

**SUPERSEDES**

CS 408.3 Review and Modification of Support Order, December 23, 2017

**REFERENCES**

42 USCS § 666(a)(10); 45 CFR § 303.8; MCA §§ 40-4-208(2), 40-5-150, 40-5-226(3), 40-5-271 through 40-5-278, 40-5-907(6), 40-5-1008, 40-5-1012 and 50-15-302; ARM 37.62.146, and ARM 37.62.2103 through 37.62.2107; *Marriage of Cowan*, 279 Mont. 491, 928 P.2d 214 (1996)

**DEFINITIONS**

The following definitions apply for purposes of review and modification only:

**Party to the action:** A person who (1) is obligated by the existing support order, (2) may be obligated by the modified order, or (3) is named as a party in the existing order.

**Party to the request:** A person or agency who is (1) a party to the action as defined above, (2) a non-obligated custodian in the existing or modified administrative support order, or (3) another state requesting modification on behalf of a child in substitute care (foster care or juvenile corrections).

**Incarceration:** Refers to a parent who is held in a correctional, detention or treatment facility for more than 180 days.

**State:** A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

**POLICY**

**Review and Modification**

Every three years the CSED provides notice to each parent or non-obligated custodian subject to a support order in a CSED case that he or she may request review and possible modification of the support order. The opportunity for a three-year review is available regardless of any showing of change of circumstances.

Within fifteen business days of learning that an Obligor is expected to be incarcerated for at least 180 days, CSED provides notice to the Obligor and Obligee that he or she may request review and possible modification of the support order. A supply of notices will be maintained in each region for this purpose.

The existing support order determined support based on established facts that existed at the time it was entered. Those factors cannot be reconsidered. Instead, if a parent or custodian requests a review less than three years after the support order was established or last reviewed, the CSED will grant the request only if a change of circumstances applies. The CSED may grant a full review or a limited review to determine whether modification of the order is appropriate and, if so, will initiate a modification action. By law, the first payment date named in the modification action may be no earlier than the date all the parties to the action received notice of the review.

**CSED Initiated Review**

In addition to providing an opportunity to request a review every three years, federal statutes require the CSED to initiate a review for modification once every three years in cases having an assignment of rights under Title IV-A. Cases meeting the criteria must be reviewed, and if modification is appropriate modified within 180-days.

**Special Characteristics**

Modification of a support order is different from all other CSED actions in that it involves--at the request stage--not only the parents but also any applicable third-party custodian or other state. This is the result of the transition from the old to the new support order, when sub cases and roles may be changing, and the total case must be considered for impacts on all the obligations.

**Jurisdiction**

To conduct a review and, if appropriate, to modify a support order the CSED must have personal jurisdiction over the parties to the modification action, as described in MCA 40-5-1008 or 40-5-231. Generally, jurisdiction is established if the party is served with notice in Montana, has resided in Montana with or while supporting the child, has caused the child to live in Montana, or could have conceived the child in Montana.

The CSED must also have jurisdiction over the support order. Jurisdiction may be in the form of continuing, exclusive jurisdiction (CEJ) as defined by MCA 40-5-1012, or concurrent jurisdiction authorized by other applicable statutes. The jurisdiction determination depends on certain case facts, such as the current states of residence of the obligor, the obligee, and the children named in the order; whether the obligor or the obligee requested the review; and the identity of the state that issued the order. See the table at the end of this section for the complete factors and outcomes in determining jurisdiction over the support order.

**NOTE:**

**A change of residential parent.** When there is a change of residential parent, whether the original order is a Montana court order, or an administrative order do not establish a new order against the other parent. A modification of that order is required.

**Registration for Modification**

Orders issued by a court or administrative agency of another state must be registered with a Montana district court under MCA section 40-5-271 as part of the modification process. Montana court orders are not registered. Registration for purposes of modification is available only during a review and modification proceeding, and does not confer jurisdiction for enforcement purposes.

The CSED provides notice that the other state's order has been registered for modification. The Notice of Registration is combined with the Modification Notice and Order and filed with a Montana district court as part of the Notice of Proposed Modification and Request for Approval. The other state's order is filed and registered with a Montana district court at the time the CSED seeks court approval of the proposed modification.

**Review Eligibility**

A case qualifies for review when a significant change of circumstances exists, or at least thirty-six months have elapsed since the existing support order was entered, an administrative hearing was scheduled under MCA section 40-5-277, or a modification was denied under MCA section 40-5-272(4). A case that qualifies for review may be processed as either a full review or limited review.

**NOTE 1:**

**Request for review may be withdrawn.** A request for review may be withdrawn at any time before a final order is issued in step 10. Other parties are given the opportunity to complete the modification action if a request to withdraw is received after the notice is issued in step 5. If the request is successfully withdrawn at any stage, the thirty-six month timeframe does not begin anew.

**NOTE 2:**

**If a denial of review issued.** The thirty-six month timeframe begins anew if CS 408.3B Denial of Review Request is issued, for the following reasons:

- a negligible change exists
- or
- no substantial change of circumstances occurred, modification is not otherwise necessary to set a medical support order, and no change of custody occurred

**NOTE 3:**

**When a final order is issued.** The thirty-six month timeframe begins anew when a final order is issued in step 10.

**FULL REVIEW**

A full review considers all aspects of a support order. A full review is appropriate when:

- 1) The existing order was set without reference to the guidelines.

**Replacement in Lieu of Modification.** If the existing support order is a CSED order, the caseworker should proceed to **replace** the order instead of initiating review and modification in this section. Replacement is accomplished using a Motion and Order Replacing Support Order (MORSO), or a Notice of Intent to Vacate (NOIV), as applicable. (See section CS 401.5, or consult the regional legal unit.)

- 2) Either parent’s gross income increased or decreased by at least 30%.

**Incarceration is not voluntary underemployment for purposes of review.** Reduction in earning capacity as a result of incarceration is a substantial change of circumstances for purposes of review.

**Decrease in Income Must be Involuntary.** Under Montana case law, a voluntary reduction in income does not qualify as a substantial and continuing change of circumstances that render a support order unconscionable. A review is not appropriate for income reduction resulting from a voluntary employment change, reduced work hours or termination. A full review is appropriate only if the income reduction is not caused by a parent's voluntary acts and the parent is incapable of obtaining similar employment. Incarceration is not a voluntary decrease of income for purposes of review and modification.

#### LIMITED REVIEW

Limited review is available only for Montana orders. The CSED may conduct a limited review of a Montana support order to make specific changes, when a full review is not appropriate. The remaining terms of the support order and calculation under the Montana Child Support Guidelines are retained. A limited review may be converted to a full review **at any time** a parent alleges a 30% change of gross income.

