

ADOPTION SECTION

HUMAN SERVICES

DIVISION OF FAMILY DEVELOPMENT

Notice of Readoption

Child Support Program

Readoption with Technical Changes: N.J.A.C. 10:110

Authority: N.J.S.A. 30:1-12; 44:10-58; 47:1A-1 et seq. as amended by P.L. 2001, c. 404, Public Access to Government Records; 42 U.S.C. §§ 601, 654, 654(22), 658, 666(a)(17) and (a)(19), and 669A, as amended in accordance with Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); and 45 CFR 260.50-59, and 301 through 310; Public Law 105-34, The Taxpayer Relief Act of 1997; Public Law 105-149, The Balanced Budget Act of 1997; Child Support Performance and Incentive Act of 1998, P.L. 105-200; P.L. 1998, c. 1, the New Jersey Child Support Program Improvement Act (NJCSPIA); and P.L. 1998, c. 2, the New Jersey Uniform Interstate Family Support Act; 42 U.S.C. §§ 651 through 669B; the New Jersey Rules of Court (Rule 5:6A and Appendices IXA through IXH), and the Deficit Reduction Act of 2005 (P.L. 109-171).

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Effective Date: February 22, 2016.

New Expiration Date: February 22, 2023.

Take notice that, in accordance with N.J.S.A. 52:14B-5.1, N.J.A.C. 10:110 will expire on March 26, 2016. The Division of Family Development (DFD) has reviewed the rules and has determined to readopt these rules with technical changes. Effective June 29, 2012, the Division

of Youth and Family Services was renamed the Division of Child Protection and Permanency. See P.L. 2012, c. 16, § 20. Additionally, on June 29, 2012, P.L. 2012, c. 17, § 93 renamed the Department of Health and Senior Services as the Department of Health. Other technical changes include correcting incorrect Code cross-references, grammatical correction, and changing the name of the Department of Labor to the Department of Labor and Workforce Development. In accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period from the date of filing.

N.J.A.C. 10:110 establishes the policies necessary for the orderly provision of child support services on a Statewide basis. These policies are binding on those entities or partners in New Jersey's Child Support Program that administer any of the services of the Child Support Program or support the function of the Program and include, but are not limited to: the Office of Child Support Services (OCSS), the New Jersey Division of Family Development (DFD), the Department of Human Services (DHS); county welfare agency child support units (CWA/CSUs) and attorneys; county sheriffs' officers; the Judiciary; the Administrative Office of the Courts; the Probation Division Child Support Enforcement; Family Division Intake Units; Finance Division; local vicinage finance units; child support hearing officers; the courts; other departments and agencies with which OCSS shares information; contracted vendors of the New Jersey Child Support Program; attorneys; and other states through the interstate processes.

The policies of N.J.A.C. 10:110 comport with Federal and State statutes and rules that affect the Child Support Program, including the requirements of the applicable sections of the Social Security Act (42 U.S.C. §§ 651 - 669B), 45 CFR §§ 301 - 310, the New Jersey statutes,

the New Jersey Rules of Court, and directives of the Federal Office of Child Support Enforcement.

The following is a description of the subchapters in N.J.A.C. 10:110:

N.J.A.C. 10:110-1 describes the general provisions of the Child Support Program. This includes the purpose and scope of the Program as defined by Title IV-D of the Social Security Act. It introduces the Office of Child Support Services located in DFD, DHS, as the designated entity of the State responsible for supervising the New Jersey Child Support Program. The subchapter also defines the child support services that are provided, provides that there shall be no discrimination in the administration of these services, and delineates how both public assistance and non-public assistance applicants/recipients can access services.

The subchapter describes how requests for information shall be addressed and provides for confidentiality of information and the privacy of custodial and non-custodial parents and their children.

N.J.A.C. 10:110-1A defines the words and terms used within this chapter, unless the content of the subchapters clearly indicates otherwise.

