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**Rules of**  
**Department of Social Services**  
**Division 40—Family Support Division**  
**Chapter 108—Child Support Program, Counties**  
**under Cooperative Agreement**

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## Title 13—DEPARTMENT OF SOCIAL SERVICES

### Division 40—Family Support Division Chapter 108—Child Support Program, Counties under Cooperative Agreement

#### 13 CSR 40-108.020 Minimum Record-Keeping Requirements for County Reimbursement and Standardization of Claims Submissions

*PURPOSE:* The purpose of this rule is to establish minimum record-keeping requirements to document reimbursement claims received from county and city governing bodies under cooperative agreement with the Family Support Division (IV-D) and to standardize claims submissions.

(1) County government units which enter into cooperative agreements to provide child support enforcement (IV-D) services under section 454.405, RSMo, and federal regulations and which submit reimbursement claims under those agreements, will maintain records, available for audit, for five (5) years from the date the claims are presented to the Family Support Division for payment. If any litigation, claim, negotiation, audit, or other action involving the records is started before the end of the five- (5-) year period, the county will keep the records until the action is completed and all issues which arise from it are resolved, or until the end of the regular five- (5-) year period, whichever is later. For documentation, the records will include at a minimum:

(A) All receipts or vouchers for expenses claimed under operating and overhead (direct and indirect costs);

(B) Any employee who is compensated for both IV-D- and non-IV-D-related activities must maintain detailed daily time records supporting personnel costs claimed, including actual time and date, IV-D case name, and case activity. In place of this requirement, a county may request permission from the division to sample personnel time using a method prescribed by the division. If approved by the division, these sampling results may be used to allocate IV-D personnel costs on a quarterly basis; and

(C) All records required by this rule must be available and adequate to verify expenditures. When documentation is not adequate, reimbursement may be denied or recovered if already paid. For the purpose of this rule, the term adequate records means that the required documents are legible, and that the information they contain can be readily discerned through reasonably careful examination without resort to extrinsic sources of data

or special explanations not contained in the documents.

(2) Counties must submit and document claims in a manner prescribed by, and on forms provided by, the division.

*AUTHORITY:* sections 454.400 and 660.017, RSMo 2016.\* This rule originally filed as 13 CSR 30-3.020 and 13 CSR 40-3.020. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Moved to 13 CSR 40-3.020 and amended: Filed Nov. 26, 2008, effective June 30, 2009. Moved to 13 CSR 40-108.020 and amended: Filed Aug. 8, 2018, effective March 30, 2019.

\*Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997, 2014 and 660.017, RSMo 1993, amended 1995.

#### 13 CSR 40-108.030 Incentives

*PURPOSE:* This rule defines how the Family Support Division will share available federal incentive funds with counties for allowable expenses not to exceed one hundred percent (100%) of counties' reasonable and necessary costs.

(1) Definitions.

(A) "Division" means the Family Support Division.

(B) "Director" means the director of the Family Support Division.

(C) "Formula" means the amount otherwise payable to a state as federal incentives under Section 458A of the Social Security Act.

(D) "Counties" means all counties and all cities not located within a county.

(E) "Allowable expenses" means expenses that may be claimed pursuant to 13 CSR 40-108.010.

(F) "TANF" means temporary assistance for needy families.

(G) "County incentives" means the total amount of money counties are entitled to receive from the federal incentives received by the state as set forth in Section 458A of the Social Security Act. County incentives are equal to six percent (6%) of their counties' TANF collections plus six percent (6%) of their counties' non-TANF collections (not to exceed the six percent (6%) of TANF collections). Level A and B counties will receive six percent (6%) of their counties' TANF collections plus six percent (6%) of non-TANF collections (up to one hundred fifteen percent (115%) of their counties' TANF collections). The incentives are subject to availability of federal funding and shall only be paid from federal incentive funds.

