

921 KAR 1:400. Establishment, review, and modification of child support and medical support orders.

RELATES TO: KRS 205.710-,205.802, 205.990, 213.046(4), (9), 403.160(1), (2)(a), (b), 403.210-403.240, 405.430, 405.440, 405.991, 406.021, 406.025, 454.220, 45 C.F.R. 302.50, 302.56, 302.80, 303.4, 303.8, 303.30-303.32, 42 U.S.C. 651-669B

STATUTORY AUTHORITY: KRS 194A.050(1), 205.795, 405.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 205.795 and 405.520 authorize the secretary of the cabinet to promulgate administrative regulations to operate the Child Support Enforcement Program in accordance with federal law and regulations. This administrative regulation establishes the requirements for the establishment, review, and modification of child support and medical support orders.

Section 1. Support Obligation Shall be Established.

- (1) A child support and medical support obligation shall be established by:
 - (a) A court of competent jurisdiction; or
 - (b) An administrative order.
- (2) The obligation shall be the amount as established administratively or judicially, as computed by the:
 - (a) CS-71, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation;
 - (b) CS-71.1, Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation Exception; or
 - (c) Any other child support obligation form incorporated by reference in an administrative regulation promulgated by the agency.
- (3) The amount determined shall be the amount to be collected. Any support payment collected shall reduce the amount of the obligation dollar for dollar.
- (4) For a public assistance case and a nonpublic assistance case for which child support services are being provided, the cabinet shall use state statutes and legal process in establishing the amount of a child support and medical support obligation, including KRS 403.211, 403.212, 405.430, and 454.220.
- (5) In addition to the deductions established in KRS 403.212(2), the deduction for a prior-born child residing with a parent for an administratively or judicially imputed child support obligation, as established in KRS 403.212(2)(h)3, shall be calculated by using:
 - (a) That parent's portion of the total support obligation as indicated on the worksheet, if:
 1. There is a support order; and
 2. A copy of the child support obligation worksheet is obtained; or
 - (b) 100 percent of the income of the parent with whom the prior born child resides, if:
 1. There is no support order;
 2. There is a support order, but no support obligation worksheet; or
 3. A worksheet cannot be obtained.
- (6) In accordance with 45 C.F.R. 303.4(d), within ninety (90) calendar days of locating a noncustodial parent, or obligor, the cabinet shall:
 - (a) Complete service of process; or
 - (b) Document an unsuccessful attempt to serve process.
- (7) If service of process has been completed, the cabinet shall, if necessary:
 - (a) Establish paternity;

- (b) Establish a child support or medical support obligation; or
 - (c) Send a copy of any legal proceeding to the obligor and obligee within fourteen (14) calendar days of issuance.
- (8) If a court or administrative authority dismisses a petition for support without prejudice, the cabinet shall, at that time, determine when to appropriately seek an order in the future.

Section 2. Administrative Establishment.

- (1) The cabinet may administratively establish a child support obligation or medical support obligation, or both if:
 - (a) Paternity is not in question;
 - (b) There is no existing order of support for the child;
 - (c) The noncustodial parent, or obligor, resides or is employed in Kentucky; and
 - (d) The noncustodial parent's, or obligor's, address is known.
- (2) To gather necessary information for administrative establishment, as appropriate the cabinet shall:
 - (a) Send to the custodial parent or nonparent custodian forms:
 - 1. CS-133, Custodial Parent Information Request;
 - 2. CS-132, Child Care Expense Verification; and
 - 3. CS-136, Health Insurance Information Request;
 - (b) Send to the custodial parent the CS-65, Statement of Income and Resources;
 - (c) Send to the noncustodial parent forms:
 - 1. CS-64, Noncustodial Parent Appointment Letter;
 - 2. CS-65, Statement of Income and Resources;
 - 3. CS-132, Child Care Expense Verification; and
 - 4. CS-136, Health Insurance Information Request;
 - (d) Send a CS-130, Income Information Request, to the employer of the:
 - 1. Custodial parent; or
 - 2. Noncustodial parent, or obligor; and
 - (e) Issue a CS-84 Administrative subpoena in accordance with KRS 205.712(2)(k) and (n), if appropriate.
- (3) The cabinet shall determine the monthly support obligation in accordance with the child support guidelines as contained in KRS 403.212 or subsection (4) of this section.
- (4) In a default case, the cabinet shall establish the obligation based upon the needs of the child or the previous standard of living of the child, whichever is greater in accordance with KRS 403.211(5).
- (5) After the monthly support obligation is determined, the cabinet shall serve a CS-66, Administrative Order/Notice of Monthly Support Obligation, in accordance with the requirements of KRS 405.440 and 42 U.S.C. 654(12).
- (6) The cabinet shall not administratively modify an obligation that is established by a court of competent jurisdiction, except as provided in subsection (7) of this section.
- (7) If support rights are assigned to the cabinet, the cabinet shall direct the obligor to pay to the appropriate entity by modifying the order:
 - (a) Administratively upon notice to the obligor or obligee; or
 - (b) Judicially through a court of competent jurisdiction.

