

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

SUPERSEDES

CS 508.14 Credit Bureau Reporting February 24, 2011

REFERENCES

MCA §§ 40-5-261, 31-3-102, & 31-3-124, 45 CFR 302.70(7) & 303.7(d)(6)(iii)

Policy

Applicability

This section contains procedures for enforcing child support debts by reporting the amounts to consumer reporting agencies. Procedures for obtaining information from these agencies concerning an obligor, or an obligor's assets, are given separately in the Locate Unit Manual.

Contract basis for credit bureau reporting

Support debt information is made available to consumer reporting agencies that have signed contracts with the Child Support Enforcement Division (CSED). Contract discussions may be initiated at the request of the agency or by the CSED.

The CSED will pursue and execute contracts with only those consumer-reporting agencies that it determines have sufficient capability to systematically and timely make accurate use of support debt information, and have furnished satisfactory evidence of meeting the definition of consumer reporting agency given in section 31-3-102(4), MCA.

The term credit bureau is used in the remainder of this section to refer to a CSED-contracted consumer-reporting agency.

Disclosure of support debt information

Support debt information to credit bureaus will be disclosed periodically and automatically; the CSED will not charge a fee to recover the cost of providing the support debt information.

Criteria for automatic credit bureau reporting

A case qualifies for automatic credit bureau reporting when it is not an outgoing interstate case and the obligor owes a support debt equal to or greater than seven months of support obligation, or is an arrears only case with a debt greater than \$10.00.

Credit bureau reporting and Interstate Responding Cases

The CSED reports debt to the credit bureau that is being collected on behalf of other states.

Notice of proposed release of obligor information

The CSED must provide advanced notice to the obligor of its *intent to release* information to the credit bureau. The notice must contain the support debt dollar amount, and must inform the obligor of the methods available for contesting the accuracy of the information. The primary vehicle for this notice is the Child Support Statement (obligor bill), issued monthly in enforcement cases where support is not being collected by income withholding.

The CSED may also include notice of credit bureau reporting in any of its regular enforcement notices, including those issued in connection with the following processes: support order registration for

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

enforcement; administrative income withholding; license suspension; notice of support debt based on support order; federal tax offset; state bad debt offset; and perfection of support lien. This "piggyback" form of notice requires that the underlying enforcement notice contain a support debt dollar amount.

In other notices not concerned with support debt for example, in notices about support order establishment, registration, or modification; paternity establishment; or medical support enforcement, the CSED may warn obligors that if a debt is incurred it may be reported to the credit bureau. This is a courtesy warning only; it does not qualify as official advanced notice for purposes of credit bureau reporting, and need not give methods for contesting the accuracy of reported information.

Although the CSED is required to give notice to the obligor before releasing support debt information, the notice need not be actual notice. The CSED need not positively prove it has given the obligor the information directly and personally, as long as it takes reasonable steps to inform the obligor of its intent whether the obligor actually comes to know of it. In general, the CSED presumes proper receipt of credit reporting notice based on either the monthly statement or one of the regular enforcement notices.

If after the debt is reported, the obligor objects to the action on the basis of lack of notice, the caseworker checks the case file for documentation of proper service of notice. In unusual situations the caseworker may discover that the Child Support Statement was not sent or was not delivered and no enforcement notice was served in connection with the reported debt amount for example, the reported debt includes arrearages accrued since the last withholding notice or contained in a separate judgment. In these situations, the CSED simply informs the obligor of the methods for contesting the accuracy of the reported debt, and acts upon any request received according to standard procedures.

Contesting Accuracy of Reported Amounts

The obligor may contest the accuracy of the support debt amount released or proposed for release to credit bureaus by requesting one or all the following remedies:

- 1) Informal administrative review by the regional office may be requested at any time after the CSED specifies the amount of support debt that may be reported to the credit bureau.

Timing of Review

The informal review may be conducted at any time, separately or in conjunction with any hearing in the case. In cases where the debt has not yet been reported the caseworker should make every effort to conduct the review before the amount is reported to the credit bureau.

- 2) Reinvestigation by the credit bureau may be requested at any time after the CSED reports the support debt and the information appears in the credit bureau record, refer to procedures at section 31-3-124, MCA.
- 3) Administrative hearing by the Office of Fair Hearings (OFH) may be requested at any time after the debt has been reported, and the obligor has requested and obtained a reinvestigation by the credit bureau. An informal review is not required, see Informal Review below. The OFH will determine whether these requirements are satisfied, and will grant or deny the request accordingly. Findings of the hearing officer are subject to judicial review.