(2) Payments to be Received by Counties. Incentive payments to counties shall not exceed one hundred percent (100%) of the counties' allowable expenses which have not been reimbursed pursuant to 13 CSR 40-108.010. If the funds received by the county do not equal one hundred percent (100%) of the counties' non-reimbursed allowable expenses, the division may, at the sole discretion of the director, allocate additional funds up to one hundred percent (100%) of non-reimbursed allowable expenses, if federal funds are available after all other counties have received their county incentives. If the total federal funds received by the state, which have not been paid to counties, are not sufficient to cover counties' cost that have not been reimbursed pursuant to 13 CSR 40-108.010, or that have not been covered by incentives, the counties will share the incentives on a *pro rata* share based on the percent of the counties' total IV-D collections. If at any time federal incentives received by the state are insufficient to pay county incentives, then the federal incentives shall be distributed to the counties *pro rata* based on collections in IV-D cases. If the total federal funds received by the state exceed the amount necessary to pay all counties allowable costs after reimbursement pursuant to 13 CSR 40-108.010, and receipt of all incentives to which they are entitled, the state shall retain these incentives for use as appropriate.

(3) The division will initially use a county's first calendar year under a cooperative agreement with the Department of Social Services for child support services as the starting base year to determine the amount of allowable expenses for each county. The base year will include expenses of the counties that are normal and usual yearly expenses for the counties' operations. The division will exclude from the base year any one- (1-) time expenses not related to normal and usual expenses. After the first base year is established, then each year thereafter the previously approved year's expenses will be used as the base year. If a county does not utilize all of its base year allotment for expenses, the next year's base year expense amount may be decreased by the amount not utilized by the county in the previous year. The counties may request additional funding over the base amount from the director in writing. These requests must be received by the director on or before the first day of July. Additional requests may be submitted as needed throughout the year. Requests may be made for increases to the base year or for a one- (1-) time expense. The director may approve the request, deny the request, or approve for reimbursement pursuant to 13 CSR 40-108.010. The director



has sole discretion to approve, deny, or modify any requests for funds under this regulation. The director may not approve any requests for funds if funding is unavailable. Availability of funds will be determined by the director.

(4) Incentives received by counties must be reinvested into the IV-D program.

(5) Performance Audits. Counties must pass performance audits conducted by the division pursuant to 13 CSR 40-108.010 or submit corrective action plans approved by the director to receive full allotment. Counties that fail to successfully comply with approved corrective action plans shall be subject to reductions of their allotment. These reductions will be at four percent (4%) of the previous base year's expenses for the first failure, eight percent (8%) for the second consecutive failure, and sixteen percent (16%) for the third consecutive failure and subsequent failures; these reductions will begin upon failure to achieve corrective action plans.

*AUTHORITY: sections 454.400 and 660.017, RSMo 2016.\* This rule originally filed as 13 CSR 30-9.010. Original rule filed Feb. 3, 2000, effective Sept. 30, 2000. Moved to 13 CSR 40-108.030 and amended: Filed Aug. 8, 2018, effective March 30, 2019.*

*\*Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997, 2014 and 660.017, RSMo 1993, amended 1995.*

### 13 CSR 40-108.040 Prosecuting Attorneys' Performance Standards

*PURPOSE: This rule establishes additional standards by which the performance of the office of each county prosecuting attorney will be evaluated in determining whether sanctions affecting cooperative agreements between the county and the Missouri Family Support Division shall be imposed.*

#### (1) Definitions.

(A) "Prosecuting attorney" means the person elected as the prosecuting attorney for any county or the City of St. Louis, or any assistant prosecuting attorney duly appointed by a prosecuting attorney, or any person employed by the prosecuting attorney, or any person acting on behalf of the prosecuting attorney with actual or apparent authority.

(B) "Division" means the Family Support Division.

(C) "Director" means the person serving as director of the Missouri Family Support Division.

(D) "State agency" means the Missouri Department of Social Services.

(E) "Case" means a matter in which the state agency or the division has initiated or will initiate an action to collect funds arising from a child support matter, including the case record maintained under 45 CFR 302.33 and 45 CFR 303.2.

(F) "Referral" means a case sent to a prosecuting attorney on behalf of the division.

