

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 12: Enforcement</b>	<b>Effective Date: 07/28/2021</b>
	<b>Section 6: Administrative Hearings</b>	<b>Version: 1.1 Date: 07/28/2021</b>

**BACKGROUND**

Federal law mandates that States have an administrative procedure in place to allow individuals the opportunity to request an administrative review, and take appropriate action when there is evidence that an error has occurred or an action should have been taken on their case.<sup>1</sup>

**POLICY**

The Indiana Administrative Code establishes procedures for the Child Support Bureau (CSB) to administratively adjudicate, upon a request for an administrative hearing by an obligor aggrieved by the enforcement of a child support obligation including:

1. The withholding of income;
2. The suspension of licenses and permits; or
3. The interception of a State tax refund applied to a delinquent child support obligation.<sup>2</sup>

The Indiana Administrative Code also establishes procedures for the CSB to administratively adjudicate, upon request for an administrative hearing by an obligee aggrieved by the distribution of child support payments involving an assignment to the State for the previous receipt of federal Temporary Assistance for Needy Families (TANF) by an obligee.<sup>3</sup>

**REFERENCES**

- [IC 4-15-10.5-1](#): Application of Chapter
- [IC 4-15-10.5-2](#): Entities to which the chapter does not apply
- [IC 4-15-10.5-3](#): “Administrative law judge”
- [IC 4-21.5-3-14](#): Record; hearing on motion; burden of proof; standard of review
- [IC 4-31-2-5.5](#): “Delinquent”
- [IC 4-33-2-5.8](#): “Delinquent”
- [IC 4-35-2-3.5](#): “Delinquent”
- [IC 6-8.1-9.5-5](#): Notice by Claimant Agency of Intent to Refund Set Off
- [IC 6-8.1-9.5-6](#): Contest of Agency’s Claim; Notice
- [IC 14-11-3-0.5](#): Delinquent defined
- [IC 25-1-1.2](#): Effect of Delinquency in Child Support Payments on Licensed or Registered Persons
- [IC 31-16-12-7](#): Suspension of Delinquent Person’s Driving Privileges
- [IC 31-16-12-8](#): Suspension or Denial of Delinquent Person’s Professional License

<sup>1</sup> 45 C.F.R. § 303.35

<sup>2</sup> 465 IAC 3-3-1

<sup>3</sup> 465 IAC 3-3-1(a)(3)(E)

- [IC 31-16-12-9](#): Suspension of Delinquent Person's Horse Racing Commission or Gaming Commission License
- [IC 31-16-12-10](#): Suspension, Denial, or Nonrenewal of Delinquent Person's Insurance, Recovery, or Bail Agent's License
- [IC 31-16-12-13](#): Suspension, Denial, or Nonrenewal of Delinquent Person's Employee's Permit
- [IC 31-16-15-3.5](#): Notice to Withhold Income
- [IC 31-16-15-4.3](#): Income Withholding Order; Contesting Implementation
- [IC 31-25-4-2](#): Delinquent
- [IC 31-25-4-32](#): Finding Obligor Delinquent; Notice; Order to Suspend Driving Privileges; Licenses and Permits: Sanctions
- [IC 31-25-4-17](#): Support related duties of bureau
- [IC 31-25-4-26](#): Appeal right of aggrieved TANF recipient; issue limitation; correction action on erroneous records
- [IC 31-25-4-33](#): Objections to Order; Hearing
- [465 IAC 3-1-3](#): Administrative Law Judge or ALJ defined
- [465 IAC 3-3-1](#): Purpose
- [465 IAC 3-3-3](#): Request for Hearing
- [465 IAC 3-3-5](#): Review of Child Support Hearing Requests
- [465 IAC 3-3-8](#): Appointment of Administrative Law Judges
- [465 IAC 3-3-9](#): Scheduling of Hearings
- [465 IAC 3-3-14](#): Burden of Proof
- [465 IAC 3-3-16](#): Hearing Decision
- [CSB-LTR-5-29-99](#): State Tax Offset Threshold Change
- [42 U.S.C. § 666](#): Requirement of Statutorily Prescribed Procedures to Improve Effectiveness of Child Support Enforcement
- [45 C.F.R. § 302.54](#): Notice of collection of assigned support
- [45 C.F.R. § 303.35](#): Administrative Complaint Procedure
- [45 C.F.R. § 303.100](#): Procedures for Income Withholding

