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comparable law or rule that modifies a child support obligation upon incarceration by operation of State law.

(c) Standard for adequate grounds. The State may establish a reasonable quantitative standard based upon either a fixed dollar amount or percentage, or both, as a basis for determining whether an inconsistency between the existent child support award amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order. Such reasonable quantitative standard must not exclude incarceration as a basis for determining whether an inconsistency between the existing child support order amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.

(d) *Health care needs must be an adequate basis.* The need to provide for the child's health care needs in the order, through health insurance or other means, must be an adequate basis under State law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary.

(e) Timeframes for review and adjustment. Within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must: Conduct a review of the order and adjust the order or determine that the order should not be adjusted, in accordance with this section.

(f) Interstate review and adjustment. (1) In interstate cases, the State with legal authority to adjust the order must conduct the review and adjust the order pursuant to this section.

(2) The applicable laws and procedures for review and adjustment of child support orders, including the State guidelines for setting child support awards, established in accordance with §302.56 of this chapter, are those of the State in which the review and adjustment, or determination that there be no adjustment, takes place.

[68 FR 25303, May 12, 2003, as amended at 69 FR 77661, Dec. 28, 2004; 73 FR 74920, Dec. 9, 2008; 81 FR 93564, Dec. 20, 2016]

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§ 303.10 [Reserved]

§ 303.11 Case closure criteria.

(a) The IV-D agency shall establish a system for case closure.

(b) The IV-D agency may elect to close a case if the case meets at least one of the following criteria and supporting documentation for the case closure decision is maintained in the case record:

(1) There is no longer a current support order and arrearages are under \$500 or unenforceable under State law;

(2) There is no longer a current support order and all arrearages in the case are assigned to the State;

(3) There is no longer a current support order, the children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support;

(4) The noncustodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken;

(5) The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV-D agency has determined that services are not appropriate or are no longer appropriate;

(6) Paternity cannot be established because:

(i) The child is at least 18 years old and an action to establish paternity is barred by a statute of limitations that meets the requirements of §302.70(a)(5) of this chapter;

(ii) A genetic test or a court or an administrative process has excluded the alleged father and no other alleged father can be identified;

(iii) In accordance with §303.5(b), the IV-D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or rape, or in any case where legal proceedings for adoption are pending; or

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at

least one interview by the IV-D agency with the recipient of services;

(7) The noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with §303.3, all of which have been unsuccessful, to locate the noncustodial parent:

(i) Over a 2-year period when there is sufficient information to initiate an automated locate effort; or

(ii) Over a 6-month period when there is not sufficient information to initiate an automated locate effort; or

(iii) After a 1-year period when there is sufficient information to initiate an automated locate effort, but locate interfaces are unable to verify a Social Security Number;

(8) The IV-D agency has determined that throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no evidence of support potential because the parent has been institutionalized in a psychiatric facility, is incarcerated, or has a medically-verified total and permanent disability. The State must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support;

(9) The noncustodial parent's sole income is from:

(i) Supplemental Security Income (SSI) payments made in accordance with sections 1601 *et seq.*, of title XVI of the Act, 42 U.S.C. 1381 *et seq.*; or

(ii) Both SSI payments and either Social Security Disability Insurance (SSDI) or Social Security Retirement (SSR) benefits under title II of the Act.

(10) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and there is no Federal or State treaty or reciprocity with the country;

(11) The IV-D agency has provided location-only services as requested under §302.35(c)(3) of this chapter;

(12) The non-IV-A recipient of services requests closure of a case and there is no assignment to the State of medical support under 42 CFR 433.146 or

of arrearages which accrued under a support order;

(13) The IV-D agency has completed a limited service under §302.33(a)(6) of this chapter;

(14) There has been a finding by the IV-D agency, or at the option of the State, by the responsible State agency of good cause or other exceptions to cooperation with the IV-D agency and the State or local assistance program, such as IV-A, IV-E, Supplemental Nutrition Assistance Program (SNAP), and Medicaid, has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