#### NOTE:

**Limited Review is not available.** When the existing order is based on a guideline calculation that cannot be obtained, a limited review is not available.

The only facts considered in a limited review are:

- 1) A change in parenting time (visitation) or custody, and there is written evidence or other acceptable demonstration of the permanent intent, **and** either the existing order or the modified order involves combined parenting as defined in section CS 404.1 Child Support Guidelines.

REMINDERS: If no combined parenting is involved, changes in visitation and custody are handled as follows:

- (a) If the physical custody of all the children in the existing order changes from one parent to the other parent, the change creates a modification case, not an establishment case.
  - (b) If the physical custody of one or more of the children changes from the non-obligor parent to a third-party custodian, or vice versa, the existing order will follow the child without creating a change in support.
- 2) The cost of day care services needed for the children has increased or decreased by at least 25% and the change will continue for at least 18 months.
- 3) A child has developed special needs that did not exist when the existing order was entered, and the needs will continue for at least 18 months, or special needs considered in the order no longer exist.
- 4) The cost of health insurance provided by a parent has increased or decreased by at least 25% of the support order, and the change will continue for at least 18 months.

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**Example:** Support obligation = \$100.00 per month and includes health insurance costs of \$60.00 per month. Health insurance costs for the children must **change** at least \$25.00 per month to qualify for review. ( $100 \times .25 = \$25.00$ ) The new premium = \$72.00 per month and does not qualify for review because the change is less than 25% of the support order.

- 5) A child was adopted, emancipated, reached the age of majority, married, entered military service, or died and the support order is not a per-child order.
- 6) A child of the biological unit has been added to the case and a Subsequent Notice and Order Concerning Support (see section CS 401.6) does not apply.
- 7) The existing order contains no medical support provision.

#### NOTE:

**Provision for medical support.** A provision for medical support means a health insurance order as defined in section CS 520.3 Reviewing Health Insurance Orders, or some other provision that requires a parent to provide a specified medical support amount. In unusual situations, the meaning of "medical support" may be expanded to include other payments or duties, if approved by the regional legal unit.

#### Three Stage Process

The CSED conducts review and modification in three stages, at increasing levels of formality. In the first stage, the CSED receives and screens a request for review. The CSED investigates the allegations and then either denies the request or agrees that modification is appropriate. Activities at this level involve all the parties to the request.

For a CSED initiated review, a case that involves IV-A assignment of rights, the first stage of the three-stage process is to review the case for possible modification. Activities at this level **do not** involve the parties in the case.

In the next stage, the CSED initiates and resolves a contested case action to modify the support order. At this level, there is an opportunity for a statutory modification hearing to contest the action. Review and modification of an administrative support order ends with this stage.

The final stage (judicial level) applies for court-issued support orders and orders issued by another state. Under MCA section 40-5-277, Montana court orders and orders from other states must be modified by a Montana district court. The CSED decision and order from stage two is not effective as a final modification order until it is filed with and approved by the applicable Montana court. The parties may contest the CSED's order by requesting a hearing with the court. The court may adopt, modify, reject or remand the order.

#### Time Frames

Federal regulations require that the CSED conduct a review, and modify the order or determine that the order should not be modified, within 180 calendar days of receiving the complete request for review and locating the other parties to the request. The requirement applies to modification of court orders as

well as administrative orders. The time is not extended to accommodate the additional steps (or delays) involved in obtaining a final modification from the district court.

**Procedures**

**Procedures for Caseworker**

**SEARCHS FORMS:**

Generation of the SEARCHS forms in these procedures requires special attention to the facts of the particular case. Heading formats in form CS 408.3A are specially designed to reflect all the parties to the request; the parents that may be obligated to support the children; and the children that may be affected by a modification. In other forms, proper generation depends on correctly identifying the circumstances of the modification action, the roles of the individuals or entities involved, and the characteristics of the existing support order. **Precise SEARCHS processing is necessary for statutory compliance.** See the detailed instructions available in the regions for properly generating all modification forms.

**1. Initiating a Review.**

Upon discovering a CSED case that meets either of the conditions in (a) or (b) below, initiates a review for possible modification of the existing support order beginning in step 4.

- a. **Subsequent child.** A child of the biological unit has been added to the case and a Subsequent Notice and Order Concerning Support (CS 401.6 SNOCS) does not apply, proceeds to step 4c Review Granted.
- b. **CSED Initiated Review.** A case requiring a review of the existing support order as part of the periodic IV-A review process. Subsequent to reviewing the support order proceeds to either step 4b Modification Denied, or step 4c(iv) Guideline Calculation.

**NOTE 1:**

**A TANF case that is receiving benefits, but that is not currently being reviewed under the 3-year review criteria may still qualify for a modification.** This occurs when a case is identified as having an inadequate support order, and the caseworker is aware of a significant change in the non-custodial parent’s income. The custodial parent in the case is sporadically off TANF keeping the case from meeting the 3-year review criteria. A modification in this instance is likely to result in an increased support order and may be in the best interest of the child. “Best interest of the child,” means that a change in the support amount is essential to the reasonable enforcement of support, and the parent or custodian has not requested a review.

**NOTE 2:**

**Orders Not Providing for Medical Support.** The CSED does not initiate a review and modification action solely to add a provision for health insurance coverage to the support order. If modification is required, the person who applied for CSED services is directed to obtain a modification. If the applicant does not take the steps necessary to complete a required modification, the CSED initiates non-cooperation or case closure procedures (see section CS 520.3).

**NOTE 3:**

**Orders Not Considering Social Security Benefits.** The *Cowan* decision issued by the Montana Supreme Court in November of 1996 established that the amount of a disabled obligor's support obligation is automatically decreased by the amount of Title II Social Security benefits paid to the child on behalf of the obligor. Therefore, modification of the support amount for the sole purpose of subtracting the Social Security payment from the support obligation is not needed; the CSED simply credits the payment to the obligor's current support account. If the obligation is greater than the Social Security payment, the case may be eligible for review (for purposes of the excess obligation) based on a significant change of circumstances, such as a change in income.

**2. Issuing Form CS-408.3A Request for Review.**

Upon being contacted for a modification by a person or state meeting the definition of "party to the request" (POLICY) generates form CS 408.3A Request for Review.

If contacted for a modification by the IV-D agency of another state in a case where the children are not receiving substitute care, informs the state that the parent or custodian that resides in the state must request the review.