N.J.A.C. 10:110-2 addresses the administration of the Child Support Program. This subchapter authorizes the OCSS to enter into cooperative agreements and contracts for IV-D services. The subchapter provides for the processing of intergovernmental cases in accordance

with the Uniform Interstate Family Support Act (UIFSA) and gives full faith and credit to other states' and eligible foreign jurisdictions' child support orders.

N.J.A.C. 10:110-3 addresses the continuing responsibilities of all entities involved in the delivery of child support services. This includes the OCSS; CWAs/CSUs and attorneys; the Judiciary: the Administrative Office of the Courts; the Probation Division Child Support Enforcement; Family Division Intake Units; the Finance Division; local vicinage finance units; child support hearing officers; and the courts.

N.J.A.C. 10:110-4 delineates the rights and responsibilities of both the custodial and the non-custodial parents in the child support process. The subchapter provides that both the custodial and the non-custodial parents shall be provided with easy access to an application for child support services, and once the case is established, are entitled to notice of actions that significantly impact the status of the case. The subchapter also delineates some of the responsibilities of the custodial and non-custodial parents. Their responsibilities include the duty to cooperate in providing information used to establish paternity and information used to establish an order for monetary and medical support. The parents are also obligated to provide any changes in information concerning addresses, employment or custody.

N.J.A.C. 10:110-5 provides that child support services are delivered through administrative subpoena and administrative enforcement whenever possible. The subchapter details the use of the administrative subpoena and the penalties for refusal to comply. This subchapter confers authorization on the Program to petition the court to have a non-custodial

parent (both those with a child(ren) receiving public assistance and those that are non-assistance cases) participate in work activities for the non-payment of child support.

N.J.A.C. 10:110-6 discusses child support authorizations granted to agencies providing certain services to children. It delineates that an assignment of child support rights to the CWA is automatic upon application for or receipt of Work First New Jersey/Temporary Assistance for Needy Families (WFNJ/TANF) benefits on behalf of a child, or upon, referral of a case by the Division of Child Protection and Permanency (CP&P) (formerly known as the Division of Youth and Family Services (DYFS)) for a child receiving such services. Moreover, an assignment of medical support rights to the Division of Medical Assistance and Health Services is automatic upon application for Medicaid. The subchapter also provides that any application for child support services by a non-public assistance individual is authorization by that individual to have the Child Support Program locate or assist him or her in establishing parentage and establishing, modifying, or enforcing child and medical support orders for his or her child(ren).

N.J.A.C. 10:110-7 deals with the application process and fees for child support services. The subchapter provides that there is no fee for public assistance recipients. Applications are to be made accessible to the public. The fee for non-public assistance recipients is six dollars.

N.J.A.C. 10:110-8 describes case action procedures to initiate child support services for WFNJ/TANF applicants/recipients who must cooperate in order to receive public assistance benefits, and for non-public assistance applicants/recipients requesting those services.

N.J.A.C. 10:110-9 concerns cooperation rules for WFNJ/TANF and Medicaid applicants/recipients. Applicants and recipients of WFNJ/TANF are required to cooperate with the child support agency to establish parentage and establish, modify, and enforce child and medical support orders. If the applicant/recipient of WFNJ/TANF fails to cooperate by not providing the necessary information, the child support agency shall send notice to the applicant/recipient that a determination of non-cooperation shall be made, unless he or she takes specified actions to cooperate. The subchapter includes the handling of cases requesting good cause exceptions to cooperation with child support requirements.

N.J.A.C. 10:110-10 deals with service of process in proceedings to establish, modify, and enforce orders. The subchapter also discusses diligent efforts to serve process, including making inquiries of government agencies such as the United States Postal Service, the New Jersey Motor Vehicle Commission, the New Jersey Department of Labor and Workforce Development, the New Jersey Department of Corrections, and the Division of Taxation in the New Jersey Department of the Treasury.

N.J.A.C. 10:110-11 provides the timeframes for conducting location efforts in pursuing non-custodial parents or putative fathers and/or their assets. The subchapter provides that all available local, State, and Federal resources shall be utilized during location investigations.