<b>PROCEDURE</b>
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1. Actions Eligible for Administrative Hearing

A. Income Withholding

When the Title IV-D Prosecutor's Office or the CSB issues an income withholding order (IWO), a Notice to Withhold Income (NOW) providing information about the IWO and details on how the obligor can contest implementation of the IWO shall be issued to the obligor concurrently with the initial IWO issued to the income payor.<sup>4</sup> If required by local rules established by the Title IV-D Prosecutor's Office, this NOW may be issued concurrently with each subsequent IWO issued on the case. Upon receiving the NOW, the obligor may appeal the issuance of an IWO initiated by the Title IV-D Prosecutor's Office or the CSB by sending a written request for an administrative hearing to the Centralized Enforcement Unit (CEU) of CSB within 20

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<sup>4</sup> IC 31-16-15-4.3; 42 U.S.C. § 666(b)(4)  
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days of the date the NOW was mailed.<sup>5</sup> The only basis for appeal is mistake of fact:<sup>6</sup>

- 1) The person to whom the notice was sent is not the person to whom the notice applies; or
- 2) An error in the amount of current or overdue support.<sup>7</sup>

CEU initially reviews the written request for an administrative hearing within one (1) to two (2) business days after its receipt to determine if the request was timely, and whether the basis of the request for hearing asserts an issue that is eligible for administrative hearing.<sup>8</sup> If the request is determined to be untimely or presents an issue that is not eligible for administrative hearing, CEU notifies the obligor and states the reason upon which the hearing request is to be denied.<sup>9</sup> If the obligor is denied a hearing request, and thus administrative remedies have been exhausted, the obligor may seek a judicial determination to prevent the enforcement action.

CEU sends eligible hearing requests to the Office of Administrative Law Proceedings (OALP) for the scheduling of the administrative hearing. CEU also contacts the Title IV-D Prosecutor's Office who is enforcing the order to obtain copies of court orders, payment history, and arrearage calculation to be used as evidence at the administrative hearing. It is imperative that the Title IV-D Prosecutor's Office respond promptly to this request as the hearing shall be set within 25 days of CEU receiving the obligor's request for an administrative hearing.<sup>10</sup>

## B. License Suspension

When an obligor has an arrearage of at least \$2,000.00 or is past due in the equivalent of three (3) months of court ordered child support on a case, regardless of whether or not the order is for current support or arrears only, the Title IV-D Prosecutor's Office may initiate administrative sanctions, and subsequently issue a notice of intent, against the obligor's professional or occupational license or permit with the appropriate licensing entity to suspend:

- 1) the obligor's driver's license with the Indiana Bureau of Motor Vehicles<sup>11</sup>;
- 2) river boat license or gambling license issued by the Indiana Gaming Commission<sup>12</sup>;
- 3) horse racing license issued by the Indiana Horse Racing Commission<sup>13</sup>;
- 4) fishing, hunting, and trapping licenses, Lake Michigan commercial fishing license, bait dealer's license, mussel license, fur buyer's license, nursery dealer's license, and ginseng dealer's license issued by the Indiana Department of Natural Resources<sup>14</sup>;

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<sup>5</sup> IC 31-16-15-4.3; 465 IAC 3-3-3(c)

<sup>6</sup> IC 31-16-15-4.3

<sup>7</sup> 45 C.F.R. § 303.100(c)(2)

<sup>8</sup> 465 IAC 3-3-5(a)

<sup>9</sup> 465 IAC 3-3-5(b)

<sup>10</sup> 465 IAC 3-3-9(c)(3)

<sup>11</sup> IC 31-25-4-2; IC 31-16-12-7

<sup>12</sup> IC 4-33-2-5.8; IC 4-35-2-3.5; IC 31-25-4-32(a)(5)(E); IC 31-16-12-9

<sup>13</sup> IC 4-31-2-5.5; IC 31-25-4-32(a)(5)(D); IC 31-16-12-9

<sup>14</sup> IC 14-11-3-0.5; IC 31-25-4-32(a)(5)(G);

- 5) insurance producers license, surplus line producers license, bail agent license, and recovery agent license issued by the Indiana Department of Insurance<sup>15</sup>; or
- 6) employee's permit to be a bartender, waiter, waitress, or manager in a retail establishment issued by the Indiana Alcohol and Tobacco Commission; or<sup>16</sup>
- 7) license, certificate, permit, or registration issued by the Indiana Professional Licensing Agency.<sup>17</sup>

