution" means a bank, savings and loan association, or credit union, or a regulated investment company or mutual fund.
 - (3) "Payor" means, pursuant to section 3121.01 of the Revised Code, any person or entity that pays or distributes income to an obligor, including an obligor if the obligor is self-employed; an employer; an employer paying an obligor's workers' compensation benefits; the public employees retirement board; the governing entity of a municipal retirement system; the board of trustees of the Ohio police and fire pension fund; the state teachers retirement board; the school employees retirement board; the state highway patrol retirement board; a provider, as defined in section 3305.01 of the Revised Code; the bureau of workers' compensation; or any other person or entity other than the Ohio department of job and family services with respect to unemployment compensation benefits paid pursuant to Chapter 4141. of the Revised Code.
 - (4) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation.
 - (5) "Protected benefit" means the certain federal benefit payments which are exempt from garnishment from a financial institution account. This includes:

- (a) Social security administration benefit payments protected under 42 U.S.C. 407 (10/21/1998) and 42 U.S.C. 1383(d)(1) (11/2/2015);
 - (b) Veterans affairs benefit payments protected under 38 U.S.C. 5301(a) (12/16/2003);
 - (c) Railroad retirement board benefit payments protected under 45 U.S.C. 231m(a) (12/29/1995) and 45 U.S.C. 352(e) (1/2/2013); and
 - (d) Office of personnel management benefit payments protected under 5 U.S.C. 8346 and 5 U.S.C. 8470 (10/13/1978).
- (6) "Willfully" means an action taken voluntarily and intentionally with a specific intent to take an action or fail to take an action.
- (C) The CSEA shall use the JFS 04047, "Income Withholding for Support" (effective or revised effective date as identified in rule ~~5101:12-10-99~~5101:12-50-99 of the Administrative Code), to implement income withholding to collect current support and arrears from a payor.
- (D) The CSEA shall use the JFS 04017, "Notice to Deduct Funds for Child and Spousal Support" (effective or revised effective date as identified in rule 5101:12-50-99 of the Administrative Code), to deduct funds from an account in a financial institution.
- (E) The responsibilities of a payor or financial institution in receipt of a JFS 04047 or JFS 04017 can be found in Chapter 3121. of the Revised Code.
- (F) When a payor or financial institution fails to comply with any requirement of a JFS 04047 or JFS 04017 issued by a CSEA, the CSEA shall bring an action under section 3121.371 of the Revised Code requesting the court to order the payor or financial institution to comply with the JFS 04047 or JFS 04017. If the payor or financial institution fails to comply with the court's order, such failure is contempt of court.

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09/01/2005, 01/01/2008, 03/01/2013, 02/01/2016,
10/15/2018

5101:12-50-10.1 Income that may be withheld or deducted.

(A) Sources of income that are subject to withholding or deduction include but are not limited to:

- (1) Income from a payor;
- (2) Funds on deposit in any demand account, checking or negotiable withdrawal order account, savings account, time deposit account, or the cash portion of a money market mutual fund account;
- (3) Income or benefits from federal agencies, including military branches and social security disability or retirement benefits;
- (4) Benefits paid by the department of veterans affairs if such payment is remuneration for employment; and
- (5) Payments described in 5 C.F.R. 581.103 (revised 3/26/1998).

(B) Sources of income that are not subject to withholding or deduction include but are not limited to:

- (1) Notwithstanding any other provision of law, monetary benefits paid by the department of veterans affairs that are generally based on the veteran's disability, war-time service, or disability from service-connected injury or disease;
- (2) Means-tested income or benefits including, but not limited to, supplemental security income benefits;
- (3) Payments described in 5 C.F.R. 581.104 (revised 3/26/1998); and
- (4) Funds in an account with a financial institution that represent a protected benefit.