N.J.A.C. 10:110-12 delineates paternity establishment policies. It identifies the timeframes for commencing a paternity establishment action. Before initiating proceedings to establish paternity, an allegation of paternity shall be made. The subchapter provides for the

voluntary establishment of paternity through the Certificate of Parentage. In cases where paternity is not voluntarily established, a complaint shall be filed in a court of competent jurisdiction. Where genetic testing is warranted, it shall be scheduled with a State-approved facility. If genetic test results show the putative father meets the 95 percent or higher threshold of probability, a rebuttable presumption of paternity is created and is the basis for entry of a judgment of paternity.

N.J.A.C. 10:110-13 provides the establishment of support obligations in accordance with the New Jersey Child Support Guidelines. The subchapter provides the timeframes for establishing child and medical support obligations in cases where parentage has been legally established, but where a support order does not exist. The Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A are incorporated into this subchapter, by reference. The court may as much as possible only deviate from the guidelines when a party demonstrates good cause.

N.J.A.C. 10:110-14 provides for the triennial review and possible adjustment/modification of orders. All WFNJ/TANF, foster care, and Medicaid cases on which a support order has been established, or which were last reviewed or adjusted in the prior three-year period, shall have a review initiated by the Program for possible adjustment before the three-year anniversary date. The subchapter also identifies situations in which a review shall not be initiated. In addition, the review process and appropriate notices concerning the review are described.

N.J.A.C. 10:110-15 identifies the timeframes for enforcing support obligations and delineates the remedies available to enforce obligations.

N.J.A.C. 10:110-16 provides for the distribution of excess child support payments and the timeframes for distribution of the amounts collected.

N.J.A.C. 10:110-17 identifies how payments on past due support amounts (also known as arrearage payments) shall be used to satisfy claims where payment is made. Arrearage payments are distributed in accordance with the Federal provisions at 42 U.S.C. § 657(a)(2)(B). Exceptions to these provisions are those payments from Federal tax intercepts.

N.J.A.C. 10:110-18 provides for the distribution of incentive payments received by the IV-D Program of the State under section 458(f) of the Social Security Act and 45 CFR § 304.12. These funds supplement monies spent on the State IV-D Program. The subchapter describes the methodology for distribution of incentive funds to improve the effectiveness and efficiency of the State Program.

N.J.A.C. 10:110-19 provides that the State Case Registry shall be maintained in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193) and the New Jersey Child Support Program Improvement Act, P.L. 1998, c. 1.

N.J.A.C. 10:110-20 provides that all Federal requirements and timeframes for closure of IV-D cases are followed in accordance with 45 CFR § 303.11. The subchapter provides details on when child support cases should be closed for administrative purposes to maintain a caseload that includes only those cases for which adequate information is available and have a greater likelihood of resulting in provision of support to children. Such procedures enable the Program to be more responsive to those families and children it can assist, while being administratively efficient in establishing paternity and securing support. The subchapter also discusses case record retention and the re-opening of closed cases.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

10:110-1.4 Eligibility for services

- (a) Individuals residing in New Jersey who receive WFNJ/TANF, WFNJ/GA, Title XIX Medicaid assistance or who are referred as Title IV-E foster care cases are eligible for child support services.

1. WFNJ/TANF and WFNJ/GA applicants and recipients, Title XIX Medicaid applicants and recipients, and Title IV-E [DYFS] **CP&P** referrals shall accept child support services, including medical support establishment and enforcement, as a condition of eligibility for public assistance, unless good cause is found in accordance with N.J.A.C. 10:110-9.2 through 9.5 or 10:90-16.2 through 16.5 for not providing these services.

2.-4. (No change.)

(b)-(c) (No change.)

10:110-1A.1 Definitions

The following words and terms, used within this chapter, shall have the following meanings unless the context clearly indicates otherwise:

. . . .

“CP&P” means the Division of Child Protection and Permanency in the Department of Children and Families.

. . . .

SUBCHAPTER 3. RESPONSIBILITIES IN THE DELIVERY OF SERVICES

10:110-3.3 CWA/CSU's responsibilities

(a) The CWA/CSU shall:

1.-8. (No change.)