(G) "Successful completion" of an action means that a referral has been determined by the division or the prosecuting attorney to require no further action by the prosecuting attorney. In cases where judicial proceedings are determined necessary by the prosecuting attorney, a case is completed successfully if the necessary documentation has been submitted to the clerk for filing and service of process has been completed or an unsuccessful attempt to serve process has been documented by the prosecuting attorney, and the prosecuting attorney is proceeding with due diligence. If the initial attempt at service of process is unsuccessful, then the prosecuting attorney shall proceed with diligent efforts to serve process as defined in subsection (1)(M).

(H) "Adequate documentation" means written or electronically stored records, the accuracy and authenticity of which specifically are adopted by the prosecuting attorney, and from which a reasonable person, by normal and reasonable review, can determine what actions were taken by the prosecuting attorney and the outcome of those actions. Adequate documentation and adequate records shall have the same meaning. Documentation includes all case file records and all other records pertaining to referrals. For purposes of service of process, adequate documentation shall be a copy of the return of service from the process server or documentation in the case file of the contents of the return of service. No documentation shall be deemed adequate if it fails to meet the requirements of 45 CFR 303.2.

(I) "Requested action" means any act by the prosecuting attorney requested to be performed by the division including, but not limited to, the initiating of correspondence on a case, the researching of legal issues and/or investigation, the filing or preparation of legal documents or other correspondence, or the obtaining and forwarding to the division or the state agency data and information related to a referral(s). A requested action shall include all requirements of the cooperative agreement and any training or cooperation with federal or state agency auditors, as may be asked of the prosecuting attorney by the division.

(J) "A Level A county" means a county in which the prosecuting attorney has sole responsibility for the operation of the IV-D program in that county, for cases assigned by the division, and also performs specific legal functions on referrals sent to him/her by the division.

(K) "A Level B county" means a county in which the prosecuting attorney has sole responsibility for a specific portion of the IV-D program in that county, for cases assigned by the division, and also performs specific legal functions on referrals sent to him/her by the division.

(L) "A Level C county" means a county in which the division has sole responsibility for the entire operation of the IV-D program in that county and the prosecuting attorney performs specific legal functions on referrals sent to him/her by the division.

(M) "Diligent efforts" to serve process means efforts which, in the sound discretion of the prosecuting attorney, are designed reasonably, under the particular circumstances of the case, to ensure accomplishment of personal service, taking into account the potential cost of the service and the risk of personal safety of the person attempting service. The prosecuting attorney shall provide adequate documentation to explain the failure of service. In cases where previous attempts to serve process failed and adequate identifying and other information exists, the prosecuting attorney, within ninety (90) days of the last attempt at service, shall reattempt service of process in the event that there is a likelihood of successful service of process.

(2) Performance Requirements Standards for All Counties on Cases Referred by the Division.

(A) The county shall complete all necessary actions and achieve successful completion of all requested actions as defined by subsections (1)(G), (1)(I), and (1)(M) of this rule within sixty (60) calendar days after the county accepts any referral from the division. A failure to comply with the terms contained in subsections (1)(G), (1)(I), or (1)(M) shall be deemed a failure to comply with this subsection (2)(A) only.

(B) In all cases needing support order establishment, regardless of whether paternity has been established, the county shall complete action to establish support orders from the date of service of process to the time of disposition within one (1) year. The term "disposition," as used herein, shall include an order of support or genetic exclusion of all alleged fathers referred.

(C) The time frames contained in subsection (2)(A) of this rule shall be tolled for



those time periods during which the prosecuting attorney has requested information from the division that is essential to the successful completion of the requested action; or time periods in which the custodian does not cooperate with the prosecuting attorney and the custodian's cooperation is essential to the successful completion of the requested action, provided the prosecuting attorney has documented the date the noncooperation occurred and the reason for determination of noncooperation in the automated child support system. Tolling due to noncooperation shall terminate only upon the custodian's affirmative action that is essential to the successful completion of the requested action. The prosecuting attorney (PA) shall document the date the affirmative action occurred and the reason for determination of cooperation in the automated child support system.

