

§ 302.60

(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

(f) Effective October 13, 1989, the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.

(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19649, May 9, 1985; 50 FR 23958, June 7, 1985, as amended at 51 FR 37731, Oct. 24, 1986; 56 FR 22354, May 15, 1991; 73 FR 42441, July 21, 2008]

§ 302.60 Collection of past-due support from Federal tax refunds.

The State plan shall provide that:

(a) The IV-D agency has in effect procedures necessary to obtain payment of

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past-due support from Federal tax refunds as set forth in section 464 of the Act, § 303.72 of this chapter, and regulations of the Internal Revenue Service at 26 CFR 304.6402-1; and

(b) The IV-D agency shall take the steps necessary to implement and use these procedures.

(Approved by the Office of Management and Budget under control number 0960-0253)

[47 FR 7428, Feb. 19, 1982]

§ 302.65 Withholding of unemployment compensation.

The State plan shall provide that the requirements of this section are met.

(a) *Definitions.* When used in this section:

Legal process means a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law.

State employment security agency or *SESA* means the State agency charged with the administration of the State unemployment compensation laws in accordance with title III of the Act.

Unemployment compensation means any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law). It includes extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, disaster unemployment assistance, and payments under the Redwood National Park Expansion Act.

(b) *Agreement.* The State IV-D agency shall enter into a written agreement with the SESA in its State for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV-D agency. The IV-D agency shall agree only to a withholding program that it expects to be cost-effective and to reimbursement for the SESA's actual, incremental costs of providing services to the IV-D agency.

(c) *Functions to be performed by the IV-D agency.* The IV-D agency shall:

(1) Determine periodically from information provided by the SESA under section 508 of the Unemployment Compensation Amendments of 1976 whether individuals applying for or receiving unemployment compensation owe support obligations that are being enforced by the IV-D agency.

(2) Enforce unmet support obligations by arranging for the withholding of unemployment compensation based on a voluntary agreement with the individual who owes the support, or in appropriate cases which meet the case selection criteria established under paragraph (c)(3), through legal process pursuant to State or local law. If a voluntary agreement is obtained, the IV-D agency must give the SESA a copy of the voluntary agreement.

(3) Establish and use written criteria for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to insure maximum case selection and minimal discretion in the selection process.

(4) Provide a receipt at least annually to an individual who requests a receipt for the support paid via the withholding of unemployment compensation, if receipts are not provided through other means.

(5) Maintain direct contact with the SESA in its State:

(i) By processing cases through the SESA in its own State or through IV-D agencies in other States; and

(ii) By receiving all amounts withheld by the SESA in its own State and forwarding any amounts withheld on behalf of IV-D agencies in other States to those agencies.

(6) Reimburse the administrative costs incurred by the SESA that are actual, incremental costs attributable to the process of withholding unemployment compensation for support purposes insofar as these costs have been agreed upon by the SESA and the IV-D agency.

(7) Review and document, at least annually, program operations, including case selection criteria established under paragraph (c)(3), and costs of the withholding process versus the amounts collected and, as necessary, modify procedures and renegotiate the

services provided by the SESA to improve program and cost effectiveness.

[49 FR 8927, Mar. 9, 1984, as amended at 68 FR 25303, May 12, 2003]

§ 302.70 Required State laws.

(a) *Required Laws.* The State plan shall provide that, in accordance with sections 454(20) and 466 of the Act and part 303 of this chapter, the State has in effect laws providing for, and has implemented procedures to improve, program effectiveness:

(1) Procedures for carrying out a program of withholding under which new or existing support orders are subject to the State law governing withholding so that a portion of the noncustodial parent's wages may be withheld, in accordance with the requirements set forth in § 303.100 of this chapter;

(2) Expedited processes to establish paternity and to establish and enforce child support orders having the same force and effect as those established through full judicial process, in accordance with the requirements set forth in § 303.101 of this chapter;

(3) Procedures for obtaining overdue support from State income tax refunds on behalf of individuals receiving IV-D services, in accordance with the requirements set forth in § 303.102 of this chapter;

(4) Procedures for the imposition of liens against the real and personal property of noncustodial parents who owe overdue support;

(5)(i) Procedures for the establishment of paternity for any child at least to the child's 18th birthday, including any child for whom paternity has not yet been established and any child for whom a paternity action was previously dismissed under a statute of limitations of less than 18 years; and

(ii) Effective November 1, 1989, procedures under which the State is required (except in cases where the individual involved has been found under section 454(29) of the Act to have good cause for refusing to cooperate or if, in accordance with § 303.5(b) of this chapter the IV-D agency has determined that it would not be in the best interest of the child to establish paternity in a case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending) to require the