9. Provide, as representatives of the State IV-D Agency on the local level, appropriate IV-D services for those referrals received from [DYFS] **CP&P** in accordance with the terms of the IV-E/IV-D Inter-Divisional Cooperative Agreement;

10.-11. (No change.)

SUBCHAPTER 6. CWA AS PAYEE

10:110-6.1 Assignment of rights

- (a) (No change.)
- (b) Assignment of support rights applies to any Division of [Youth and Family Services (DYFS)] **Child Protection and Permanency (CP&P)** case referred for child support services.
- (c) (No change.)
- (d) Whenever a family is no longer eligible for assistance under WFNJ/TANF, [DYFS] **CP&P**, or Medicaid, the county agency shall notify the family within five working days of the notification of ineligibility or termination, that Title IV-D services shall

continue unless the family notifies the county agency that services are no longer desired.

10:110-9.2 Cooperation with child support for WFNJ eligibility

- (a) (No change.)

- (b) WFNJ/TANF applicants, as a condition of eligibility for WFNJ, automatically assign to the CWA all rights to support from the children's non-custodial parent(s) or any other support to which the eligible children, or the applicant when he or she is included in the eligible unit, may be entitled (see N.J.A.C. 10:110-6.1). An assignment of rights is also required for [DYFS] **CP&P** cases under Section 471(a)17 of the Social Security Act and as a condition of Medicaid under 42 C.F.R. 433.146.

- (c) Title IV-D services with regard to paternity determinations and support collections shall be available to the Division of [Youth and Family Services (DYFS)] **Child Protection and Permanency (CP&P)** upon application and referral on behalf of the child(ren) for whom services are requested.

- (d) (No change.)

10:110-9.5 Good cause exceptions to cooperation

(a)-(h) (No change.)

(i) A WFNJ/TANF applicant/recipient who claims a good cause exception from the child support requirements for the reasons indicated in (e) through (h) above shall be required to establish the existence of a good cause circumstance.

1. To establish the existence of a good cause claim, the applicant/recipient shall be required to:

i.-ii. (No change.)

iii. At the request of the CWA/CSU provide sufficient information (such as name and address), if known, of the non-custodial parent to permit an investigation to corroborate the good cause circumstance.

(1) (No change.)

(j)-(n) (No change.)

10:110-11.2 Location sources

(a)-(h) (No change.)

(i) Any employer or labor organization doing business in this State who has employees (including contractors and independent contractors) who are employed in two or more states, and has designated a state other than this State for reporting new hire information, in accordance with 42 U.S.C. § [453A] **653A**, shall be deemed in compliance with P.L. 1998, c.1.

(j)-(k) (No change.)

(l) In accordance with N.J.A.C. 10:110-1.7, the OCSS shall have access, including automated access when feasible, to the following resources, if appropriate, for child support enforcement purposes:

1. Records of other state and local government agencies including, but not limited to:

i. Bureau of Vital Statistics in the Department of Health [and Senior Services];

ii.-ix (No change.)

2. (No change.)

(m)-(o) (No change.)

10:110-14.1 Case selection

(a)-(b) (No change.)

(c) The CWA/CSU shall not initiate a triennial review when:

1. (No change.)

2. In a Title IV-E foster care case, the Division of [Youth and Family Services] **Child Protection and Permanency** has made a determination of good cause and neither party has requested a review;

3.-7. (No change.)

10:110-15.2 Child support enforcement remedies

(a) Available enforcement remedies shall include, but are not limited to:

1. (No change.)

2. Unemployment compensation benefits intercept provisions are as follows:

- i. Under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor **and Workforce Development**, the unemployment benefits of non-custodial parents who owe past-due support shall be withheld in accordance with 45 C.F.R. 302.65.

3.-9. No change.)

10. Set-Off of Individual Liability Program (SOIL) provisions are as follows:

- i. Cases for offset shall be submitted by the OCSS to the New Jersey Set-Off of Individual Liability Program (SOIL) pursuant to N.J.A.C. 18:35-[2.3]**10.3**.

(1)-(4) (No change.)

11.-14 (No change.)