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09/01/2005, 01/01/2008, 01/01/2011, 10/15/2018

5101:12-50-10.2 **CSEA's responsibility for income withholding and income deduction.**

(A) When the child support enforcement agency (CSEA) determines that the obligor is receiving income from a payor, the CSEA shall issue a JFS 04047, "Income Withholding for Support" (effective or revised effective date as identified in rule ~~5101:12-10-99~~5101:12-50-99 of the Administrative Code), within fifteen days of:

- (1) Issuing or modifying an administrative support order;
- (2) Receiving notice of a change in the obligor's source of income or the CSEA otherwise determining that there has been a change in the source of the obligor's income;
- (3) Determining that a modified JFS 04047 is required as the result of an investigation concerning the termination of a support order; or
- (4) Locating an obligor following the issuance or modification of the support order.

(B) When the CSEA determines that the obligor has funds on deposit in a financial institution, the CSEA shall conduct an investigation to determine whether any amount of funds in the account represent a protected benefit, as described in rule 5101:12-50-10 of the Administrative Code.

- (1) The investigation shall:
 - (a) Identify whether the obligor is receiving or has received income from a protected benefit;
 - (b) Include, but is not limited to, research in the support enforcement tracking system (SETS) and the state verification exchange system/defense manpower data center (SVES/DMDC); and
 - (c) Be documented in the case record.

(2) When the CSEA determines that any of the funds in the account are from a protected benefit source, the CSEA shall not issue the JFS 04017, "Notice to Deduct Funds for Child and Spousal Support" (effective or revised effective date as identified in rule 5101:12-50-99 of the Administrative Code).

(3) When the CSEA determines that the funds in the account are not from a protected benefit source, the CSEA may issue the JFS 04017.

(C) The CSEA shall return to the obligor any funds deducted from the account that are later identified as funds from a protected benefit source, within two business days of the

CSEAs determination. The CSEA shall issue a refund from the administrative fund described in rule 5101:9-6-83 of the Administrative Code, including any bank fees charged to the obligor when the withdrawal resulted in the account having insufficient funds.

- (D) When a CSEA issues a JFS 04047 to a payor or a JFS 04017 to a financial institution, the CSEA shall simultaneously issue a copy of the JFS 04047 or the JFS 04017 and the JFS 04048, "Addendum to a Withholding Order" (effective or revised effective date as identified in rule 5101:12-50-99 of the Administrative Code) to the obligor.
- (E) To the extent possible, the CSEA shall issue a sufficient number of JFS 04047s and JFS 04017s to provide that the aggregate amount withheld or deducted satisfies the amount ordered for support plus any arrears that may be owed by the obligor under any prior orders that pertain to the same child and obligee.
- (F) The CSEA may but is not required to supplement the JFS 04047 or JFS 04017 and JFS 04048 with additional notices or court orders as long as the time requirements of paragraphs (A) and (B) of this rule are met and no additional court hearings are required.

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02/01/2016, 10/15/2018

5101:12-50-10.8 **Withholding from unemployment compensation benefits initiated by a child support enforcement agency.**

- (A) This rule describes the requirements for withholding from unemployment compensation benefits received by an obligor.
- (B) A child support enforcement agency (CSEA) with administrative responsibility for the IV-D case shall send a JFS 04047, "Income Withholding for Support" (effective or revised effective date as identified in rule ~~5101:12-10-99~~5101:12-50-99 of the Administrative Code), to the Ohio department of job and family services (ODJFS), office of unemployment insurance operations (OUIO) when:
- (1) In accordance with section 3121.07 of the Revised Code, the CSEA completes the required investigation and determines that the obligor is receiving unemployment compensation benefits; or
 - (2) In accordance with section 4141.284 of the Revised Code, the CSEA is notified by the director of ODJFS that an individual who owes support is receiving unemployment compensation benefits.
- (C) The following conditions apply to the withholding of unemployment compensation benefits as described in this rule:
- (1) The CSEA with administrative responsibility for the case may only send a JFS 04047 to OUIO if the case is an open, active IV-D case;
 - (2) The CSEA may not impose the processing charge pursuant to section 3119.27 of the Revised Code with respect to any amounts withheld or deducted from unemployment compensation benefits pursuant to this rule; and
 - (3) In accordance with division (B)(2) of section 3121.07 of the Revised Code, the amount of unemployment compensation benefits that may be withheld with respect to a week of unemployment benefits shall not exceed fifty per cent of the individual's weekly benefit amount as determined by the director of ODJFS.
- (D) The CSEA shall send a JFS 04043, "Notice to Payor/Office of Unemployment Compensation/Financial Institution to Terminate the Withholding from Obligor's Income/Assets" (effective or revised effective date as identified in rule 5101:12-50-99 of the Administrative Code), to OUIO whenever a support order is terminated as described in rule 5101:12-60-50 of the Administrative Code or in any other case when termination of withholding is appropriate. Upon receipt of the JFS 04043, OUIO shall immediately terminate the withholding of unemployment compensation benefits.