Prepares a packet containing:

- form CS 408.3A Request for Review
- form CS 404.6A Financial Affidavit

Sends the packet by regular mail to the requestor; takes no further action until the signed and completed Request for Review is returned.

**3. Screening the Request for Review.**

Upon receiving form CS 408.3A Request for Review from a party to the request, checks to see if the form is properly signed and completed, and is accompanied by the necessary financial information and verifications.

**NOTE 1:**

**Request Withdrawn.** If the requestor withdraws the request at any point before Modification Notice and Order is issued in step 5, the caseworker should acknowledge the withdrawal in writing and enter an appropriate SEARCHS case note; no further action in this section is necessary.

**NOTE 2:**

**Case Closed by Other Party.** If at any point in these PROCEDURES a party to the request closes the IV-D case, and the CSED has reason to believe that a second party to the request is aware a review or review request is pending, the CSED is required to notify the second party of the case closure request. The second party may continue the review by opening a case. The CSED sends form CS-408.3K Letter Re: Case Closure, by regular mail. The party must submit an application within 20 days of the date the letter was mailed; if not, the review and modification process is terminated. The notification requirement does not apply to parties to the request who are not eligible to apply for CSED services or in cases where the case was closed as the result of a good-cause determination.

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- a. If the Request for Review is substantially complete (see the NOTE following step 3b), enters the appropriate case notes for the request received and the Financial Affidavit received, if applicable. **Completes the appropriate steps in the remainder of this section within 180 calendar days of the date the complete request was received, and the other parties are located.**

Investigates to determine whether review of the existing support order is available. Review is available for an open CSED enforcement case if all of the following conditions apply:

- 1) The CSED has jurisdiction to modify the order (POLICY).
- 2) Modification services are not being provided by another child support agency.
- 3) Modification action is not pending in another administrative agency or court.
- 4) The support order will not terminate for at least six months after the date the Request for Review is received.
- 5) The CSED can obtain sufficient reliable information--from its records or from other parties to the request--to perform a guidelines determination if applicable. See sub step 4c(iv).
- 6) The case qualifies for either a full review or limited review (POLICY), or at least thirty-six (36) months have elapsed since the existing support order was entered, an administrative hearing was scheduled under MCA section 40-5-277, or a modification was denied under MCA section 40-5-272(4).

#### NOTE 1:

**A request for review may be withdrawn at any time before a final order is issued** in step 10. Other parties are given the opportunity to complete the modification action if a request to withdraw is received after the notice is issued in step 5. If the request is successfully withdrawn at any stage, the thirty-six month timeframe does not begin anew.

#### NOTE 2:

**Denial of review request issued.** The thirty-six month timeframe begins anew if CS 408.3B Denial of Review Request is issued, for the following reasons:

- a negligible change exists or
- no substantial change of circumstances occurred, modification is not otherwise necessary to set a medical support order, and no change of custody occurred

#### NOTE 3:

**When a final order is issued.** The thirty-six month timeframe begins anew when a final order is issued in step 10.



- b. If the Request for Review is not substantially complete (see the NOTE below), contacts the requestor in writing and explains the request cannot be processed until the missing information is received. In the case of a missing signature or notarization, encloses the requestor's original document to be signed or notarized. If the Request is incomplete only because the requestor failed to check one of the boxes on the form, a telephone call to identify the intended box(es) is recommended.

Enters a case note for the incomplete request received and the action taken. Returns to step 3a only if the missing information is provided; otherwise, takes no further action in this section.

**NOTE:**

**Complete Request Defined.** A Request for Review is substantially complete for purposes of initiating review and modification proceedings if it contains the requestor's signature, a completed, signed, and notarized Financial Affidavit (if the requestor is a parent and the support order is at least 36 months old or a 30% change of gross income is alleged), other financial information needed to verify income, for example tax returns and pay stubs (if applicable) and written verification for any claim qualifying case for either a limited review or full review (unless the CSED can verify the claim without information from the requestor).

Although the CSED asks the requestor to provide certified copies of the applicable support order(s), the Request is substantially complete without them.

**4. Granting/Denying the Request for Review**

Proceeds in steps 4a through 4c as applicable.

- a. **Personal Jurisdiction.** If the CSED does not have personal jurisdiction over one or more parties to the action, determines (1) whether review and modification by the CSED would be beneficial to the enforcement of the case and, if so, (2) whether each of the parties involved is likely to consent to Montana's jurisdiction.

If CSED jurisdiction would be beneficial and consent is likely, consults with regional legal unit. If jurisdiction is obtained proceeds in step 4c. If not, proceeds to step 4b.

**NOTE:**

**Personal jurisdiction alone is not enough to modify a support order.** The CSED must also have jurisdiction over the order. See the table at the end of this section for complete factors and outcomes to determine jurisdiction over the support order.

- b. **Review Denied.** If review is not available because the case does not meet the conditions in step 3a (and the exception in NOTE 1 below does not apply) or a negligible change exists under sub step 4c(iv), prepares and sends to the requestor by regular mail form CS-408.3B Denial of Review Request (DORR), advising the requestor the support order is not eligible for review or possible modification, identifying the reason(s) for the denial, and allowing the requestor 10 days to request a hearing. Proceeds in sub step 4b(i) or 4b(ii) below as applicable.

**CSED Initiated Review – Modification Not Appropriate**

If a modification of the existing support order is not appropriate or a negligible change exists updates the review date on the Support Order Detail screen (SOD), enters text in the SOD text field stating why the review date was changed, and documents in case notes why a modification is not appropriate at that time.

**NOTE:**

**If the caseworker anticipates a change**, in the *near future* to the reason, a modification was not appropriate; a tickler may set as a reminder for further review.

- i. If the requestor contests the denial by timely requesting a hearing, follows regular CSED procedures for identifying the issues, preparing for the hearing, attending the hearing as a witness, and entering a SEARCHS case note for the hearing order received. If the Administrative Law Judge determines the order is eligible for further review and possible modification, proceeds to step 4c. Otherwise proceeds in sub step 4b(ii).
- ii. If the requestor does not timely request a hearing, or if the Administrative Law Judge upholds the denial, takes no further review action in this section. Enters a SEARCHS case note

**NOTE 1:**

**Jurisdiction over support order, Montana not responding state.** If review is not available because the CSED does not have jurisdiction to modify the support order, **and** the case is an interstate initiating or non-interstate case, the DORR is not appropriate. Instead the CSED issues form CS-408.3R Jurisdiction of Other State and CSE-GT, General Testimony informing the requestor the State of Montana does not have jurisdiction to modify the support order, and providing the name of the state that has or may have jurisdiction. The forms do not provide an opportunity for hearing; however, the requestor may ask the CSED to petition the other state for a modification on the requestor's behalf. No further action under this section is necessary.