Upon receiving the notice of intent, the obligor may appeal the administrative license sanctions initiated by the Title IV-D Prosecutor by sending a written request for an administrative hearing to the CEU within 20 days of the date the notice of intent was mailed.<sup>18</sup> The only basis for appeal is mistake of fact.<sup>19</sup>

- 1) The person to whom the notice was sent is not the person to whom the notice applies; or
- 2) The arrearage is less than the amount required to initiate the action.<sup>20</sup>

CEU initially reviews the written request for an administrative hearing within one (1) to two (2) business days after its receipt to determine if the request was timely, and whether the basis of the request for hearing asserts an issue that is eligible for administrative hearing.<sup>21</sup> If the request is determined to be untimely or presents an issue that is not eligible for administrative hearing, CEU notifies the obligor and states the reason upon which the hearing request is to be denied.<sup>22</sup> If the obligor is denied a hearing request, and thus administrative remedies have been exhausted, the obligor may seek a judicial determination to prevent the enforcement action.

CEU sends eligible hearing requests to OALP for the scheduling of the administrative hearing. CEU also contacts the Title IV-D Prosecutor's Office that initiated the license suspension to obtain copies of court orders, payment history, and arrearage calculation to be used as evidence at the administrative hearing. It is imperative that the Title IV-D Prosecutor's Office respond promptly to this request as the hearing shall be set within 25 days of CEU receiving the obligor's request for an administrative hearing.<sup>23</sup>

### C. State Tax Offset

When the obligor has an arrearage balance of \$150.00 or more among all of the obligor's cases, the CSB will submit the obligor's arrears balance to the Indiana State Department of Revenue (SDOR) for State tax offset.<sup>24</sup> The CSB shall send a notice

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<sup>15</sup> IC 31-25-4-32(a)(5)(F); IC 31-16-12-10

<sup>16</sup>; IC 31-25-4-2; IC 31-16-12-13

<sup>17</sup> IC 25-1-1.2; IC 31-16-12-8; IC 31-25-4-32(a)(5)(A)

<sup>18</sup> 465 IAC 3-3-3(i)

<sup>19</sup> IC 31-25-4-33(b)

<sup>20</sup> 465 IAC 3-3-3(k)

<sup>21</sup> 465 IAC 3-3-5(a)

<sup>22</sup> 465 IAC 3-3-5(b)

<sup>23</sup> 465 IAC 3-3-9(c)(3)

<sup>24</sup> CSB-LTR-5-29-99

of intent to offset the State tax refund to the obligor within 15 days of receiving notice from the SDOR that the obligor is entitled to a State tax refund.<sup>25</sup>

Upon receiving the notice of intent, the obligor may appeal the administrative State tax offset by sending a written request for an administrative hearing to CEU within 30 days of the date the notice of intent was mailed.<sup>26</sup> The only basis for appeal is mistake of fact:<sup>27</sup>

- 1) The person to whom the notice was sent is not the person to whom the notice applies; or
- 2) The arrearage is less than the amount required to initiate the action.

CEU will initially review the written request for an administrative hearing within one (1) to two (2) business days after its receipt to determine if the request was timely, and whether the basis of the request for hearing asserts an issue that is eligible for administrative hearing.<sup>28</sup> If the request is determined to be untimely or presents an issue that is not eligible for administrative hearing, CEU notifies the obligor and states the reason upon which the hearing request is to be denied.<sup>29</sup> If the obligor is denied a hearing request, and thus administrative remedies have been exhausted, the obligor may seek a judicial determination to prevent the enforcement action.

CEU sends eligible hearing requests to OALP for the scheduling of the administrative hearing. CEU also contacts the Title IV-D Prosecutor's Office in the enforcing county to obtain copies of court orders, payment history, and arrearage calculation to be used as evidence at the administrative hearing. It is imperative that the Title IV-D Prosecutor's Office respond promptly to this request as the hearing shall be set within 25 days of CEU receiving the obligor's request for an administrative hearing.<sup>30</sup>

#### D. TANF Assignment of Rights

When CSB collects child support payments involving an assignment of rights to the State for an obligee's previous receipt of federal TANF, CSB sends the obligee a Monthly Notice of Child Support Collections Received.<sup>31</sup> This notice lists the amount of child support collected for the month from the obligor on each case and the actual case distribution of the money.<sup>32</sup>

