

OFFICE OF THE ATTORNEY GENERAL
Department of Law
(Amendment)

40 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. A child support payment collected on behalf of a K-TAP or Kinship Care recipient shall be:

- (1) Payable to the Department for Income Support, Child Support Enforcement.
- (2) If the K-TAP or Kinship Care case becomes ineligible, the child support agency shall:
 - (a) Distribute to the family at the end of the month the amount of child support collected; and
 - (b) Notify the family of continuation of child support services as specified in 921 KAR 1:380, Section 1(4)(b).
- (3) 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).

(921 KAR 001:420. 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. 6-22-2026a.)