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U.S. DEPARTMENT OF LABOR Employment and Training Administration Washington, D.C. 20213	CLASSIFICATION
	UI
	CORRESPONDENCE SYMBOL
	TUMSC
	DATE
	April 8, 1982

DIRECTIVE : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO.15-82

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : T. JAMES WALKER
 Administrator
T. James Walker
 Administration and Management

SUBJECT : Child Support Intercept (Withholding from Unemployment Compensation)

1. Purpose. To inform State Employment Security Agencies (SESAs) of steps to implement the child support intercept program enacted in P.L. 97-35 and generally described in UIPL 1-82.

2. References. Section 2335 of P.L. 97-35; Section 303(a) (1), 303(e)(1), 303(e)(2) and 454(20) of the Social Security Act; Section 3(a) of the Wagner-Peyser Act; P.L. 96-265; P.L. 94-566; and UIPL 1-82.

3. Background. Congress in the past (in Section 508, P.L. 94-566) has required each SESA to exchange information about workers and claimants with the child support agency in its State. These agencies are commonly referred to as IV-D agencies, from the Title of the Social Security Act which authorizes them.

The 1981 Omnibus Budget Reconciliation Act extended that action to require SESAs to withhold funds from UI benefits in cases where a child support enforcement agency is enforcing either a voluntary support agreement, a court order or an administrative order pursuant to a court order or law to pay money for child support.

RESCISSIONS	EXPIRATION DATE
	March 31, 1983

DISTRIBUTION

The requirement includes all unemployment insurance payments under a State law including extended benefits (EB), and unemployment compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-servicemembers (UCX), Trade Readjustment Allowances (TRA), Disaster Unemployment Assistance (DUA), and payments under the Redwood National Park Expansion Act.

Please note that Section 2335 of P.L. 97-35 requires only that States make deductions from unemployment compensation for child support obligations being enforced through IV-D agencies and does not require deductions for spousal support. However, spousal support intercept is at the option of the State if permitted under State Law. (See page 2 of Attachment 4; Action Transmittal from the Department of Health and Human Services, Office of Child Support Enforcement). SESA's are required to furnish information to IV-D agencies in regard to spousal support because of a change in regard to spousal support because of a change in title IV-D by Section 2332 of P.L. 97-35. That section amended title IV-D to include spousal support (under AFDC) with child support wherever it appeared in title IV-D. The effect is to make the information requirements of Section 3(a) of the Wagner-Peyser Act apply with respect to spousal as well as child support. The reimbursement of costs requirement of Section 508(b) of P.L. 94-566 also applies.

No reliable figures exist as to how many claimants will have benefits withheld under this new requirement. However, some clue may be inferred from a brief study in two mid-west States. The States compared IV-D agency tapes with UI claimant records for a one-year period. Between 1.5 and 2 percent of the claimants were on the IV-D tapes. Even though this may not be typical of all States, it suggests a basis to approach development of needed systems.

A. State Child Support Enforcement Agencies. Under the Social Security Act there is a State child support enforcement agency (known as the IV-D agency) in every State, D.C., Puerto Rico, the Virgin Islands and Guam. These agencies enforce collection of child support in all welfare cases (AFDC), for non-AFDC cases where the parent formerly was on welfare, for non-AFDC where the parent asked the IV-D agency to assist in enforcement and, in a few States, all child support payments. The agencies also locate missing parents, establish paternity and perform several other related functions.

Child Support Intercept

Questions and Answers

1. Can the central State child support enforcement agency negotiate with us on behalf of all local and interstate child support agencies?

YES

2. Can we arrange with that central agency for reimbursement of our administrative costs?

YES

3. Who should take the first step, SESA or IV-D agency? We urge no delay. If you have not yet begun negotiations, you should initiate them now.

4. How should we word the question on our initial claim form?

Settle that jointly with your IV-D agency (but your IB-1 must use the wording approved by the IB Committee). As a starting point here are samples of language to consider:

- a. Are you required to make or do you owe child support payments? () Yes () No.

If "YES", where?

City

County

State

- b. Are you required to pay child support to a State or local child support enforcement agency? Yes () NO ()

_____ If yes, where is it? _____.

5. May we agree not to ask the questions?

Only if your IV-D agency will not pay for the use. If that agency concludes there is a more cost effective way to find the relevant claimants (e.g., by computer cross checks), it may refuse to pay for use of the questions.

6. Should SESAs impose penalties for willful misrepresentation if a claimant falsely answers "No," to the question about his/her child support obligation?