(15) In a non-IV-A case receiving services under §302.33(a)(1)(i) or (iii) of this chapter, or under §302.33(a)(1)(ii) when cooperation with the IV-D agency is not required of the recipient of services, the IV-D agency is unable to contact the recipient of services despite a good faith effort to contact the recipient through at least two different methods;

(16) In a non-IV-A case receiving services under §302.33(a)(1)(i) or (iii) of this chapter, or under §302.33(a)(1)(ii) when cooperation with the IV-D agency is not required of the recipient of services, the IV-D agency documents the circumstances of the recipient's noncooperation and an action by the recipient of services is essential for the next step in providing IV-D services;

(17) The responding agency documents failure by the initiating agency to take an action that is essential for the next step in providing services;

(18) The initiating agency has notified the responding State that the initiating State has closed its case under §303.7(c)(11);

(19) The initiating agency has notified the responding State that its intergovernmental services are no longer needed;

(20) Another assistance program, including IV-A, IV-E, SNAP, and Medicaid, has referred a case to the IV-D agency that is inappropriate to establish, enforce, or continue to enforce a child support order and the custodial or noncustodial parent has not applied for services; or

(21) The IV-D case, including a case with arrears assigned to the State, has

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been transferred to a Tribal IV–D agency and the State IV–D agency has complied with the following procedures:

(i) Before transferring the State IV–D case to a Tribal IV–D agency and closing the IV–D case with the State:

(A) The recipient of services requested the State to transfer the case to the Tribal IV–D agency and close the case with the State; or

(B) The State IV–D agency notified the recipient of services of its intent to transfer the case to the Tribal IV–D agency and close the case with the State and the recipient did not respond to the notice to transfer the case within 60 calendar days from the date notice was provided;

(ii) The State IV–D agency completely and fully transferred and closed the case; and

(iii) The State IV–D agency notified the recipient of services that the case has been transferred to the Tribal IV–D agency and closed; or

(iv) The Tribal IV–D agency has a State-Tribal agreement approved by OCSE to transfer and close cases. The State-Tribal agreement must include a provision for obtaining the consent from the recipient of services to transfer and close the case.

(c) The IV–D agency must close a case and maintain supporting documentation for the case closure decision when the following criteria have been met:

(1) The child is eligible for health care services from the Indian Health Service (IHS); and

(2) The IV–D case was opened because of a Medicaid referral based solely upon health care services, including the Purchased/Referred Care program, provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12)).

(d) The IV–D agency must have the following requirements for case closure notification and case reopening:

(1) In cases meeting the criteria in paragraphs (b)(1) through (10) and (b)(15) and (16) of this section, the State must notify the recipient of services in writing 60 calendar days prior to closure of the case of the State’s intent to close the case.

(2) In an intergovernmental case meeting the criteria for closure under paragraph (b)(17) of this section, the re-

sponding State must notify the initiating agency, in a record, 60 calendar days prior to closure of the case of the State’s intent to close the case.

(3) The case must be kept open if the recipient of services or the initiating agency supplies information in response to the notice provided under paragraph (d)(1) or (2) of this section that could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(15) of this section, if contact is reestablished with the recipient of services.

(4) For cases to be closed in accordance with paragraph (b)(13) of this section, the State must notify the recipient of services, in writing, 60 calendar days prior to closure of the case of the State’s intent to close the case. This notice must also provide information regarding reapplying for child support services and the consequences of receiving services, including any State fees, cost recovery, and distribution policies. If the recipient reapplies for child support services in a case that was closed in accordance with paragraph (b)(13) of this section, the recipient must complete a new application for IV–D services and pay any applicable fee.

(5) If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances that could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application for IV–D services and paying any applicable fee.

(6) For notices under paragraphs (d)(1) and (4) of this section, if the recipient of services specifically authorizes consent for electronic notifications, the IV–D agency may elect to notify the recipient of services electronically of the State’s intent to close the case. The IV–D agency must maintain documentation of the recipient’s consent in the case record.

(e) The IV–D agency must retain all records for cases closed in accordance with this section for a minimum of 3 years, in accordance with 45 CFR 75.361.

[81 FR 93564, Dec. 20, 2016, as amended at 85 FR 35207, June 9, 2020]