**NOTE 2:**

**For a CSED initiated review of a case involving direct income withholding** interstate the case, and update the review date on SOD.

**NOTE 3:**

**Denial Involving Subsequent Child.** If the Request for Review identifies a subsequent child as defined in section CS 401.6, Subsequent Notice and Order Concerning Support (SNOCS), and SNOCS procedures apply, the caseworker must initiate the SNOCS action or continue with any SNOCS in progress. The DORR should state that the CSED is converting the request to apply to another administrative process that will add the child to the order.

**NOTE 4:**

**Denial Involving Native American Jurisdiction** If the reason for denial is lack of jurisdiction, and the case is a Native American case, the DORR should state that the CSED declines to conduct a review because it would infringe on tribal sovereignty and the requesting party has not provided a waiver from the tribal court.

**NOTE 5:**

**Judicial Review Not Available.** DORR hearings are not contested case hearings under MCA section 2-4-102 and are not subject to judicial review. No proposed order is entered prior to the final order.

- c. Review Granted. If a review is granted, investigates in sub steps 4c(i) through 4c(iv) below as applicable, then proceeds to step 5.
  - i. Controlling Order. If there is more than one enforceable support order in the case, works with the regional legal unit to obtain a controlling order determination, and proceeds in the remainder of this step (4c) for the controlling order only.
  - ii. Registration. Identifies the status of the existing support order for purposes of registration. If the order was issued by another state, it must be registered. Montana court orders are not registered. The notice of registration is combined with the Modification Notice and Order issued in step 5 and is included in the Court Approval Process beginning in step 11.
  - iii. Attorneys of Record. If the existing support order was issued by a Montana court, identifies any original attorneys of record who have not withdrawn. The caseworker may identify these attorneys by sending form CS-217 Information Request. Caseworker is not required to determine attorneys of record for non-Montana orders.

**NOTE:**

**Attorneys of Record and SEARCHS Attorneys** In cases involving modification of a court order, Montana law requires that the CSED provide copies of new court filings to the "parties and their counsel of record in the administrative and court proceedings." In addition, CSED policy requires that copies of all documents issued in the administrative action be sent to the parties' attorneys listed on SEARCHS. The combination of these requirements may, in rare cases, lead to a situation where a party has two attorneys who must receive copies of documents issued by the CSED in the modification action.

- iv. Guideline Calculation. Prepares forms CS 404.1A through 1E Worksheets A through E Montana Child Support Guidelines. Performs guidelines calculation according to the instructions in section CS 404.1, subject to the following limitations:

- A. If a full review is **not** appropriate, adjusts calculation only for facts that qualify for limited review. (POLICY) Retains all other elements of the existing calculation including income, allowable deductions, personal allowances and primary child support allowance. Retains portions of supplement to primary allowance, credit for payment of expenses, and adjustments to income available for SOLA that are not limited review factors. Includes notation in comment section of calculation that limited review was performed and specifically names the items adjusted.

**NOTE:**

**Caseworker does not perform guideline calculation if limited review is only to add a medical support order and no parent incurs costs for insurance premiums at the time of review.** Instead, the existing monthly obligation and guideline calculation are retained in the Modification Notice and Order.

- B. If full review **is** appropriate, calculation is based on reliable, relevant information. The allegations may be based on caseworker investigation or information submitted by parents or non-obligated parties to the request.

**NOTE:**

**Does not decrease a parent's income unless proof exists** that reduction is involuntary, usually based on a disability or incarceration that occurred subsequent to the existing order. If reason for income decrease is unknown or based on voluntary events, retains the parent's income from existing calculation.

**Negligible Change**

If the total monthly obligation under the existing order and the total obligation under the new guideline calculation differ by 15% or more, proceeds to step 5. If the difference is less than 15%, caseworker denies the request for review as in step 4b, unless modification is otherwise necessary. For instance, modification may be necessary to accommodate a change of custody, to add a medical support obligation, or to create a per child order when the existing order contains a flat rate obligation.

**5. Issuing Contested Case Notice (and Notice of Intent to Register if necessary).**

Generates other forms as needed for obtaining jurisdiction as described in step 4.

**NOTE:**

**Caseworker may conduct a review session** as described in step 7 prior to issuing the notice in this step.

For each party to the action, and for each attorney of record identified in step 4c, generates the Modification Notice and Order package. Retains for later use one set of stuffers, the original signed Modification Notice and Order and copies of any guidelines worksheets. Arranges for service by certified mail, personal service, or acknowledgment, unless otherwise noted; combines packages for the same person or entity as applicable. An informational copy of the package (excluding hearing request and Financial Affidavit) is provided by mail to requesting parties who are not parties to the action.

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Package consists of:

- Form CS 408.3G Modification Notice and Order, see step 5a
  - Financial Affidavit if applicable, see step 5b
  - Forms CS 404.1 A through 1E, Worksheets A through E Montana Child Support Guidelines prepared in sub step 4c (iv) above
  - Form CS 408.3I Modification Acknowledgment and Waiver of Service if applicable
- NOTE: CS-408.3I Modification Acknowledgment and Waiver of Service is STRONGLY encouraged** when serving an incarcerated parent. Inmate mail restrictions prohibit business reply envelopes.
- CSED Initiated Modification. For cases that involve a CSED initiated modification the caseworker may elect to include CS 408.3J Public Assistance Modification Letter explaining to the parties why the support order in their case has been reviewed and modified.

Monitors for service and response time in (1), (2), or (3) below:

- 1) Sends the package by certified mail, return receipt requested. Monitors for response within 3 mailing days plus 20 calendar days after mailing, or 20 days after the date the parent signs the return receipt, whichever allows for later response.
- 2) Arranges for personal service of the package through the sheriff or a civil process server. Monitors for response within 20 calendar days of the date on the return of service
- 3) Prepares CS-405.1 Notice and Acknowledgment of Receipt of Administrative Notice. Encloses the Modification Notice and Order package the original and one copy of the Acknowledgement form and a business reply envelope for each party to return. (Omit the business reply envelope for an incarcerated parent) If a party does not respond in writing to the Acknowledgment within 20 calendar days after the date of mailing, the CSED must issue the package for service by sheriff or private process server only, in accordance with the Montana Rules of Civil Procedure.
  - a. Modification Notice and Order
    - For a Modification Notice and Order resulting from a full review (POLICY), selects option to send a Financial Affidavit to any obligated parent who did not request the review.
    - For a Modification Notice and Order resulting from a limited review, selects limited review option and reasons for limited review.
    - To modify another state's order, selects option to register and selects Court order even if order from another state is an administrative order. This generates a Modification Notice and Order and Notice of Intent to Register. Administrative orders from another state should be treated as if it is a court order for purposes of registration and modification. Does not select registration option to modify Montana orders.