That depends on the wording of State law. It may not be a false statement to obtain benefits, since the amount to be withheld is considered benefits paid to the claimant and paid by him to the child support agency.

7. If a claimant answers "Yes", have we an obligation to do anything more than notify the IV-D agency?

Yes. The SESA must determine the claimants' eligibility for UI. The SESA must report to the State or local child support enforcement agency any claimant who answer the question "Yes" and notify the agency of the claimants' eligibility for UI, in every case where the claimant is determined to be eligible. SESAs need do nothing further until the CSEA confirms that the claimant owes such obligations which are enforced by it. If the CSEA submits to the SESA an agreement referred to in 303(e)(2)(iii)(II) or legal process referred to in 303(e)(2)(A)(iii)(III), the SESA will deduct and withhold in accordance with such agreement or legal process instead of the amount (if any) specified by the claimant. SESAs are not to encourage voluntary arrangements or accept oral or written agreements by the claimant; for all such matters refer the claimant to the local CSEA.

8. What kinds of written notices will we have as a basis for withholding?

- (a) The amount specified in writing by the claimant as required by 303(e)(2)(A)(iii)I.

SESAs must not make agreements with claimants who volunteer to have amounts deducted from UI benefits for child support obligations because the child support obligation may not be subject to enforcement through a IV-D agency. Claimants who offer to have child support obligation deducted from UI benefits should be referred to the State or local IV-D agency.

- (b) An agreement submitted by the child support enforcement agency to the SESA, in accordance with 303(e)(2)(A)(iii)(II).

- (c) Legal process as provided in 303(e)(2)(A)(iii)(III).

9. How long does such an agreement or legal process remain effective?

Look to the agreement or legal process for any time limitations; SESAs will be bound by the time limits contained in the agreement or legal process. If no time limit is stated, SESAs shall continue to make deductions and withholdings until notified otherwise as through a new agreement or legal process.

10. Must SESAs issue a written notice of determination to claimant regarding deductions from his/her weekly benefit amount to satisfy child support obligations?

State Employment Security Agencies must give each claimant an initial written notice which explains the beginning date and amount of deduction from his/her weekly benefit amount in satisfaction of child support obligations to a child support enforcement agency. This notice may be issued at the time of or with the first benefit check from which a deduction is made. The notice must explain the authority for the deductions (State law, Court

order, or administrative order by a IV-D agency) and include the claimant's right to appeal the SESA's action in deducting amounts for child support through the UI appeal process. However, this appeal is limited to the accuracy of the amount deducted and/or the validity of the agreement or legal process. Claimants should be advised to seek remedy through the court or IV-D agency enforcing the child support obligation when the claimants question the "reasonableness" or "fairness" of the amount deducted in terms of their ability to pay.

Issuing notices and processing appeals are administrative costs in connection with child support intercept which require reimbursement by the State IV-D agency. The notice is not a nonmonetary determination nor is the appeal chargeable as appeal workload.

11. Must SESA give the claimant a weekly notice of or receipt for the amount withheld?

It is not a requirement. IV-D agencies will give a receipt on request. A claimant needs it to support income tax deductions. It would be a useful control on internal agency fraud if you obtain agreement from the IV-D agency that the IV-D agency will issue notices and receipts to claimants and to include this in your agreement with the IV-D agency.

12. For the form 1099 UC, statement for recipients of unemployment compensation payments, do we report the gross amount of benefits for the year, or the net amount after child support withholding?

The gross amount.

13. If we are recouping an overpayment we made, does the withholding order take precedence?

No. It affects only benefits otherwise payable to the claimant. We consider that to mean only amounts which you do not recoup or deduct because of disqualifying income, or reduce for any other reason.

SAMPLE

CHILD SUPPORT INTERCEPT AGREEMENT

BETWEEN

The _____ State Employment Security Agency, hereinafter referred to as the SESA, and the _____ Child Support Enforcement Agency, hereinafter referred to as the IV-D agency, in order to carry out the provisions of Section _____ of the _____ unemployment compensation law (the "State law") (and Section 303(e)(2) of the Social Security Act), hereby agree as follows:

I. SESA actions

The SESA will (a) ask in writing each individual filing a new claim for unemployment compensation if the claimant owes a child support obligation, (b) notify the IV-D agency in writing of any such claimant who discloses such an obligation and is determined by the SESA to be eligible for unemployment compensation, (c) upon receipt of written confirmation from the IV-D agency that the claimant owes such obligation which is being enforced by such IV-D agency, deduct and withhold from each week of unemployment compensation otherwise payable to such claimant the amount (not exceeding the amount otherwise payable to the claimant for such week) specified by the individual to be deducted and withheld; or, if no such amount is specified by the claimant or the amount so specified differs from the amount (if any) determined pursuant to an agreement submitted to the SESA by the IV-D agency under Section 454(20)(B)(i) of the Social Security Act or the amount otherwise required to be deducted and withheld from such unemployment compensation through legal process, (as defined in State law and in Section 462(e) of the Social Security Act), (d) remit any amount so deducted and withheld to the State IV-D agency, and (e) notify the claimant of such deduction and remittance.