Upon receiving the Monthly Notice of Child Support Collections Received, the obligee can contest the withholding of collected child support for repayment of TANF benefits based on the issue of proper distribution by sending a written request for an administrative hearing to CEU within 20 days of the date the notice was mailed.<sup>33</sup>

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<sup>25</sup> IC 6-8.1-9.5-5

<sup>26</sup> IC 6-8.1-9.5-6; 465 IAC 3-3-3(e)

<sup>27</sup> 465 IAC 3-3-3(k)

<sup>28</sup> 465 IAC 3-3-5(a)

<sup>29</sup> 465 IAC 3-3-5(b)

<sup>30</sup> 465 IAC 3-3-9(c)(3)

<sup>31</sup> 45 C.F.R. § 302.54(a)(1)

<sup>32</sup> 45 C.F.R. § 302.54(a)(2)

<sup>33</sup> IC 31-25-4-17(a)(1); IC 31-25-4-26; 465 IAC 3-3-3(f); 465 IAC 3-3-3(i)

CEU will initially review the written request for an administrative hearing within one (1) to two (2) business days after its receipt to determine if the request was timely, and whether the basis of the request for hearing asserts an issue that is eligible for administrative hearing.<sup>34</sup> If the request is determined to be untimely or presents an issue that is not eligible for administrative hearing, CEU notifies the obligee and states the reason upon which the hearing request is to be denied.<sup>35</sup> CEU will also send a copy of the Unreimbursed Past Public Assistance (UPPA) affidavit if the hearing request is denied. If the obligee is denied a hearing request, and thus administrative remedies have been exhausted, the obligee may seek a judicial determination to prevent the distribution action.

CEU sends eligible hearing requests to OALP for the scheduling of the administrative hearing. CEU also contacts the Title IV-D Prosecutor's Office in the enforcing county to obtain copies of court orders, payment history, and arrearage calculation to be used as evidence at the administrative hearing. It is imperative that the Title IV-D Prosecutor's Office respond promptly to this request as the hearing shall be set within 25 days of CEU receiving the obligor's request for an administrative hearing.<sup>36</sup> CEU will also request that an UPPA affidavit be completed by CSB's Public Assistance Research and Recovery (PARR) unit for the administrative hearing. Pre-ISETS child support or child and spousal collections are not included in this calculation.

## 2. Role of the CSB Attorney

OALP is a State agency that administers all DCS administrative hearings, as well as other State agencies not excluded by statute.<sup>37</sup> The administrative hearings are held telephonically, and obligors, or obligees if contesting the withholding of collected child support for the repayment of TANF benefits, and private counsel if retained, are required to appear.<sup>38</sup> Once the administrative hearing has been scheduled by OALP, the CSB attorney will represent the Title IV-D agency in the administrative hearing process.

The CSB attorney may contact the Title IV-D Prosecutor for additional information and/or clarification, as well as contact the obligor, the obligee if contesting the withholding of collected child support for the repayment of TANF benefits, or private counsel if represented. When the obligor or obligee appears for the administrative hearing, the CSB attorney may conduct a pre-hearing conference with the obligor or obligee, as well as exchange and explain exhibits that are to be admitted. It is the responsibility of the CSB attorney to enter into the record the list of exhibits in support of the enforcement action indicated in the NOW, or the notice of intent sent to the obligor, or the Monthly Notice of Child Support Collections Received sent to the obligee. Further, it is the responsibility of the CSB attorney to review any exhibit presented by the obligor or obligee for its admissibility.

## 3. Role of the Administrative Law Judge

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<sup>34</sup> 465 IAC 3-3-5(a)

<sup>35</sup> 465 IAC 3-3-5(b)

<sup>36</sup> 465 IAC 3-3-9(c)(3)

<sup>37</sup> IC 4-15-10.5-1(a); IC 4-15-10.5-2

<sup>38</sup> 465 IAC 3-3-8; 465 IAC 3-3-9(b)

The administrative law judge (ALJ) is tasked with conducting the administrative hearings and rendering decisions based upon the evidence presented.<sup>39</sup> CSB has the initial burden of proof that its requested actions are according to law.<sup>40</sup> Once that has been accomplished, the burden of proof shifts to the obligor to establish facts that act as a defense to that action.