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

Res Judicata

At the hearing the obligor may not raise defenses concerning the accuracy of the debt amount reported to the credit bureau if the defenses were previously ruled on by a court or administrative final decision and order, or put at issue by a notice served on the obligor in connection with a regular enforcement process, and the obligor failed to timely request a hearing.

Payments made after Order or Notice

Where of the conditions above applies, the obligor may still contest the accuracy of the debt if the obligor alleges there were payments on the debt after the period identified in the order or notice.

Reporting Mechanism

The CSED reports or certifies support debt information to credit bureaus electronically, by providing a computer file in an agreed format. The file is produced by a SEARCHS batch process, and includes the obligor's name, social security number, address, certified support debt amount, and credit reporting code. The code describes the degree of delinquency and the reportability of the debt. Generally, the CSED uses a code that reflects a 30-day delinquency and a sum-certain dollar amount. However, the credit bureau may choose to view the record as an unrated report. The credit bureau enters the information in its record for the obligor.

The credit bureau record displays the unpaid balance and highest ever debt. The highest ever debt remains on credit bureau records for seven years. Data on the unpaid balance will remain on credit bureau records until the unpaid balance is paid in full, suppressed, or the CSED is no longer enforcing the case. The information reported to the credit bureau on each obligor is updated monthly, whether or not a change occurs.

Downward Corrections

When a downward correction has been or will be reported by file match, the CSED must, at the request of the obligor, provide a copy of the corrected Debt Computation Worksheet for the obligor to place in his or her credit file. The Debt Computation must include all months affected by the correction, and will serve to document CSED corrections to debts previously reported to the credit bureau. Generally, the credit bureau will not allow the CSED to place written information in the file, but will allow the obligor to do so.

Relationship of Child Support Statement and Credit Bureau Reporting cycle

The monthly Child Support Statement specifies the debt amount that will be reported to the credit bureau. This reportable debt is usually different from the total payable debt also listed on the statement. Credit bureau reporting of the reportable debt occurs in the second month after the statement month. SEARCHS design calls for the Child Support Statement, dated the last day of the month, to be issued as soon as possible after month-end processing, and for the corresponding credit reporting file to be run and mailed after month-end processing and billing for the next month. This allows time for the obligor to decrease the amount to be reported by paying some or all of the debt, or to contact the CSED to discuss or contest the accuracy of the amount to be reported.

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

EXAMPLE: An obligor, who has an arrears balance of \$400 through October and a monthly obligation of \$300 makes no payment until May, will receive a statement for reportable debt of \$2200 after April 30th (the statement is issued *after* April month-end). The statement advises the obligor that the amount will be reported to the credit bureau unless arrears are reduced before May 31. The credit-reporting file that runs in early May does not list the obligor or the debt at all. If in May the obligor pays current support but, makes no payments on the debt, the file that is run in early June (after May month-end) will report the obligor with a debt of \$2200.

Payments on Reportable Debt

In creating the credit-reporting file SEARCHS uses the lesser of the reportable debt amount listed on the corresponding Child Support Statement, or debt shown by the obligor's SEARCHS accounts on the date the file batch is run.

Therefore, if an obligor makes payments on a reportable debt before the file is created, the amount actually reported will be less than the reportable amount listed on the statement. In the above example, if the obligor makes an additional payment of \$100 in May, the June file will list the debt at \$2100. The support debt amount shown on the BIL screen is the amount projected from the statement for credit bureau reporting; the amount actually reported is shown on the CRD screen.

Payments in Full, Loss of Enforcement Authority

The CSED must notify the credit bureau within 30 days when an obligor pays a reported support debt in full, or the CSED is no longer enforcing a reported support debt.

Normally the SEARCHS automatic billing and credit reporting cycles will satisfy this requirement, using the latest account balances and case enforcing statuses open/closed to create update files at one-month intervals. Because these cycles depend on month-end timing, however, it is possible for the interval between two credit-reporting files to be more than 30 days. If the payment in full or loss of enforcement authority occurs at the very beginning of that interval, there could be a technical compliance situation.

EXAMPLE: SEARCHS creates the monthly credit-reporting file on March 6 (after February month-end and billing). An obligor pays a support debt in full on March 7. The next credit-reporting file is run on April 8, 33 days after the last file, and 32 days after the debt was paid in full.