The SESA will perform these services in accordance with procedural details set out in the attached SPECIFICATIONS, which are subject to revision by informal agreement from time to time as experience or changed legislation or capabilities demonstrate the need for modifications.

"Unemployment compensation" is any unemployment benefits payable under State law including any federal unemployment benefits and allowances being administered by the SESA under an agreement with the U.S. Department of Labor including Extended Benefits, Unemployment Compensation for Federal Employee (UCFE), Unemployment Compensation for Ex-Servicemen (UCX), Trade Re-adjustment Allowances (TRA), Disaster Unemployment Assistance (DUA), and payments under the Redwoods National Park Expansion Act.

II. State IV-D agency actions.

The State IV-D agency will (1) make agreements with individuals whose child support obligations are being enforced by the IV-D agency in accordance with Section 454(20)(B)(i) of the Social Security Act, and provide copies or information therefrom to the SESA, (2) accept all amounts deducted and withheld by the SESA and forwarded to the IV-D agency pursuant to such agreements or legal process, and (3) promptly pay each billing for the SESA's cost as determined by the SESA pursuant to Article VI of this Agreement.

III. Joint actions.

Both parties will assure that adequate bonds cover all employees who perform services under this Agreement, and that they will maintain such records as the State Department of Audits and the U.S. Department of Health and Human Services may require or as they may jointly agree to informally.

IV. Correction or errors.

If the SESA determines that it deducted and withheld from the unemployment compensation payable to an individual a greater amount than it should have deducted or withheld as a result of an error by either the SESA or the IV-D agency, (1) it will promptly pay the correct amount to the individual, (2) notify the State IV-D agency of the error and request return of the excess amount.*

*As an option, a IV-D agency may prefer to have the SESA reduce its next remittance accordingly.

The IV-D agency will promptly return the excess amount to the SESA, and will take action to correct any distribution it may have made of such amount.

If the SESA determines that a lesser amount of unemployment compensation was deducted and withheld from the unemployment compensation payable to an individual as a result of an error by either the SESA or the IV-D agency, the IV-D agency will decide if it wants to recoup the amount by a new or amended agreement or legal process.

V. Other services.

The SESA will perform other services at the request of the IV-D agency, including but not limited to, searching its records, matching lists of IV-D clients against claimant records or wage records, at reasonable times, as separately but informally agreed upon, provided that the SESA is promptly and fully reimbursed or paid in advance by the IV-D agency for the direct and indirect costs of providing such services as determined by the SESA.

VI. Administrative costs.

The IV-D agency will reimburse the SESA for all of the SESAs direct and indirect costs incurred in carrying out Article I to V of this Agreement, the SESAs' obligations under State law and Section 303(e) (2) of the Social Security Act, as follows:

A. Initial costs to design and implement systems to achieve the above actions (including computer preparation, added costs for forms and training and the SESAs' costs in negotiating this Agreement in the amount of \$ _____, which shall be payable in the Fiscal Year in which such initial costs are incurred).

B. Costs to give notice to the IV-D agency of claimants who acknowledge child support obligations, in the amount of \$ _____ per such individual, payable quarterly in advance, based on estimated workloads, and adjusted in subsequent quarters for actual loads.

C. Costs to deduct and withhold unemployment compensation and remit to the IV-D agency in the amount of \$ _____ per payment thus withheld, payable quarterly in advance, based on estimated workloads, and adjusted in subsequent quarters for actual loads.

D. Costs of administering and processing an appeal or request for reconsideration respecting any issue arising from child support intercept operations.

If, because of changed wage or other cost levels, operating experience, changed procedures or other elements, and the reimbursement herein agreed upon becomes substantially changed, the costs payable by the IV-D agency will be revised as a condition to continuance of this Agreement.

VII. Suspension of services.

In the event of an emergency, the SESA may suspend services hereunder, with notice to the State IV-D agency, but will resume services at the earliest possible time.