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- For all notices, chooses the first day of the month following issuance of the Modification Notice and Order as the date of the modified support obligation.
- Selects consent language only if Financial Affidavits have been received for all obligated parents or a 30% change of income was not alleged.
- Includes non-per child language if the amounts in the guidelines worksheet are not the same, or are not owed by the same parent for each child. Enters the total monthly payment for all the children.
- Adjusts the language of the support order where applicable to reflect the requirements of section CS 404.1 for rebutted presumptions, variances, anticipated changes in circumstance. To accommodate other special facts of the case, seeks the advice of the regional legal unit.

#### NOTE 1:

**If there is a domestic violence indicator** on SEARCHS for the case, checks to make sure the certificate of mailing does not include an address for the person who is listed as the alleged victim.

#### NOTE 2:

**Determining the Type of Order.** If the existing order on SOD appears to be a Montana district court order, the caseworker should check to see if the order was truly issued by a Montana district court or was issued by the CSED and abstracted to a Montana district court. Any order actually issued by the CSED is considered an administrative order for purposes of this section. (

EXCEPTION: If the order on SOD is an order issued by the CSED **that modified a court order**, the order is considered a court order for purposes of this section. (Modification of court orders was available to the CSED until August 31, 2000).

#### NOTE 3:

**Adjusting for Multiple Obligees, Multiple Obligor, or Parties Not in the SEARCHS Case.** The notice is designed to name only one obligor and one obligee in the heading. In cases where additional obligors or custodians must be included in the modified order, the heading should be adjusted for accuracy. In cases where a party to the action is not, an obligor or obligee in the modified order, the caseworker, in consultation with the legal unit, must adjust the form to provide an opportunity for all parties to the action to consent to the modified order or to request a hearing.

**NOTE 4:**

**Adjusting for Special Court Provisions.** If the existing support order is a court order, any special provisions in the order that substantially conflict with standard CSED language must be retained in the modified order to the extent allowed by law. Special provisions may include the court's determinations on income withholding, emancipation, or other areas affecting the enforcement or duration of the order. The CSED must also retain the court's medical provisions in cases where the court has made specific findings that differ substantially from the standard CSED (OBRA 93) medical language. In situations where the court's medical provisions have clearly become obsolete (for example, where the support order requires a parent to maintain insurance through an employer for whom the parent no longer works), the caseworker may consult with the regional legal unit to identify possible changes in the medical language, and procedures for adoption of the changes by the parties.

**NOTE 5:**

**Adjusting for Registration and Modification of an Order from Another State.** The duration of a support obligation is a non-modifiable term of the original order. If needed the modification notice must be adjusted to maintain the language of the original order.

**NOTE 6:**

**Adjusting the Modification Action for Parties Not in the SEARCHS Case.** Procedures in the remainder of this section assume the parties to the action are limited to the obligor and any parent obligee in the modified order. If this is not the case, procedures must be adjusted by the caseworker, in consultation with the supervisor or legal unit, to afford due process to all other parties to the action.

- b. Form CS-404.6A Financial Affidavit if applicable. Use only for full review based on an alleged 30% change of gross income. The information requested on the financial affidavit includes copies of federal income tax returns with all schedules filed and W-2 forms for the last three years. If a parent is self-employed, the request is for business returns (partnership or corporation) for the last three years *in addition* to the individual returns.

For any parent who is not a party to the action, the Modification Notice and Order does not require production of financial information. If financial information is needed, form CS-405.12A Investigative Subpoena is obtained according to the procedures in section CS 405.12, directing the parent to submit the information within 10 days after service. OPTION: The caseworker may include a note in the package asking the parent to assist the CSED by completing and returning the financial affidavit.

FOLLOW-UP: If the non-party parent fails to respond to the note as requested, the caseworker should quickly proceed with an investigative subpoena as in section CS 405.12 directing the parent to submit the information within 10 days after service.

**6. Evaluating Response to Modification Notice and Order.**

Takes action in steps 6a through 6f as applicable, according to the responses to the packages served in step 5.

- a. **Unable to serve notice.** If any party to the action cannot be served despite diligent efforts to locate the individual, terminates the proceedings according to step 6c. In questionable cases consults the regional legal unit. Diligent efforts to locate for service must include an attempt to serve the notice by sheriff's service or private process server.
- b. **Unable to obtain financial information.** If no other reliable information is obtained for a parent, caseworker must use the parent's income from guideline calculation associated with the existing order, if available. If any person ordered to produce financial information fails to do so within 20 days after service of the Modification Notice and Order, within the time imposed by investigative subpoena (or by a later date set by the caseworker), and the caseworker determines there is not sufficient reliable information to perform a valid guidelines calculation, terminates the proceedings according to step 6c.

EXCEPTION: If the caseworker determines that the review and modification action is essential to reasonable enforcement in the case, the caseworker may (1) proceed with the review and modification action using the best available information or (2) consult with the regional legal unit concerning further action to compel the party to produce the information.

- c. **Terminating the Action.** After the Modification Notice and Order is issued in step 5, the action may be terminated by the CSED, or based on a motion from the party requesting review.
  - i. Upon determining in steps 6a through 6b that further review is not appropriate, prepares and sends form CS-401.3F Motion to Dismiss Administrative Notice to the parties by regular mail. If the motion is granted, enters appropriate SEARCHS case note and takes no further action in this section.
  - ii. **Withdrawing the Request.** If the party requesting the review contacts the CSED to withdraw the request at any point after the contested case notice is issued in step 5 but before the notice is finally resolved, the party must file a written motion with the OALJ.  
  
If the request is successfully withdrawn, the thirty-six (36) month timeframe identified in sub step 3a(6) does not begin anew. Enters appropriate SEARCHS case note and takes no further action in this section.

**NOTE 1:**

The OALJ will respond to motions according to the requirements of ARM 37.62.921, and may schedule a hearing if a motion is opposed. Hearings on motions identified in step 6c are not contested case matters under MCA section 2-4-102, and are not subject to judicial review. If the Administrative Law Judge determines further review of the existing order is appropriate, proceeds to step 8.