When payment in full or loss of enforcement authority will not be reported within 30 days by SEARCHS file match, the CSED must timely notify the credit bureau in writing, stating the debt has been paid in full, or the CSED is no longer enforcing the debt.

In addition to payment in full, an obligor may require proof of the payment to present to a lending institution, employer, or other person before the next file match even when the update will occur within 30 days. In this situation the CSED will, at the request of the obligor, prepare a hard-copy release stating the debt has been paid in full and specifying the time period(s) covered by the release. The release should not imply the obligor is released from any current or future support obligation. If an obligor owes a support debt in more than one case, a release is appropriate only when all of the debts are paid in full.

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

Suppression Policy

Although SEARCHS is designed to allow suppression of credit bureau reporting in individual cases caseworkers may not suppress reporting except as described below. In some cases, suppression is required.

- 1) Alleged debt. The debt includes months where the only information available is the obligee's allegation or affidavit of support, and the amounts are neither adjudicated nor supported by CSED payment records. SUPPRESSION REQUIRED.

If the obligor is in a locate status and adjudication is therefore impossible, the suppression must be lifted after 60 days; otherwise, the suppression is lifted upon adjudication of the debt.

- 2) Other uncertain debt. The debt amount is not reasonably certain, and reporting of the SEARCHS amount would likely result in downward correction of the amount in a later month. For example, account adjustments are pending; or, there is reason to believe the obligor will produce evidence of additional payments.
- 3) Debt caused by annualization. The debt amount has reached the threshold for credit bureau reporting seven months' support obligation only because arrears created by income withholding annualization are included in the amount. SUPPRESSION REQUIRED.
- 4) Bankruptcy. A bankruptcy court or other tribunal of appropriate jurisdiction has imposed a stay on collection actions. SUPPRESSION REQUIRED.

NOTE:

Stay of Collection and Suppression. When a stay of collection has been imposed, suppression of the monthly Child Support Statement is also required.

- 5) Overall enforcement unusual situations only. Credit reporting would impair the CSED's overall ability to enforce the case. Suppressions based on an overall enforcement advantage should be entered only when supported by very strong case facts.

Suppression: File Information

When reporting is suppressed, the file submitted to the credit bureau will contain no listing for the obligor, unless there is already a CSED-certified debt amount on file with the credit bureau for the obligor. If this is the case, the file will list the obligor with the appropriate code indicating there is an adjustment pending and the CSED is not able to certify a specific dollar amount. If the obligor owes a support debt in more than one case, the suppression code will appear on the file if reporting is suppressed in **any** of the obligor's cases.

If there is a documented reason that the obligor's name needs to be deleted from the credit reporting file, contact the CSED e-OSCAR maintenance person.

Suppression: Automatic Suppression

If a caseworker suppresses an obligor's Child Support Statement, SEARCHS will automatically suppress credit bureau reporting on that case. Caseworkers should be aware of this consequence in considering whether to suppress a bill. In some cases, the reason for suppressing the statement also satisfies the condition for suppressing or disqualifying a case from credit reporting for example, the debt

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

amount is not reasonably certain, or the accounts in the case are overpaid and no debt exists. The caseworker should be aware that suppression of the statement would take away an important enforcement option. A regional manager or supervisor must approve all Child Support Statement suppressions.

Procedures

The central office identifies consumer reporting agencies (credit bureaus) meeting criteria mentioned under Contract Basis in policy above. Negotiates contract with individual consumer reporting agencies whereby the CSED provides debt information to the agency as described in this section.

Procedures for Caseworker

- 1. Telephone Inquiries.** Responds to telephone inquiries from obligors regarding credit bureau reporting processes, time frames and amounts.
- 2. Case Qualifies but Reporting Not Appropriate.** At any time upon identifying a case qualified, but not appropriate for credit bureau reporting suppresses reporting on the Case Information Screen (CAS). Monitors case for resolution of suppression situation; restores automatic credit bureau reporting when appropriate. Resumes any procedures begun in steps 4 or 7 below.
- 3. Contest or Accuracy by Obligor.** Upon contact by obligor wishing to contest accuracy of amount reported or to be reported, advises obligor of available methods if appropriate, proceeds to step 4, step 7, or step 8.

Lack-of-Notice Claims.

This step also applies to contacts from obligors claiming lack of advance notice of credit reporting; available remedies still involve contesting the accuracy of the reported amount.

- 4. Informal Review.** Upon request of obligor, conducts an informal administrative review of the support debt amount reported, or to be reported to credit bureau. Works with the obligor to identify and to resolve discrepancies in monthly ordered amounts and payments, uses current Debt Computation Worksheet and any information provided by obligor.

