



# FAMILY INDEPENDENCE ADMINISTRATION

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## POLICY BULLETIN #10-08-ELI (This Policy Bulletin Replaces PB #08-146-ELI)

### INCREASE IN THE CHILD SUPPORT PASS-THROUGH ALLOWANCE

<b>Date:</b> February 10, 2010	<b>Subtopic(s):</b> Child Support
<p> This procedure can now be accessed on the FIAweb.</p> <p>New income source code <b>68</b></p> <p>Pass-through payments are <u>not</u> issued for collections of child support arrears.</p> <p>New information</p> <p>Children are CA active individuals under 21 years.</p>	<p>The purpose of this policy bulletin is to inform Job Center staff that the child support pass-through and disregard amount has increased to up to \$200 per month for households with two or more children under the age of 21 on the Cash Assistance (CA) case and to advise of the following Welfare Management System (WMS) changes:</p> <ul style="list-style-type: none"> <li>• unearned income source code <b>14</b> (Court Ordered Alimony/Spousal Support/Child Support Payment) is used for child support orders and spousal support orders that are linked to the child support orders unless the <u>alimony/spousal support only</u> order is for a CA household member under 21 years of age; and</li> <li>• new income source code <b>68</b> (Alimony/Spousal Support) must be used to identify income derived from <u>alimony/spousal support only</u> orders for CA active individuals 21 years of age or older.</li> </ul> <p>In November 2008, CA participants became eligible to receive up to the first \$100 per month paid for current support.</p> <p>Effective January 1, 2010, CA households with child support orders or combination child support/spousal support orders are eligible for pass-through and disregard amounts, as follows:</p> <ul style="list-style-type: none"> <li>• up to the first \$100 per month of child support paid to OCSE for families with <u>one</u> child, or</li> <li>• up to the first \$200 per month of child support paid to OCSE for families with <u>two or more</u> children.</li> </ul>

HAVE QUESTIONS ABOUT THIS PROCEDURE?  
Call 718-557-1313 then press 3 at the prompt followed by 1 or  
send an e-mail to *FIA Call Center Fax* or fax to: (917) 639-0298

Current Child Support Paid through OCSE

Automated pass-through  
(bonus payment)  
process

Beginning February 2010, for current support collected in January 2010, the monthly automated child support Mass Rebudgeting (MRB) will recalculate the household's budget and enter the pass-through amount as income source code **87** (Child Support Bonus Payment [System Generated]) on the budget. This will also generate a payment to the participant.

The MRB process cannot update the budget if there are:

- transmission errors between OCSE and WMS, or
- discrepancies in case information available in WMS at the time of OCSE's receipt of the monthly child support amount.

Office of Central  
Processing

These cases will appear on the monthly MRB exception report and the pass-through amounts must be issued manually by the Office of Central Processing (OCP).

Manual pass-through  
(bonus payment)  
process

For those cases appearing on the monthly MRB exception report and requiring manual processing of pass-through payments for current support paid in January 2010 and every month thereafter, OCP must:

- review the electronic case record;
- verify the number of children under the age of 21 who are active on the CA case at the time of the MRB run; and
- prepare the Public Assistance Single Issuance Authorization (**LDSS-3575**) form using special grant code **54**, to issue a pass-through (bonus payment) amount of up to a maximum of \$100/\$200 per month, as appropriate.

Special grant code **54**

Budgeting of Current Child Support/Alimony Support as Unearned Income

Automatic disregards

See the [Budgeting Manual Public Assistance Program, page A-17](#) for child support related income source codes.

WMS income source codes **14**, **61** (Alimony/Child Support Assigned to the Agency), and **87** will be programmed to automatically exempt (disregard) a maximum amount of either \$100 (for a CA household with one active child or an active member in receipt of spousal/alimony only income and under 21 years of age) or \$200 (for a CA household with two or more active children) of support money received.