- d. **Request for Hearing Granted.** Proceeds in step 7 for review session. If review session was completed prior to issuing the Modification Notice and Order, proceeds to step 8b.
- c. **Amending the Notice.** If additional information is received or discovered that changes the guideline calculation, performs new calculation and amends the Modification Notice and Order. The amended notice may be served by regular mail. An amended notice is required to convert a limited review to a full review.
- d. **Resolving the Notice.** If no additional information is received and no hearing is requested, proceeds to step 8 to resolve the notice.

**TERMINOLOGY:** Beginning in step 7 the term **parties** refers to the parties to the modification action, as defined at the beginning of this section, unless otherwise noted.

**7. Review Session.**

If a hearing is requested in step 6 and a hearing is granted, a review session is mandatory and must be completed prior to the hearing. If no hearing is granted, a review session is optional and may be held at any time prior to entry of the final order. Based on information obtained, amends Modification Notice and Order as appropriate.

- a. Sets an appropriate time and date for a telephone review session with each party. Sessions may be scheduled separately with each party, or with all parties together, whichever is more beneficial to the success of the review. May either contact the parents informally via telephone or prepare and send to each party form CS-408.3M Letter Scheduling Review.

**NOTE:**

**Prior to issuance of the Modification Notice and Order in step 5,** caseworker is not required to provide a copy of the guideline calculation to the parties.

- b. Holds an informal review session by telephone with each party. (Note that the CSED does not hold a review session with a non-obligated party to the request, even if the person or entity is the requestor.) A party may appear in person at the review session at the party's own expense.

The review session includes the following elements:

- 1) Discusses the financial information and other data used in a guideline calculation, along with any resulting support amount. The party is given an opportunity to confirm or challenge the accuracy of the numbers used. If a party requests the other parent's financial information in a full review, arranges to send the information either by fax during the review session (if practical) or by regular mail after the review session is over.

**CAUTION! SAFEGUARDING INFORMATION.** If a parent is a SEARCHS participant, and there is a domestic violence indicator on SEARCHS for that parent as the victim, removes all information concerning the parent's whereabouts (telephone, address, employer) before releasing information to the other parties. If the parent is not a SEARCHS participant, removes the parent's Social Security Number and all information concerning the parent's whereabouts (telephone, address, employer) before releasing information, regardless of whether any risk of harm is known.

## ESTABLISHING A SUPPORT OBLIGATION

### Review and Modification of Support Order

CS 408.3

- 2) Review of other provisions that will be changed by the modified order.
- 3) If the existing order is a court order, or an order from another state, review of information needed to complete the Montana State Case Registry and Vital Statistics Reporting Form. Supplies of this form are available in the regional office; the form is also available and can be completed on the Internet, but must be submitted in hard copy. (This is the "statistical report" required in MCA section 50-15-302. The purpose of the form is to facilitate transmission of information from the court to the Central Case Registry (see section CS 200.3) when the court enters the final modification order. The CSED delivers the form to the clerk of court in step 14.)
- 4) If session is conducted after a request for hearing:
  - A. **Defenses.** If a parent claims an absolute or affirmative defense, elicits the parent's reasons or supporting facts.
    - i. If the defense is proved to the satisfaction of the caseworker, dismisses the action; includes in the motion to dismiss a request to vacate the hearing as well.
    - ii. If the defense is not proved, or if further information will be required to determine the validity, proceeds to sub step 7b(4)(B). Requests the parent provide any information still needed as soon as possible. Consults with the CSED legal unit on all questionable cases.

#### NOTE 1:

**Absolute Defenses Defined.** Absolute defenses are defenses that need no further proof and, if true, prevent the CSED from proceeding with the modification action. Absolute defenses may include (1) the CSED served the Modification Notice and Order on the person by mistake, intending to serve another person, or (2) there is a modification action pending in another tribunal, or (3) the CSED does not have subject matter jurisdiction to modify the existing support order.

#### NOTE 2:

**Affirmative Defenses Defined.** Affirmative defenses are defenses that, if not raised before the hearing, cannot be raised at a later time. Affirmative defenses to the modification action may include (1) the custodian has waived the right to receive child support, (2) a court has declared any of the children emancipated, or (3) the CSED lacks personal jurisdiction over the parent to modify the existing support order.

- B. **Contested Elements.** Using CS 408.3Y Hearing Checklist Modification Notice and Order, reviews the elements of the case with all parties to the action. Identifies any elements that will be contested at hearing. Where necessary explains specific CSED procedures or calculations, confirms the CSED's authority to act, and gives or obtains any other information relating to issues raised.

- C. **Results of Contact.** Upon completion of the required interview(s), takes appropriate action as follows:
- i. **Withdrawal.** If the requesting parent is satisfied with the explanation and no longer wishes to contest the notice, explains the procedures for withdrawing the hearing request or (if applicable) consenting to the notice. Emphasizes any withdrawal must be in writing and signed by the requesting parent; if the request is not properly withdrawn the hearing will proceed.
  - ii. **Amended Notice.** If a contacted parent provides information that would change the noticed terms of the obligations, amends notice.
  - iii. **Hearing Checklist.** If a contacted parent maintains a request for hearing, prepares form CS-408.3YHearing Checklist Modification Notice and Order, documenting the contact(s) and results, and specifying any issues the caseworker expects to be contested at hearing. If both parents were contacted, enters the information for both parents on a single copy of the form. Before the date of the hearing, sends a copy of the form to each obligated parent and the OALJ, maintaining a copy for the case file.
- D. **Failed Attempts to Contact.** If unable to contact a party before the hearing date despite repeated attempts, documents the attempts on the hearing checklist and sends copies of the completed checklist to the parties and the OALJ.
- 5) **Documentation.** Enters a SEARCHS case note describing the issues reviewed and any confirmation of information received. Documents any party's failure to appear.

**8. Resolving the Modification Notice and Order.**

When service has been obtained on all parties, monitors for response within 20 calendar days, deems the consent of any party who does not timely return a completed consent or request for hearing, and proceeds in 8a or 8b as applicable.

- a. **Consent/Deemed Consent.** If no party timely requests a hearing, assembles the original Modification Notice and Order as follows:
- i. For any party who has returned a signed consent, replaces the original (blank) consent page for that party with the returned, signed page.
  - ii. Completes the certificate of service and response at the end of the Modification Notice and Order, retains a copy for the file, and forwards the assembled document to the Office of Administrative Law Judge (OALJ) for the signature of the Administrative Law Judge (ALJ). Upon receipt of the executed order in the region, proceeds to 8a(iii) below. The OALJ will send copies as described in step 10c and abstract any administrative order to the district court.

