CABINET FOR HEALTH AND FAMILY SERVICES
Department for Income Support
Division of Child Support
(Amendment)

921 KAR 1:420. Child support distribution.

RELATES TO: KRS 13B.010(2), 13B.170, 205.720, 205.750, 205.755, 205.795, 405.520, 407.5101, 45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5), 42 U.S.C. 651
STATUTORY AUTHORITY: KRS 194A.050(1), 205.755(1), 205.795
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 205.755(1) authorizes the secretary to prescribe the manner in which distributions of payments of support shall be made, consistent with state and federal law and administrative regulations. This administrative regulation establishes procedures for distribution of child support payments.

Section 1. Allocation of income withheld payments in IV-D and non-IV-D cases.
(1) The cabinet shall allocate an income withheld payment among an obligor's cases that include an income withholding order by:
(a) Totaling the obligor's current support obligations subject to income withholding;
(b) Dividing each current support obligation by the total amount from paragraph (a) of this subsection, to determine a percentage; and
(c) Multiplying the withheld payment received from the employer by the percentage from paragraph (b) of this subsection, to determine the portion of the payment to be applied to each current support obligation subject to income withholding.
(2) The cabinet shall allocate the payment amount determined in subsection (1)(c) of this section to each of the obligor's current support obligation amounts subject to income withholding.
(3) If the obligor's current support obligations subject to income withholding are satisfied for the current month, the cabinet shall allocate a remaining income withholding amount among the obligor's ordered arrears obligations subject to income withholding by:
(a) Totaling the obligor's ordered arrears obligations subject to income withholding;
(b) Dividing the monthly arrears obligation for each child support case by the total amount from paragraph (a) of this subsection, to determine a percentage; and
(c) Multiplying the remaining income withholding amount by the percentage from paragraph (b) of this subsection, to determine the portion of the payment to be applied to each arrears obligation subject to income withholding.
(4) The cabinet shall allocate the payment amount determined in subsection (3)(c) of this section to each of the obligor's arrears obligations subject to income withholding.
(5) If the obligor's current support and arrears obligations subject to income withholding are satisfied for the current month, the cabinet shall allocate a remaining income withheld amount proportionately according to subsections (1) through (4) of this section.
(6) Allocation of nonwage payments in IV-D and non-IV-D cases. The cabinet shall allocate nonwage payments:
(a) As designated by an obligor for a specific case; or
(b) If not designated by an obligor, by allocating a proportionate share to each of the obligor's child support cases, as determined in subsections (1) through (4) of this section.

Section 2. K-TAP and Kinship Care Accounts Distribution.

~~[(1)]~~ A child support payment collected on behalf of a K-TAP or Kinship Care recipient shall be:

(1) ~~[(a)]~~ Payable to the Department for Income Support, Child Support Enforcement.~~[; and]~~

~~[(b)] [Reported to the K-TAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient.]~~

~~[(2)] [Upon receipt of a notice of payment, the K-TAP or Kinship Care agency shall redetermine eligibility for assistance payments and report the result to the child support agency.]~~

(2) ~~[(a)]~~ If the K-TAP or Kinship Care case becomes ineligible, the child support agency shall:

(a) ~~[1.]~~ Distribute to the family at the end of the month the amount of child support collected; and

(b) ~~[2.]~~ Notify the family of continuation of child support services as specified in 921 KAR 1:380, Section 1(4)(b).

(3) ~~[(b)]~~ Unless a hearing is requested or a case remains eligible for assistance, the child support agency shall distribute the collection as specified in Section 6 of this administrative regulation.

Section 3. Distribution of Foster Care Accounts. A child support payment collected on behalf of a foster care recipient shall be:

(1) Payable to the Department for Income Support, Child Support Enforcement; and

(2) Distributed and disbursed to the foster care agency.

Section 4. Distribution of Tax Refund Intercept Amounts.

(1) A tax refund intercepted in a public assistance account shall be:

(a) Applied to assigned arrearage and forwarded to the public assistance agency within thirty (30) calendar days of the date of initial receipt; or

(b) If no assigned arrearage remains, the amount collected shall be:

1. Distributed to the family within thirty (30) calendar days, unless a joint income tax return is filed; or

2. Held by the cabinet for six (6) months before being distributed if a joint income tax return is filed.

(2) A tax refund intercepted for a nonpublic assistance account shall be:

(a) Applied to assigned arrearage; or

(b) If no assigned arrearage remains:

1. Held by the cabinet for six (6) months, if a joint income tax return is filed, before being distributed; or

2. Forwarded to the family within thirty (30) calendar days of the date of initial receipt.

(3) Within fifteen (15) calendar days of the date of resolution of an obligor's appeal contesting the accuracy of a past-due arrears, the cabinet shall forward the ordered amount to:

(a) The obligor, if resolution is in the obligor's favor; or

(b) The agency or family, if resolution is against the obligor.

Section 5. Interstate Case Payment Distribution. A child support payment that is collected by a responding state on behalf of an initiating state shall be forwarded to the location specified by the child support agency in the initiating state, within two (2) business days of initial receipt.

Section 6. Treatment of Escrow and Excess Payments.

(1) A child support payment shall be applied to the obligation amount for the month in which the support is received.

(2) In a K-TAP or Kinship Care case, if the obligation for current support and the collection for current support exceed the grant paid for the month in which the collection was made, the difference between the grant and the obligation or the collection, whichever is less, shall be considered escrow and distributed as follows:

(a) The portion that represents the federal share, as determined by the Medicaid match rate, shall be sent to the federal government for reimbursement of public assistance previously paid;

(b) The portion that represents the state share, as determined by the Medicaid match rate, shall be sent to the family; and

(c) An amount in excess of the current obligation shall be applied to arrearage.