(D) If a support order needs to be established in a case and an order is established in accordance with Missouri Supreme Court Rule 88.01 during the audit period, the county will be considered to have taken appropriate action in that case for audit purposes regardless of whether the requirements of subsection (A) of this section have been met.

(E) If the requested action is an enforcement action and an action is taken, in addition to a federal and state income tax refund offset, which results in a collection during the audit period, the county will be considered to have taken appropriate action in the case for audit purposes regardless of whether the requirements of subsection (A) of this section have been met.

(F) In all petitions filed with the court for the establishment of child support orders, the prosecuting attorney shall request an order for medical support.

(G) If a prosecuting attorney determines that no appropriate legal remedy is available on a case, and documents in the automated child support system the reason for return or rejection, that case shall be dropped from the audit sample of a compliance review conducted based on the requirements of 13 CSR 30-2.010(2).

(H) The prosecuting attorney shall notify the division of the conclusion of all requested actions by documenting the conclusion in the automated child support system and sending to the division any supporting documentation that provides information regarding the disposition of the referral within twenty (20) calendar days of the supporting documentation being received by the PA.

(3) Performance Standards for Level A and Level B Counties for Cases in Their Own Caseload. The prosecuting attorney shall—

(A) Make applications for child support enforcement services readily accessible to the public;

(B) Maintain records of all persons applying for IV-D services. The records shall include documentation that applications are being provided to the applicants in conformance with 45 CFR 303.2(a)(2);

(C) For all cases referred to the division or applying for services, the prosecuting attorney shall attempt to locate all noncustodial parents or alleged fathers, the location of noncustodial parents' or alleged fathers' employers, or other sources of income and/or assets when location is necessary to take necessary action. The location attempts shall be in full compliance with 45 CFR 303.3(b)(1)–(3);

(D) In all cases where previous attempts to locate noncustodial parents or alleged fathers, employers, or sources of income and/or assets have failed, but adequate identifying or other information exists to meet requirements for submittal for location, the prosecuting attorney shall comply fully with all requirements of 45 CFR 303.3(b)(5) and (6);

(E) The prosecuting attorney shall refer all appropriate cases to the IV-D agency of any other state in full compliance with the requirements of 45 CFR 303.7;

(F) The prosecuting attorney, within ninety (90) calendar days of locating the noncustodial parent or alleged father, regardless of whether paternity has been established, shall establish an order for support, or complete service of process necessary to begin proceedings to establish an order for support, or complete service of process necessary to begin proceedings to establish a court order, and if necessary, paternity, or document unsuccessful attempts to serve process in accordance with subsection (1)(M) of this rule. In all cases needing support order establishment, regardless of whether paternity has been established—

1. The prosecuting attorney shall complete action to establish support orders from the date of service of process to the time of disposition within the following time frames:

A. Seventy-five percent (75%) in six (6) months; and

B. Ninety percent (90%) in twelve (12) months;

2. In cases where the prosecuting attorney uses long-arm jurisdiction and disposition occurs within twelve (12) months of service of process on the noncustodial parent or alleged father, the case may be counted as a success within the six- (6-) month tier of the time frame regardless of when disposition occurs in the twelve- (12-) month period following service of process;

3. In all cases in which the court or administrative authority dismisses a petition for a support order without prejudice, the prosecuting attorney, at the time of the dismissal, shall examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future; and

4. In all cases in which the prosecuting attorney is seeking to establish a support obligation, the prosecuting attorney shall apply the child support guidelines as set forth in Supreme Court Rule 88.01. The prosecuting attorney shall notify the division of any deviation from the guidelines by documenting the deviation in the automated child support system;

(G) For all cases assigned to the prosecuting attorney in which paternity has not been established, the prosecuting attorney shall—

1. File for paternity establishment, or complete service of process to establish paternity or document unsuccessful attempts to serve process in accordance with subsection (1)(M) of this rule, within no more than ninety (90) calendar days of locating the alleged father;

2. Establish paternity or exclude the alleged father as a result of genetic tests and/or legal process within the time frames set out in paragraphs (3)(F)1. and 2. of this rule; and