- iii. If the order being modified is a Montana administrative order, enters the appropriate SEARCHS case note, modifies the existing order on SOD, enters the signed date as the review date, sends an informational copy of the executed order to any parties to the request who are not parties to the action, and proceeds to enforcement; takes no further action in this section.

If the order that was modified is a court order, or an order from another state enters a SEARCHS case note, and sends informational copies as in the above paragraph. Notifies the paralegal that a filing in step 11 is required; monitors for receipt of the final court order and follows applicable procedures in step 13 at that time.

- b. **Request for Hearing.** If any party timely requests a hearing, follows regular CSED procedures for identifying the issues, preparing for the hearing, and attending the hearing as a witness. Prepares hearing checklist as a result of the review session held in step 7 and submits checklist to the OALJ prior to hearing.

See step 9 for issues, conduct, and possible outcomes of the modification hearing. Includes Debt Computation Worksheet as an Exhibit and is prepared to testify about payments made prior to hearing. If appropriate performs a "live" guidelines calculation during the telephone hearing concurrently with the calculation performed by the Administrative Law Judge.

Monitors for a proposed decision and order, any timely motion for review, and a final decision and order, under ARM 37.62.949 and 37.62.951. Enters the appropriate SEARCHS case note, and sends an informational copy of the final decision and order to any party to the request who is not a party to the action. Proceeds in sub step 8b(i) or 8b(ii) below as applicable.

- i. If the final decision and order contains a **modification** of an existing
  - **Montana administrative order** supersedes the existing order on SOD and proceeds to enforce.
  - **court order** or an order from another state notifies the paralegal that a filing in step 11 is required; monitors for receipt of the final court order and follows applicable procedures in step 13 at that time.
- ii. If the final decision and order finds that **no modification** is appropriate, takes no further action in this section.

**Procedures for Office of Administrative Law Judge/Admin. Law Judge**

**9. Conducting Modification Hearing/Proposed Decision and Order**

Upon receipt of a timely request for hearing on the Modification Notice and Order, follows applicable procedures in section CS 401.3 for scheduling, vacating, and conducting the hearing. If the Modification Notice and Order includes a Notice of Intent to Register, ALJ resolves only the Modification Notice and Order. Registration does not occur at the administrative level. It takes place at the district court as part of the Court Approval Process beginning in step 11. To contest registration, a party must request a hearing at the district court after receipt of form CS 408.3X Notice of Proposed Modification Notice of Registration and Request for Approval issued in step 11.

Limits the modification portion of the hearing to the issues listed in NOTE 2 below, and questions the witnesses in a non-adversarial manner to elicit full disclosure of all pertinent facts in dispute.

**NOTE 1:**

**ALJ questions caseworker concerning debt owed under existing order and payments made since the Modification Notice and Order was issued.** Seeks agreement to adjust monthly obligation to accommodate any overpayments that should apply to future support as a result of a decrease to the support obligation. Overpayments are refunded and not applied to future support when the overpayment was posted to accounts assigned to the State of Montana as a condition of public assistance eligibility.

Following the close of the hearing, issues and sends to the caseworker and parties a proposed decision and order modifying the support obligation or finding that modification is not appropriate.

**NOTE 2:**

**Issues at Modification Hearing.** The following issues may be contested at a modification hearing:

- 1) The CSED's authority to act in this proceeding (open case; existing support order; request for review and possible modification, received from appropriate requestor or initiated by the CSED; subject matter jurisdiction; no other modifications pending or in progress)
- 2) The CSED's personal jurisdiction over the parties
- 3) Service of the Modification Notice and Order
- 4) The monthly support amount
- 5) For full review, individual amounts in the guidelines worksheet, including income, deductions, supplemental expenses, adjustments to income, credit for payment of expenses, and days spent with each parent
- 6) For limited review, only the individual adjustments in the guideline worksheet to accommodate the limited review items
- 7) Medical support provisions only if the Modification Notice and Order seeks to change provisions of existing order
- 8) Immediate income withholding (or exception) for full review only

**10. Entering Final Decision and Order**

Proceeds in step 10a or 10b as applicable, and step 10c.

- a. Upon receipt of a consent/deemed consent package prepared in step 8a, reviews the package for correctness and obtains the signature of the ALJ on the (final) decision and order contained in the package.
- b. Following service of a proposed hearing decision and order in step 9, monitors for receipt of a motion for review within 20 days. If no motion is timely received, issues a final decision and order based on the proposed decision and order. If a motion is timely received, considers the motion and affirms, corrects, or amends the proposed decision and order, and issues a final decision and order.

**NOTE:**

**Judicial Review** If the existing support order is a court order or an order from another state and the final decision and order in step 10b above finds that modification is appropriate; the opportunity for judicial appeal is automatically contained in the special court process described in steps 11 through 14. If the final decision and order finds that modification is not appropriate, or modifies a Montana administrative order, judicial review is available on petition of a party as in other CSED contested case actions.

- c. Upon entry of a final decision and order in step 10a or 10b, proceeds as follows:
  - i. If the order being modified is a Montana administrative order, sends regular copies to the caseworker and the parties.
  - ii. If the order being modified is a court order or an order from another state, sends a single sided certified copy to the caseworker and no copies to the parties.

**COURT APPROVAL PROCESS**

**TERMINOLOGY NOTE:** Beginning in step 11 the following definitions are used to distinguish between the CSED's administrative modification process and the court's completion of that process.

**Proposed Decision and Order.** Order issued by ALJ following CSED modification hearing.

**Final Decision and Order.** Order issued by ALJ after any motion to review the proposed decision and order has been resolved, or the time for entering the motion has passed.

**Proposed Modification Order.** Modification order (from CSED's final decision and order) submitted to the district court for filing and judicial action: court may adopt, modify, reject, or remand.

**Final Modification Order.** Modification order entered by the district court.

**Procedures for Paralegal**

**11. Notice and Request to Court.**

Upon receipt of the CSED's final decision and order in the regional office, proceeds in 11a through 11f.

- a. For the appropriate Montana district court, prepares and obtains the attorney's signature on form CS-408.3X Notice of Proposed Modification and Request for Approval. The Notice includes a praecipe to the clerk of court. If the existing order is a court order from another state, selects registration option. Completes the certificate of mailing in the Notice when the packages in 11c and 11d are being prepared.