Because OALP schedules the administrative hearing without consulting the availability of the obligor or obligee for the hearing, every obligor or obligee is granted one (1) continuance without having to show good cause. After the first continuance, the obligor or obligee is required to show good cause to request a second continuance. The determination of good cause is a matter of discretion for the ALJ.

A request for an administrative hearing may also be withdrawn by the obligor or obligee. CSB may also elect to terminate the proposed enforcement action.

During the hearing, exhibits are presented by the CSB attorney, including the NOW, the notice of intent, or the Monthly Notice of Child Support Collections Received, the obligor or obligee's request for hearing, the notice of hearing, any judicial orders supporting the calculation of arrearage, the Clerk of Court's record of payment history, as well as an affidavit of arrearage. The administrative hearing is limited in scope. The ALJ does not have the authority to modify an order, establish an arrears balance, change custody, emancipate a child, nor give credit for any direct payments the obligor may have made to the obligee. Further, the ALJ does not have the authority to order the Title IV-D agency, or the Clerk of Courts to change the record.

If the ALJ has made a determination of an obligor's mistake of identity fact, or that arrearages are less than the amount required to initiate the enforcement action, the ALJ will deny the proposed enforcement action, or remand it to the CSB for further consideration. If the ALJ has made a determination that there has been an improper distribution of collected child support funds that would have been due to the obligee, the ALJ will deny the proposed withholding action, or remand it to the CSB for further consideration. The ALJ determination is the final agency action. If the obligor wishes to further dispute the ALJ's determination in an income withholding or license suspension, the obligor must seek judicial redress.<sup>41</sup>

In cases where the ALJ has made a determination regarding State tax offset, either the obligor or the CSB may petition for review of that determination by the ultimate agency authority in a process similar to what is outlined in the Administrative Orders and Procedure Act (AOPA).<sup>42</sup> The DCS General Counsel is the ultimate agency authority but may delegate that role. The final agency action review is limited to the evidence presented at the initial hearing and no new evidence may be considered. The final agency action process is rarely used.

## **FORMS AND TOOLS**

<sup>39</sup> IC 4-15-10.5-3; 465 IAC 3-1-3(b)

<sup>40</sup> IC 4-21.5-3-14(c); 465 IAC 3-3-14

<sup>41</sup> 465 IAC 3-3-16(h)

<sup>42</sup> IC 4-21.5-3-31(c)

1. [Certifying Cases for Offsets](#)
2. [ISETS Income Withholding Complete Guide](#)
3. [License Suspension Application](#)

<b>FREQUENTLY ASKED QUESTIONS</b>
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N/A

<b>RELATED INFORMATION</b>
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The Indiana Administrative Code establishes procedures to provide an administrative hearing based on an individual’s request following the Title IV-D agency’s action to block or encumber an obligor’s account with a financial institution by establishing a lien for child support on the account assets.<sup>43</sup> However, CSB initiated actions to enforce an obligor’s child support delinquency through payment from assets in the obligor’s financial institution account are accomplished through the issuance of an IWO to the financial institution, and not through the establishment of a lien. Therefore, these enforcement actions are subject to same notice and administrative hearing requirements as IWOs.<sup>44</sup>

Chapter 4: Temporary Assistance for Needy Families (TANF) Cases, Section 7: Calculating the Amount of Support Retained as a Result of the Assignment  
 Chapter 12: Enforcement, Section 2.1: Income Withholding Orders  
 Chapter 12: Enforcement, Section 3.2: State Tax Offset  
 Chapter 12: Enforcement: Section 4.1: Driver’s License Suspension  
 Chapter 12: Enforcement, Section 4.2: Department of Natural Resources License Suspension  
 Chapter 12: Enforcement, Section 4.3: Professional, Occupational, and Gaming Licenses and Permits  
 Chapter 14: Payment Processing, Section 3: Distribution and Disbursement of Support Payments Collected

<b>REVISION HISTORY</b>
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Version	Date	Description of Revision
Version 1	05/20/2019	Final Approved Version
Version 1.1	07/28/2021	Updated hyperlinks. Reviewed for accuracy.

<sup>43</sup> IC 31-25-4-31; 465 IAC 3-3

<sup>44</sup> IC 31-16-15-3.5; 465 IAC 303; See Section 2.1 of this Chapter; See Section 2.3 of this Chapter  
 DCS IV-D Policy Manual/Chapter 12: Enforcement