

WAC 388-14A-3311 How does DCS prepare a notice of support owed to determine amounts owed to establish a fixed dollar amount under an existing child support order?

(1) The division of child support (DCS) serves a notice of support owed under RCW 26.23.110, WAC 388-14A-3310 and this section on the noncustodial parent (NCP) to determine the fixed dollar amount of the support debt, the fixed dollar amount of the current and future support obligation, or both.

(2) DCS may serve a notice of support owed on the NCP to determine the fixed dollar amount of the current and future support obligation when a support order provides that the NCP's support obligation is:

(a) A certain percentage of the NCP's gross or net earnings;

(b) Set as a sum-certain amount, but the amount is to be paid other than monthly; or

(c) To be determined by some other formula or method requiring the use of information that is not contained in the order, including currency conversion when DCS is enforcing a support order which sets the support amount in a foreign currency.

(3) DCS may serve a notice of support owed on the NCP to determine the amount of the NCP's share of daycare or child care expenses for the children when the support order sets the NCP's obligation as a percentage or proportion of those expenses. A custodial parent (CP) seeking reimbursement for daycare or childcare expenses for the child(ren) must:

(a) Apply for full collection services at the time of the request, unless the CP already has an open full collection case with DCS;

(b) Have paid the daycare or child care expenses before seeking reimbursement through DCS;

(c) Provide proof of payment of those expenses;

(d) Complete the forms provided by DCS for the claim, or at a minimum present the required information and documentation in a format similar to that in the DCS forms; and

(e) Declare under penalty of perjury that he or she has asked the NCP to pay his or her share of the daycare or child care expenses or provide good cause for not asking the NCP for payment.

(4) DCS' denial of a request from either the CP or the NCP to serve a notice of support owed under this section does not affect either party's ability to bring an action in another tribunal to enforce a claim for the other party's proportionate share of expenses paid for the children. Either party may file an action in court to:

(a) Make a claim for reimbursement of daycare or childcare expenses;

(b) Make a claim for reimbursement of any other child rearing expenses; or

(c) Seek any other kind of relief against the other party.

(5) DCS may serve a notice of support owed under this section on the NCP to implement an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation.

(6) Whenever DCS serves a notice of support owed on the NCP under subsections (2), (3) or (5) above, that notice may also include a determination of the fixed dollar amount of:

(a) Any support debt owing;

(b) Any amount paid by the NCP that exceeds his or her actual current and future support obligation; and

(c) Any amount paid by the NCP that exceeds his or her actual share of day care or child care expenses.

(7) If DCS is preparing a notice of support owed as part of an annual review, the notice may also include a determination of the fixed dollar amount of:

(a) Any support debt owed by the NCP; and

(b) Any amounts calculated under an order resulting from a previous notice of support owed that exceed the NCP's actual obligation after actual income or expenses are considered.

(8) If the notice of support owed contains a determination that the amount owed by the NCP under the previous notice of support owed (if any) is more than his or her actual current and future support obligation or his or her actual share of expenses, the notice addresses how the difference may be credited or repaid, in the absence of an agreement between the parties.

(a) Any overpayment may be applied as an offset to nonassistance child support arrears owed by the NCP on that case only.

(b) If there is no nonassistance debt owed on the case, the reimbursement must be in the form of a credit against the NCP's future child support obligation:

(i) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(ii) In a case where the underlying order provides that the NCP's support obligation will end in less than twelve months, spread equally over the remaining life of the order.

(9) In a notice of support owed under this section, DCS includes:

(a) The information required by RCW 26.23.110 and WAC 388-14A-3110;

(b) A description of any provisions or factors contained in the underlying order regarding how to calculate the monthly support obligation or the amounts claimed for nonmedical expenses; and

(c) Any other information not contained in the order that DCS used to calculate the amounts in the notice.

[Statutory Authority: RCW 26.09.105(17), 26.18.170(19), 26.23.050(8), 26.23.110(14), 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20.040, 74.20A.055(9), and 74.20A.056(11). WSR 11-12-006, § 388-14A-3311, filed 5/19/11, effective 6/19/11.]