3. Meet the requirements set forth in paragraphs (3)(G)1. and 2. of this rule for all alleged fathers, in any case where an alleged father is excluded, but more than one (1) alleged father has been identified;

(H) For all cases assigned to the prosecuting attorney in which a child support order has been established, the prosecuting attorney shall maintain and use an effective system to—

1. Monitor compliance with the support obligation;

2. Identify on the date the parent owing a duty of support failed to make payments in an amount equal to the support payable for one (1) month;

3. Enforce the obligation in full compliance with the requirements of 45 CFR 303.6(c)(1)–(3); and

4. In cases in which enforcement attempts have failed, the prosecuting attorneys should examine the reason the attempt failed and determine when it would be appropriate to take enforcement action in the future. When appropriate, the prosecuting attorney shall take action in full compliance with the requirements of 45 CFR 303.6(c)(1)–(3);

(I) The prosecuting attorney shall comply with the system developed by the division for



case assessment and prioritization;

(J) The prosecuting attorney shall comply with the system developed by the division for case closure;

(K) The prosecuting attorney shall comply with the provisions of 13 CSR 40-102.010; and

(L) Notwithstanding the time frames contained in—

1. Subsection (3)(F) of this rule, if a support order needs to be established in a case and an order is established in accordance with Missouri Supreme Court Rule 88.01 during the audit period, the prosecuting attorney will be considered to have taken appropriate action in that case for audit purposes; and

2. Paragraph (3)(H)3. of this rule, if the requested action is an enforcement action and an action is taken, in addition to federal and state income tax refund offset, which results in a collection received during the audit period, the prosecuting attorney will be considered to have taken appropriate action in the case for audit purposes.

#### (4) Performance Requirements.

(A) The following are mandatory requirements by which prosecuting attorneys' actions on referred cases shall be evaluated:

1. The county shall provide services on referred cases according to federal and state statutes and regulations and cooperative agreement requirements, including those related to financial reimbursement for services provided on referred cases. Failure to do so shall be deemed failure to comply with this rule and this provision. Waivers of this provision may be granted by the division director but are not effective unless granted in writing and are not effective retroactively unless specifically set forth by the director as being permissibly applied retroactively for a specified time period;

2. The county shall cooperate with compliance reviews conducted by the division pursuant to the requirements of 13 CSR 40-108.040(2), which will occur no more frequently than semi-annually. Upon completion of the compliance review, the division shall submit a draft compliance review results summary to the county. The county shall have the right to submit written rebuttals of this review to the manager of the division compliance review section within thirty (30) days of receiving the review results. The division shall then have sixty (60) days in which to submit, in writing, its decision on each and every case rebutted to the county. The county shall then have fifteen (15) days to submit, in writing, the division's rebuttal decisions for review *de novo* by the division's deputy

director. After review *de novo*, the final decision of the division shall be issued within sixty (60) days. The county may request in writing an extension of the timeframes contained herein. The division will notify the county if an extension of the division's timeframes are necessary;

3. The division will otherwise retain authority to conduct special audits and take appropriate action based on the special audit. The division will also retain the authority to discuss with the prosecuting attorney the actions taken in all cases that have been referred to the county and take other action as set forth in the cooperative agreement between the state agency and the prosecuting attorney; and

4. The county shall achieve substantial compliance with the performance requirements set forth in this regulation concerning actions taken on referred cases and meeting time requirements in so doing. Substantial compliance means that the county has achieved the same case quality standards for those activities for which it is responsible, as are required by the division of its child support offices set forth by federal statutes, federal regulations, and federal IV-D policy.