When the existing order is a Montana order, the appropriate court is the court that entered the existing support order. For orders from another state, consults legal unit if no party lives in Montana. If at least one party lives in Montana, the other state's order is filed in:

- the district court in the county of the **obligated** party if both parties live in Montana or
- the district court where the party lives if only one party resides in Montana

**IMPORTANT:** This form and all other forms generated in this section to be filed with the district court require specialized, complex data elements. Elements needing special attention include headings (cause number, captions, name of court); order information (existing support order, other state's court order if applicable, final CSED decision and order); and names and addresses of non-SEARCHS parties and attorneys. Also, all filings must be on court-approved paper as required by Uniform District Court Rule 1 (25-19-Rule 1, MCA); local practice rules of the particular district court also apply.

- b. For each party, prepares and signs form CS-408.3L Letter Re: Filing of Proposed Modification, explaining the opportunity to file an objection to the proposed modification (and notice of registration if appropriate) with the district court.
- c. Assembles this package for each party:
  - 1) Letter prepared in step 11b (original)
  - 2) District Court Fee Information sheet (from regional office supply)
  - 3) Final decision and order entered in step 10 (copy)
  - 4) Notice prepared in step 11a, with the praecipe (copy)

Serves the package on each party and the party's attorney(s) by regular mail

- d. Sends the following package to the district court, by regular mail:
  - 1) Notice prepared in step 11a, with the praecipe (original, plus extra copy of Notice only); self-addressed stamped envelope for return of the conformed copy
  - 2) If applicable, existing support order issued by another state's court (copy)
  - 3) Final decision and order entered in step 10 (certified copy)

- e. Monitors for objection to the proposed modification within 20 days after mailing the package in step 11c to each party. If a party objects, consults with regional attorney and prepares motion for scheduling order if appropriate. Monitors for hearing date, and proceeds to step 12.
- f. If the CSED has not received word of an objection within 20 days, contacts the court and identifies the status of the proposed modification. If a hearing will be held, proceeds to step 12. If not, skips to step 13.

**12. Court Hearing on Proposed Modification**

Upon being notified that the court has set a date for a hearing on the proposed modification order notifies and consults with the CSED staff attorney concerning the facts of the case.

- a. Prepares testimony describing how the CSED:
  - served notice as required by law
  - conducted the review sessions if applicable
  - determined that registration was necessary if applicable
  - conducted the hearing or determined the consent or deemed consent of each party
  - determined the support amounts and other provisions contained in the proposed modification order

Assists the CSED staff attorney in the preparation and submission of any exhibits needed for the above testimony; if necessary, participates in the hearing as a witness.

**NOTE:**

**CSED Representation at the Hearing.** The CSED is a party to the court action but appears at the hearing only to provide information. Also, only the CSED staff attorney can represent or appear for the CSED at the court hearing. The caseworker or paralegal can appear only as a witness to give testimony as described above.

- b. Upon receipt of a final order from the court, notifies the CSED staff attorney, enters the appropriate SEARCHS case note, and informs the caseworker of the outcome. In the case of a modification, completes the Montana State Case Registry and Vital Statistics Reporting Form and sends to the clerk of court, with a letter or praecipe identifying the form as the statistical report required by MCA section 50-15-302, and giving the date of entry of the court’s final modification order. Otherwise, takes no further action in this section.

**NOTE:**

**Remanded Order.** If the court remands the case to the CSED rather than modifying the existing order or finding that modification is not appropriate, the regional legal unit and the caseworker must work together to take action to satisfy the court. Specifically, they must evaluate the reasons or guidance provided with the remand, identify the appropriate point at which to re-open the CSED's contested case, and take steps as outlined in this section to achieve the necessary administrative resolution and, if necessary, a final court order.



**Procedure for Caseworker**

- c. Upon being notified of a final court order from step 12b or step 14, updates SOD according to regular procedures (enters the signed date as the review date) and proceeds to enforce as appropriate. Sets registration indicator if appropriate.

**Procedures for Paralegal**

**13. Order Approving Modification.**

If the court has received no timely objections and has scheduled no hearing on the proposed modification order, prepares form CS-408.3Z Order Approving Modification. The Order includes a praecipe to the clerk of court. The praecipe directs the court to send a certified copy of the signed order to the CSED, and a conformed copy to each party and attorney.

Selects registration option if the existing support order was registered in step 11. After submitting the document for SEARCHS generation, but before printing, adds the date of the CSED's final decision and order to the appropriate sentence in part IV of the form. This incorporates the terms and provisions of the CSED's proposed modification order by reference.

In generating the form, pays special attention to the identity of the petitioner and respondent in the existing order, and their current roles on SEARCHS. If the case facts do not fit the standard format (for example, if the SEARCHS AP and CP are not named as petitioner and respondent in the existing court order), adjusts the SEARCHS-generated document as necessary to correctly identify the obligations.

**14. Filing the Order Approving Modification.**

Assembles the following package and sends to the court by regular mail:

- 1) Form CS 408.3Z Order Approving Modification, including the praecipe to the clerk of court (original)
- 2) Completed Montana State Case Registry and Vital Statistics Reporting Form
- 3) Copies of item (1) for the CSED (one copy), the parties (one copy for each), and their attorneys (one copy for each), with stamped addressed envelopes for the same

Upon receipt of the final modification order from the court, notifies the staff attorney, enters the appropriate SEARCHS case note and informs the caseworker of the outcome. (See step 12c for caseworker responsibilities). If an order from another state was modified, files a copy of the final modification order and a copy of the final decision and order from step 10 with the other state.

**ESTABLISHING A SUPPORT OBLIGATION**

**Review and Modification of Support Order**

**CS 408.3**

<b>Scenario</b>	<b>CP Residence</b>	<b>NCP Residence</b>	<b>Support Order</b>	<b>Who requests review?</b>	<b>Who can review?</b>
<b>1</b>	<b>MT</b>	<b>MT</b>	Doesn't Matter	Doesn't Matter	<b>MT</b>
<b>2</b>	Other State	<b>MT</b>	<b>MT</b>	Doesn't Matter	<b>MT</b>
<b>3</b>	MT	Other State	MT	Doesn't Matter	<b>MT</b>
<b>4</b>	Other State	<b>MT</b>	Third State	CP	<b>MT</b>
<b>5</b>	Other State	<b>MT</b>	Third State	AP	Other State
<b>6</b>	<b>MT</b>	Other State	Third State	CP	Other State
<b>7</b>	<b>MT</b>	Other State	Third State	AP	<b>MT</b>
<b>8</b>	Other State	<b>MT</b>	Other State	Doesn't Matter	Other State
<b>9</b>	<b>MT</b>	Other State	Other State	Doesn't Matter	Other State
<b>10</b>	Other State	Other State	<b>MT</b>	Doesn't Matter	<b>MT</b>