Current Child Support Budgeted as Unearned Income

Income source code **14** is also used to budget spousal support only income received for a CA participant *under 21 years of age*.

CA households with current child support income budgeted as income source code **14** will have up to the first \$100 per month exempted as countable income to the household, if the CA household includes one active individual under 21 years of age, and up to the first \$200 per month if the CA household includes two or more active children.

**Note:** SSI children included in the CA household's Food Stamp (FS) budget are not included in the household count for the CA case. Therefore, a CA case with one SSI child on the FS case and one child receiving CA and FS will only receive a pass-through amount of up to \$100 per month for the CA child.

Spousal Support Only Support Budgeted as Unearned Income

Income source code **68** is used to budget spousal support only income for CA participants *21 years of age and over*.

CA participants *21 years of age and over* and in receipt of income from spousal support only support orders will no longer have any of their support income disregarded or exempted from CA and FS budgeting. For income received from spousal support only support orders for those individuals, the JOS/Worker must use new income source code **68** to budget the spousal support.

However, spousal support only income for CA participants *under the age of 21* will continue to be budgeted as income source code **14** and those individuals will continue to receive the disregard and pass-through amount until age 21.

JOS/Workers must review CA budgets with income source code **14** to determine if there is income from a spousal support only order. The JOS/Worker must further review the CA budget to determine the age of the individual in receipt of the spousal support only income. Once the individual turns 21, the JOS/Worker must change income source code **14** to **68**.

Income source code **68** does not apply disregards.

Income source code **68** will not apply any disregards or income exemptions; therefore, its use will create a reduction in the household's CA grant.

**Note:** If income source code **68** is incorrectly entered for a CA active individual under 21 years of age, an error condition will be created and the following error message will be displayed:

Error message

**E2619 – INC SRC 68 REQUIRES AGE 21 & OVER**

Food Stamp implications | The child support pass-through (or bonus payment) amount is not counted as income when determining CA and Medicaid benefits, but is considered when calculating FS benefits.

Manual disregards | The **W-648** and **W-648D** forms will be revised to include the changes to child support/alimony related budgeting requirements when manual calculation of a cash assistance budget is necessary. The details of the revisions will be released in a separate Policy Bulletin.

The Important Notice Regarding Child Support to Persons Applying for or Receiving Temporary Assistance or Foster Care Maintenance Payments Under Title IV-E form (**LDSS-3908**) has been revised to reflect the change in the disregard and pass-through amount for households with two or more children.

The applicants/participants visiting Job Centers with questions about the change in the child support pass-through (or child support in general) may be given copies of the revised **LDSS-3908** form.

Job Center Directors must ensure that all previous versions of Form **LDSS-3908** are removed from circulation and recycled.

Samples of the forms are attached.

*Effective Immediately*

**References:**

- Social Services Law §§ 111-c(2)(d) and 131-a (8)(v)
- 18 NYCRR 352.22 (t)
- 18 NYCRR 387.14 (i)
- [GIS 09 TA/DC032](#)
- SPP 2009-00339

**Attachments:**

- LDSS-3908** Important Notice Regarding Child Support to Persons Applying for or Receiving Temporary Assistance or Foster Care Maintenance Payments Under Title IV-E (Rev. 10/09)
- LDSS-3908 SP** Important Notice Regarding Child Support to Persons Applying for or Receiving Temporary Assistance or Foster Care Maintenance Payments Under Title IV-E (Spanish) (Rev. 10/09)

☞ Please use Print on Demand to obtain copies of forms.