If the debt has not yet been reported, attempts to resolve the issue prior to next SEARCHS batch run that would report the noticed debt.

Where timing allows following notice or actual reporting, uses opportunity of next available CSED hearing in the case to conduct review.

- 5. After Informal Review.** If a review indicates the debt amount is inaccurate, and a correct amount can be determined makes the necessary adjustment(s) to SEARCHS accounts. If the review indicates credit bureau reporting is not appropriate at this time takes action to suppress as in step 2.
- 6. Informs Obligor of Results.** Informs obligor of results of review; takes action in step 12 to supplement electronic reporting if necessary. If obligor is dissatisfied with the determination, explains that there will be an opportunity for an administrative hearing following the credit bureau reinvestigation. If the obligor is satisfied with review results, takes no further action.

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

- 7. Credit Bureau Reinvestigation.** Upon receiving a request from the obligor for an administrative hearing on the accuracy of the debt noticed for reporting, determines if the debt has been reported to the credit bureau and if the obligor has obtained a reinvestigation by the credit bureau. If so, proceeds to step 9.

If not, explains a hearing is not available at this time; advises obligor of other remedies such as, an informal review, credit bureau reinvestigation and proceeds accordingly.

- 8. Administrative Hearing.** Completes and sends to the obligor CS 405.2 Request for Hearing with instruction to attach proof of credit bureau reinvestigation before submitting to OFH. Advises OFH of any enforcement notices issued in the case and their resolution.

Proof of Reinvestigation

The credit bureau's official reinvestigation response letter to the obligor is proof the obligor has exhausted this remedy. If the obligor cannot produce the letter, the caseworker should provide the OFH with evidence of the reinvestigation from the case file if available.

Procedure for Credit Bureau Specialist

- 9. Receipt of Electronic request.** Upon receipt of an electronic (E-Oscar) request from credit bureau for verification of reported debt pursuant to a reinvestigation, reviews accuracy of debt amount using information from current Debt Computation Worksheet. Responds via E-Oscar within any time limits required by credit bureau, confirming, or revising the debt amount in question; keeps copy for case file. If no time limit specified by credit bureau, responds within one week after receipt of verification request.

IMPORTANT: Some credit bureaus will remove the debt from the record if the response is not received timely.

If the debt amount is revised, adjusts SEARCHS accounts accordingly and takes action in step 12 to the supplement electronic reporting as needed. If the reinvestigation indicates credit bureau reporting is not appropriate at this time, takes action to suppress as in step 2.

Procedure for Office of Fair Hearings

- 10. Hearing Request.** Upon receipt of a request for hearing on a credit reporting issue, determines that the CSED has reported debt in question and that the obligor has obtained a reinvestigation by credit bureau. If not, informs obligor hearing is not available. If so, schedules hearing, issues hearing notices, and conducts hearing in accordance with requirements of sections 40-5-226 and 40-5-253, MCA. Advises parties of results of hearing.

Procedures for Caseworker

- 11. SEARCHS Accounts.** If necessary adjusts SEARCHS accounts to reflect any support debt changes determined at hearing. If adjustments result in reduction of support debt takes actions in step 12 to supplement electronic reporting as needed.

ENFORCEING A SUPPORT ORDER

Credit Bureau Reporting

CS 508.14

12. Supplements Electronic Updating. At any time during the credit reporting process takes actions in 12a through 12d as needed to supplement monthly electronic updating.

- a. If support debt is paid in full and obligor requires proof before next the SEARCHS file match, prepares and provides to obligor a release stating the debt has been paid in full, giving applicable dates. Also, includes a copy for the case file.
- b. If support debt is paid in full and payment will not be reported by the SEARCHS file match within 30 days, writes and mails a letter to the credit bureau within 30 days after payment stating the debt has been paid in full.
- c. If the CSED loses authority to enforce the support debt e.g. case closes and the change will not be reported by the SEARCHS file match within 30 days, writes and mails a letter to credit bureau stating the CSED no longer has authority to enforce the support debt. The letter must be mailed to the credit bureau within 30 days after the loss of authority to enforce.
- d. If the CSED determines the reported debt amount is inaccurate, and a correct amount can be determined, and the obligor requests a correction to historical information in credit file; prepares and mails to obligor the corrected debt computation worksheet for all months affected by correction; retains copy for case file. Obligor may use the debt computation worksheet to correct the history in the credit file.