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5101:12-80-09 **Unreimbursed assistance.**

(A) The unreimbursed assistance (URA) is the total amount of assistance paid to the family that has not been reimbursed from child support and spousal support collections retained by the Ohio department of job and family services pursuant to the assignment of support. This rule describes when assistance paid to the family is to be included in the URA.

(B) Definitions.

(1) The following definitions apply to all rules in division 5101:12 of the Administrative Code.

(a) "Assistance" and "assistance paid to the family" have the same meaning as in action transmittal 99-10 (9/15/1999), which can be located on the federal office of child support enforcement's website.

(b) "Unreimbursed assistance" means the cumulative amount of assistance paid to the family that has not been repaid by retained assigned support collections.

(2) The following definitions apply to this rule:

(a) "Caretaker" means an adult or minor head of household with whom a child who receives Ohio works first (OWF) or medicaid resides but is not the parent of the minor child.

(b) "Family" means a unit of people who receive OWF benefits together. A "family" is either a parent/child family or caretaker/child family, as described in paragraph (C) of this rule.

(c) "Minor child" means, in accordance with section 5107.02 of the Revised Code:

(i) An individual who has not attained the age of eighteen; or

(ii) An individual who has not attained the age of nineteen and is a full-time student in a secondary school or in the equivalent level of vocational or technical training.

(C) OWF URA.

(1) A minor child who resides with a parent and receives OWF benefits is considered a parent/child family, for OWF URA purposes. Any OWF paid to that parent/

child family is added to that parent/child family's OWF URA. The parent/child family can also include any of the following:

- (a) The parent or parents of the minor child, when the parent or parents receive OWF benefits with that parent/child family.
 - (b) A sibling, step-sibling, or half-sibling of the minor child, when the sibling receives OWF benefits with that parent/child family.
 - (c) A minor child of any of the minor children of the family, when that minor child receives OWF benefits with that parent/child family.
 - (d) A minor child who is temporarily absent from the parent's home, when that minor child continues to receive OWF benefits with that parent/child family.
- (2) A minor child who resides with a caretaker and receives OWF benefits is considered a caretaker/child family, for OWF URA purposes. Any OWF paid to that caretaker/child family is added to that caretaker/child family's OWF URA. The caretaker/child family can also include any of the following:
- (a) The caretaker of the minor child, when the caretaker receives OWF benefits with that caretaker/child family.
 - (b) A sibling of the minor child who resides with the family, when the sibling receives OWF benefits with that caretaker/child family.
 - (c) A minor child of any of the minor children of the family who resides with the family, when that minor child receives OWF benefits with that caretaker/child family.
- (3) When any member of the family no longer receives OWF benefits with that family, then that member is no longer included in that family's OWF URA. When that member receives OWF benefits with or as a new family, any OWF paid to the new family is added the new family's OWF URA. Any OWF paid to the original family is not added to the new family's OWF URA.

(D) Title IV-E foster care maintenance (FCM) URA.

- (1) When a minor child receives FCM benefits, any FCM paid for that minor child is added to that minor child's FCM URA.
- (2) When that child had received OWF benefits with a family before receiving FCM benefits, then the OWF paid to that family is not added to the child's FCM

URA. When a child had received FCM benefits before receiving OWF benefits with a family, any FCM benefits paid to the child is not added to the family's OWF URA.

(E) The total amount of URA paid to the family that may be recovered through the IV-D program is limited by the total amount of the assigned support obligation.

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