**IMPORTANT NOTICE REGARDING CHILD SUPPORT  
TO PERSONS APPLYING FOR OR RECEIVING TEMPORARY ASSISTANCE OR FOSTER  
CARE MAINTENANCE PAYMENTS UNDER TITLE IV-E**

**Assignment and Cooperation with Child Support**

As an applicant for or recipient of “temporary assistance” (officially known as “family assistance” and “safety net assistance”) or, where appropriate, certain foster care maintenance payments, you are required to assign to the Department any rights you have to support on your own behalf and any rights to support on behalf of any family member for whom you are applying for or receiving assistance. Where applying for or receiving temporary assistance, your assignment of support rights is limited to support that accrues during the period that you or the family member receives assistance. You are required to assign these support rights and, unless you claim good cause or domestic violence for not doing so, cooperate with the Child Support Enforcement Unit (CSEU) to:

- Establish paternity of each child born out-of-wedlock for whom you are applying for, or receiving, temporary assistance;
- Locate noncustodial parents, including biological parents, stepparents, or adoptive parents;
- Establish, modify or adjust child support obligations from the noncustodial parent of each child; and
- Collect and enforce support obligations through the Support Collection Unit from noncustodial parents for the support of each child.

**Rights and Obligations Which May Result From Establishing Paternity**

- If paternity establishment is necessary, the court order establishing paternity (called an “order of filiation”) will name the father of your child.
- The noncustodial parent will be chargeable by the court to pay support until the child is twenty-one (21) years of age. As a recipient of temporary assistance, you will receive up to the first \$100 of current support collected each month or up to the current support obligation amount, whichever is less, without reducing your assistance grant or affecting your eligibility for assistance. This is referred to as the “pass-through” payment. Effective January 1, 2010, the \$100 pass-through payment level will continue for temporary assistance families with one child but will also increase to up to the first \$200 each month of current support collected or up to the current support obligation amount, whichever is less, for temporary assistance families with two or more children.
- Your child gains right to inheritance from his or her parents. Parents also may have rights of inheritance from their child.
- Your child may be entitled to receive death or disability benefits if either parent dies or becomes permanently disabled.
- The noncustodial parent has the right to ask the court for visitation with and/or custody of your child.
- The noncustodial parent will also have the right to be consulted before any adoption or foster care placement proceedings may occur for your child and may oppose any such adoption or foster care placement.

**Rights to Information Regarding Legal Proceedings**

You have the right to be kept informed of the time, date and place of any court proceedings involving you. You will be provided with a copy of any order establishing, modifying, adjusting or enforcing a child support obligation or, in the case of modification or adjustment, a determination that no change is warranted.

**Legal Representation**

An attorney will be assigned to your case for any actions that require a court proceeding. The attorney assigned to your case is the legal representative of the Commissioner of the Department of Social Services, and does not represent you personally. The attorney’s representation in this matter is limited to the establishment of paternity and the establishment, modification, adjustment, and enforcement of support obligations. Matters of custody, visitation, or other issues not related to support will not be handled by the Department’s attorney. Any information, written or oral, which you provide to the Department’s attorney or staff **may not** remain confidential, including information indicating welfare fraud, which must be reported to appropriate officials.

If you have any questions concerning other legal issues, or you wish to have your own legal representation, you should contact a legal services or legal aid organization for assistance, or obtain the services of a private attorney of your own choosing at your own expense.

## **AVISO IMPORTANTE EN RELACIÓN CON EL SUSTENTO DE MENORES PARA SOLICITANTES O BENEFICIARIOS DE ASISTENCIA TEMPORAL O DE PAGOS DE MANTENIMIENTO DE CUIDADO DE CRIANZA SEGÚN EL TÍTULO IV-E.**

### **Asignación y cooperación con el sistema de sustento de menores**

En su calidad de solicitante o beneficiario de «Asistencia Temporal» (oficialmente denominada «Asistencia para Familias» y «Asistencia Red de Seguridad») o, de ser pertinente, de ciertos pagos de mantenimiento de cuidado de crianza, se le exige asignar todos sus derechos de sustento al departamento en su propio nombre, y los derechos de sustento de todo miembro de la familia para quien usted esté solicitando o recibiendo asistencia. Siempre que solicite o reciba asistencia temporal, la asignación de derechos de sustento se limita al monto de sustento acumulado durante el periodo en el cual usted o miembros de la familia reciben asistencia. Se le exige asignar esos derechos de sustento y, a menos que usted aduzca causa o violencia doméstica como motivo para no hacerlo, que coopere con la Unidad de Ejecución de Pago de Sustento de Menores (*Child Support Enforcement Unit*, *CSEU*), a fin de:

- establecer la paternidad de cada niño nacido fuera del matrimonio para quien usted solicite o reciba asistencia temporal;
- localizar los padres no custodios, inclusive los padres biológicos, la madrastra / el padrastro o los padres adoptivos;
- establecer o modificar la obligación de sustento de menores del padre no custodio del niño; y
- cobrar y ejecutar la obligación de sustento por medio de los servicios de la Unidad de Cobro de Sustento del padre no custodio del niño.

### **Derechos y obligaciones vinculadas con el establecimiento de paternidad**

- Si es necesario determinar paternidad, la orden judicial por la cual se la determine (llamada «orden de filiación») identificará al padre de su hijo.
- Se le obligará al padre no custodio a pagar sustento de menores hasta que el niño cumpla los veintiún (21) años de edad. Como beneficiario de Asistencia Temporal, usted recibirá una suma de hasta los primeros \$100 del sustento actual de menores cobrado cada mes o una suma de hasta el monto obligatorio actual de sustento, cualesquiera del monto que sea menor, sin reducir su subvención de asistencia ni afectar su habilitación para recibir asistencia. Ello se denomina «pago traspasado». A partir del 1 de enero de 2010, el pago traspasado por el monto de \$100 continuará vigente para las familias con un niño beneficiario de Asistencia Temporal, y se incrementará a una suma de hasta los primeros \$200 del sustento actual cobrado cada mes o una suma de hasta el monto obligatorio actual de sustento, cualesquiera del monto menor, para familias con dos o más niños beneficiarios de Asistencia Temporal.
- Su hijo adquiere derechos de herencia de los padres. Los padres también adquieren derechos de herencia de sus hijos.
- Su hijo puede tener el derecho de recibir beneficios por fallecimiento o incapacidad de los padres si uno de ellos muere o queda permanentemente incapacitado.
- Cualquiera de los padres no custodios tiene el derecho de solicitarle al juzgado derecho de visita o derecho de custodia del niño.
- El padre no custodio también tendrá el derecho de que se le consulte antes de llevarse a cabo cualquier proceso de adopción o colocación en familia de crianza de su hijo y puede oponerse a tal adopción o colocación en familia de crianza.

### **Derechos a información relativa a procedimientos legales**

Usted tiene el derecho de que se le informe la hora, la fecha y el lugar de todo procedimiento legal que lo/la involucre. Se le proporcionará una copia de toda orden de establecimiento, modificación, ajuste o cumplimiento de una obligación de sustento de menores o, en el caso de una modificación o ajuste, una determinación de que un cambio no tiene mérito.

### **Representación legal**

Se asignará un abogado a su caso para toda acción que requiera un proceso legal. El abogado asignado a su caso es el representante legal del Comisionado del Departamento de Servicios Sociales y no es su representante personal. La representación del abogado en esta materia está limitada al establecimiento de paternidad y al establecimiento, modificación, ajuste, y ejecución de obligaciones de sustento. Los casos de custodia, derechos de visita y otros temas no relacionados con el sustento no serán tratados por el abogado del departamento. Toda información, escrita u oral, que usted le proporcione al abogado o al personal del departamento **no se mantendrá**, necesariamente, de manera confidencial, inclusive datos pertinentes a fraude en prestaciones sociales, de lo que deberá darse parte a las autoridades pertinentes.

Si usted tiene alguna pregunta en relación con otros temas legales o si desea su propia representación legal, debe ponerse en contacto con una organización de servicios legales o de ayuda legal para recibir asistencia, o debe obtener los servicios de un abogado privado, de su elección y por su cuenta.