Section 3. Review and Adjustment of Child Support and Medical Support Orders.

- (1) In accordance with KRS 405.430(6), the cabinet may modify the monthly support established. Every thirty-six (36) months the cabinet shall notify each party subject to a child support order of the right to re-request a review of the order.
- (2) Pursuant to 45 C.F.R. 303.8, the cabinet shall conduct a review upon the request of:
 - (a) Either parent;
 - (b) The state agency with assignment; or

- (c) Another party with standing to request a modification.
- (3) In accordance with 45 C.F.R. 303.8(e), within 180 days of receiving a request for review or of locating the nonrequesting parent, whichever occurs later, the cabinet shall:
 - (a) Conduct the review;
 - (b) Modify the order; or
 - (c) Determine that circumstances do not meet criteria for modification.
- (4) The cabinet shall provide notification within fourteen (14) calendar days of modification or determination to each parent or custodian, if appropriate, and legal representatives by issuing a CS-79, Notification of Review Determination, in accordance with KRS 205.712(2)(m).
- (5) In accordance with subsections (2) and (3) of this section, the cabinet or the cabinet's designee shall seek modification of an administrative or judicial support order to include medical support on behalf of the child as established in KRS 403.211(7)(a) through (d).
- (6) Retroactive modification of a child support order shall occur in accordance with KRS 403.211(5) and 403.213(1).

Section 4. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "CS-64, Noncustodial Parent Appointment Letter", 3/10;
 - (b) "CS-65, Statement of Income and Resources", 6/2021;
 - (c) "CS-66, Administrative Order/Notice of Monthly Support Obligation", 3/10;
 - (d) "CS-71, Commonwealth of Kentucky, Worksheet for Monthly Child Support Obligation", 6/2021;
 - (e) "CS-71.1, Commonwealth of Kentucky, Worksheet for Monthly Child Support Obligation Exception", 6/2021;
 - (f) "CS-79, Notification of Review Determination", 3/10;
 - (g) "CS-84, Administrative Subpoena", 8/18;
 - (h) "CS-130, Income Information Request", 3/10;
 - (i) "CS-132, Child Care Expense Verification", 3/10;
 - (j) "CS-133, Custodial Parent Information Request", 3/10; and
 - (k) "CS-136, Health Insurance Information Request", 12/15.
 - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Income Support, Child Support Enforcement, 730 Schenkel Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dis/Pages/regs.aspx>.
- (20 Ky.R. 2296; eff. 3-14-1994; 21 Ky.R. 2554; 22 Ky.R. 60; eff. 6-21-1995; 2495; eff. 8-1-1996; 23 Ky.R. 2881; 3576; eff. 2-19-1997; 25 Ky.R. 642; 1640; eff. 1-19-1999; Recodified from 904 KAR 2:400, 2-1-1999; 27 Ky.R. 1107; 1497; eff. 12-21-2000; 28 Ky.R. 1700; 2043; eff. 3-14-2002; 29 Ky.R. 2801; eff. 7-16-2003; 33 Ky.R. 636; 1096; eff. 10-18-2006; 34 Ky.R. 1870; 2143; eff. 3-19-2008; 35 Ky.R. 1670; 1783; eff. 2-18-2009; TAm 5-14-2009; 36 Ky.R. 1369; 1946; eff. 3-5-2010; 39 Ky.R. 342; eff. 10-17-2012; 42 Ky.R. 570; eff. 11-6-2015; TAm eff. 8-22-2018; 48 Ky.R. 681, 1563; eff. 11-23-2021.)