#### (5) Sanctions by the Division.

(A) Upon determining that a prosecuting attorney has not complied with the requirements of this rule or is not complying with the requirements of this rule, the division may send notice that it has determined one (1) of the following conditions to exist:

1. That the prosecuting attorney is in significant noncompliance with this rule and that a written corrective action plan addressing all aspects of noncompliance as described in the division's notice must be submitted to the division within thirty (30) calendar days after the division sends the notice of significant noncompliance. The division shall approve or disapprove each corrective action plan within twenty (20) calendar days after it is sent to the division by the prosecuting attorney. The prosecuting attorney shall have twenty (20) calendar days from the date the division sends a disapproval to resubmit a new corrective action plan. Failure to submit a new plan timely may be determined by the division to constitute substantial noncompliance;

A. To be approved by the division, a corrective action plan, at a minimum, must contain the following: 1) an overall completion date of no more than twelve (12) calendar months from the date of division approval, 2) a statement of planned correction addressing each item of noncompliance as set forth in the division's notice of significant

noncompliance, 3) an individual completion date for each item of noncompliance contained in the division's notice of significant noncompliance, 4) a statement that during the plan of correction, no part of the prosecuting attorney's performance will become out of compliance during the plan of correction period, and 5) a statement that the prosecuting attorney will attend such training as deemed necessary by the division. The division's notice of significant noncompliance shall contain the following: 1) a listing of specific items of this rule with which the division alleges the prosecuting attorney is not in compliance, 2) an explanation of the method used by the division to determine noncompliance, 3) a statement that the division's determination is final and that a corrective action plan will be required, and 4) the date the corrective action plan is due; or

B. That the prosecuting attorney is in substantial noncompliance with this rule and that the cooperative agreement with the county of the prosecuting attorney will be cancelled. A notice of substantial noncompliance shall set forth, in addition to the information required for a notice of significant noncompliance, a description of the findings, facts, and circumstances giving rise to the notice of substantial noncompliance and shall specify a date certain upon which the cooperative agreement will no longer be of any force and effect. The division may issue a notice of substantial noncompliance to a prosecuting attorney only when—1) there is no corrective action plan in effect for the office of the prosecuting attorney to which the notice is issued, 2) a review or audit of the prosecuting attorney's child support enforcement procedures and/or records has been conducted and issued as a final report, and 3) a notice of significant noncompliance has been previously issued to the prosecuting attorney and has not been successfully completed, or a notice of significant noncompliance has been issued and no corrective action plan has been approved by the division within ninety (90) calendar days from the date of the division's notice of significant noncompliance.

(B) By issuing or failing to issue any notice of noncompliance, the division does not alter, waive, or otherwise substitute this rule for any of the division's rights or benefits agreed to in the cooperative agreement by the county of the prosecuting attorney.

(6) Waivers for Counties. The director may waive any requirement of this rule for any county if all of the following conditions have been met by that county prior to the waiver being granted:

(A) The prosecuting attorney has requested



a waiver in writing, whenever possible, identifying the specific cases to which the waiver will apply;

(B) The prosecuting attorney has assured the director in writing that the waiver will not permit or cause a failure to achieve successful completion of a case; and

(C) The waiver does not violate any state or federal law or rule.

(7) All timeliness requirements of this rule that are calculated from the date the division sends a document, notice, or request, except those requirements found in paragraphs (4)(A)1.-4., upon request of the prosecuting attorney, shall be calculated from the date the prosecuting attorney actually received the notice, document, or request. This request shall be granted if the prosecuting attorney has a reasonably accurate and reliable procedure to verify the actual date of receipt.

*AUTHORITY: sections 454.400.2(5) and 660.017, RSMo 2016.\* This rule originally filed as 13 CSR 30-2.010. Original rule filed Oct. 18, 1988, effective Jan. 13, 1989. Amended: Filed Dec. 3, 1990, effective June 10, 1991. Amended: Filed Oct. 2, 1991, effective Feb. 6, 1992. Emergency amendment filed April 11, 1994, effective April 21, 1994, expired Aug. 18, 1994. Emergency amendment filed July 27, 1994, effective Aug. 19, 1994, expired Dec. 16, 1994. Amended: Filed April 11, 1994, effective Nov. 30, 1994. Amended: Filed April 26, 1995, effective Oct. 30, 1995. Amended: Filed April 12, 2001, effective Oct. 30, 2001. Amended: Filed Oct. 15, 2010, effective April 30, 2011. Moved to 13 CSR 40-108.040 and amended: Filed Aug. 8, 2018, effective March 30, 2019.*

*\*Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997, 2014 and 660.017, RSMo 1993, amended 1995.*