Section 7. Return of Overpayment.

(1) If a child support overpayment is found to be due to the noncustodial parent, the amount shall be verified and, if legitimate, approved by the Department for Income Support, Child Support Enforcement, Processing and Distribution Branch.

(2) Upon approval by the Processing and Distribution Branch, a check writer shall be sent to the Department of Treasury for processing.

(3) A check for the approved amount of child support overpayment shall be issued to the noncustodial parent within one (1) to seven (7) days, unless the overpayment is due to a tax return. If the overpayment is due to a tax return, the approved amount shall be issued to the noncustodial parent:

(a) Within thirty (30) days if a single return; or

(b) Within six (6) months, if a joint return, from the date of the notification of federal tax offset or until notified that the unobligated spouse's share of the refund has been paid, whichever is earlier, in accordance with 45 C.F.R. 303.72(h)(5).

(31 Ky.R. 1372; Am. 1524; eff. 3-8-2005; 33 Ky.R. 1183; 1591; eff. 12-11-2006; 43 Ky.R. 354; eff. 10-19-2016; 50 Ky.R. 71; eff. 1-11-2024; Recodified to 040 KAR 001:420; eff. 6-22-2026.)

STEVEN P. VENO, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: August 9, 2023

FILED WITH LRC: August 14, 2023 at 11:00 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 23, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by October 16, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until October 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes the requirements for the distribution of child support.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary to de-implement the requirement to report to the KTAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient, as child support income is no longer countable for KTAP, Kinship Care and FAST programs in accordance with 45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5), and 42 U.S.C. 651.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 205.755(1) authorizes the secretary to prescribe the manner in which distributions of payments of support shall be made, consistent with state and federal law and administrative regulations. This administrative regulation establishes procedures for distribution of child support payments.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation will assist with further establishing procedures to ensure effective administration of and conforming to KRS 194A.050(1), 205.755(1), and 205.795.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
The amendment to this administrative regulation will no longer require the child support agency to report to the KTAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient.

(b) The necessity of the amendment to this administrative regulation:
The amendment to this administrative regulation is necessary to de-implement the requirement to report to the KTAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient, as child support income is no longer countable for KTAP, Kinship Care and FAST programs in accordance with 45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5), and 42 U.S.C. 651.

(c) How the amendment conforms to the content of the authorizing statutes:
The amendment conforms to the content of the authorizing statutes by clarifying the criteria used by the KTAP or Kinship Care agency in determining ongoing eligibility for KTAP, Kinship Care and FAST programs in conforming with in accordance with

45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5), and 42 U.S.C. 651. This amendment also identifies KRS 194A.050(1), 205.755(1), and 205.795 as the laws governing the distribution of child support.

(d) How the amendment will assist in the effective administration of the statutes:
The amendment will assist in the effective administration of the statutes by no longer requiring the child support agency to report to the KTAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
Child Support Enforcement attorneys and staff- 657; Division of Family Support attorneys and staff – 1915; Participants in the Child Support Program – 503,000; Participants in the KTAP, Kinship Care and FAST programs – 21,241

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Child Support Enforcement – will no longer be required to report to the KTAP or Kinship Care agency within ten (10) working days of the end of the month in which an escrow payment is disbursed to a recipient Division of Family Support – will no longer include escrow payment in determining ongoing eligibility for KTAP, Kinship Care and FAST programs Participants in the Child Support Program – escrow payments will no longer be a factor in determining ongoing eligibility for KTAP, Kinship Care and FAST programs Participants in the KTAP, Kinship Care and FAST programs - escrow payments will no longer be a factor in determining ongoing eligibility for KTAP, Kinship Care and FAST programs

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
The amendment to this administrative regulation will create no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):
The amendment to this administrative regulation will not increase accrued benefits to regulated entities

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:
The amendment to this administrative regulation will be implemented with no allocated funds.

(b) On a continuing basis:
The administrative regulation has no associated allocation of funding. Once updated on the Child Support Enforcement internal program (KASES), no additional costs are associated with this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The sources of funding include state general funds and federal funds under 42 U.S.C. 401-419, Title IV-D of the Social Security Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The amendment requires no increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The amendment to this administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities which elect to be regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.
45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5)

(2) State compliance standards.
KRS 194A.050(1), 205.755(1), 205.795, KRS 13B.010(2), 13B.170, 205.720, 205.750, 205.755, 205.795, 405.520, 407.5101

(3) Minimum or uniform standards contained in the federal mandate.
The provisions of the administrative regulation comply with the 42 U.S.C. 651.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.
This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Cabinet for Health and Family Services, more specifically, the Department for Income Support, Child Support Enforcement Program and Division of Family Support are impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

45 C.F.R. 302.32, 302.38, 302.51-302.54, 303.72(h)(5) KRS 194A.050(1), 205.755(1), 205.795, KRS 13B.010(2), 13B.170, 205.720, 205.750, 205.755, 205.795, 405.520, 407.5101 42 U.S.C. 651

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year?

No new or additional costs are necessary to administer this program in the first year.

(d) How much will it cost to administer this program for subsequent years?

No new or additional costs are necessary to administer this program in any subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate any cost savings for the regulated entities for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not generate any cost savings for the subsequent years.

(c) How much will it cost the regulated entities for the first year?
There will be no cost to the regulated entities for the first year.

(d) How much will it cost the regulated entities for subsequent years?
There will be no cost to the regulated entities for the subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.
"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will have no major economic impact as defined above.