VIII. Liability.

Each of the two agencies and its employees will exercise due care in the performance of the functions and in the custody of the funds deducted and withheld from claimants and remitted to the IV-D agency. They will establish accounting controls to assure delivery of the correct amounts to the proper recipients.

IX. Termination.

Either the SESA or the IV-D agency may terminate this Agreement upon 30 days written notice to the other party and the SESA may terminate this Agreement without notice upon the failure of the IV-D agency to pay any billing within 30 days of the date of billing.

SAMPLE

SPECIFICATIONS

Pursuant to Article I of the Agreement Between
State Employment Security Agency, and
State Child Support Enforcement Agency

1. The State Employment Security Agency (SESA) will include on its initial unemployment compensation claim form a question worded as follows:

(Suggested text, subject to modification agreed upon between SESA and the Child Support Enforcement Agency (IV-D agency))

Are you required to pay child support to a court or other enforcement agency? _____

If YES, where? (City, State) _____

2. As to each claimant who answers "Yes", and who is determined by the SESA to be eligible for unemployment compensation, the SESA will notify the IV-D agency.
 - a. (Daily) (Weekly) of the names, addresses, Social Security Account Numbers of such claimants.
 - b. By sending to the State IV-D central office (a listing of the information for the period, in _____ sequence) (a photo copy of the relevant claim forms) (a separate slip notice for each individual).
3. Withholding agreements offered by benefit claimants to the SESA.

If an individual offers, at the local SESA claim office, to agree to withholding an amount from benefits payable for child support, the SESA will require him to contact and enter into an agreement with the nearest IV-D agency office about the amount to be withheld. This is intended to assure that coordination of all enforcement efforts for an accurate determination of the amount to be withheld.

4. Withholding agreements made with IV-D agencies.

The State IV-D agency will assure that a uniform agreement form is used by local IV-D agencies or branch offices, to simplify SESA actions.

Agreements will be delivered (daily) (weekly) to the SESA (central office, addressed to _____) (local claim office where the claimant is filing unemployment compensation claims), addressed to (_____), as specified by the SESA.

Each withholding agreement will provide a uniform amount in whole dollars to be withheld every week for a given claimant, and will assure furnishing the claimant a receipt for the amounts received by the IV-D agency within _____ days after receipt by that agency. Agreements will make it clear that the amount to be withheld will not be affected by changes in the amount the individual has payable in any given week, except as an amended agreement is made and unless the amount to be withheld exceeds the benefit amount payable. (It should be kept in mind that in some States the IV-D agency may not make such agreements at all, for example, if it has the power to make administrative orders. In any such cases, appropriate substitute provision would be made in this section).

5. Interstate cases.

a. If an individual claiming benefits against another State (where the SESA is the agent State), acknowledges a child support obligation, notice under item 2 will be given to the IV-D agency in the liable State for communication as needed to the IV-D agency in another State. If such a

claimant asks to make an agreement for withholding benefits, item 3 will be applied. If he insists on dealing with the SESA, his offer will be recorded on a signed IB-11 and attached to material being sent to the Liable State SESA.

b. For an initial interstate claimant where the SESA is the liable State, if the claim form shows a IV-D agency in this State, item 2 will be applied. If an IB-11 agreement is received, the SESA will give it to the State IV-D agency in the liable State and await its instruction as to the actions to be taken. If so instructed, the SESA will withhold benefits in accordance with the offer of the claimant.

c. For a claimant where the SESA is the liable State, if the claim form shows a IV-D agency in another State, the SESA will follow the course set out in paragraph b, above.

6. SESA procedures to withhold benefits.

(Here the procedures might be summarized, so both parties know the actions to be expected. For example, it may specify that a separate payment will be made for each check withheld, or that all amounts withheld for all claimants during a specified period will be accumulated and transmitted with a listing of the relevant claimants. It might also be clear that no amount will be withheld and given to the IV-D agency if no payment for a given period will be made to a given claimant.

7. Remittances.

(Timing of remittances and the address (or addresses, if relevant) to which they go, and accompanying identification and receipts might be summarized).

8. Receipts.

(Whatever agreement is reached with the IV-D agency regarding receipts to claimants may be set out here. A claimant will need evidence of the payment of child support for income tax purposes, and a SESA may find such receipts useful to prevent internal agency fraud. However, the IV-D agency may object to the costs. If SESAs are to supply receipts, of course, the cost will need to be paid by the IV-D agency under its agreement. If costs by either agency were equal, a IV-D receipt is believed to be preferable).

9. Starting date.

Services covered by the agreement will begin as follows:

Initial design actions will begin within 30 days after the first advance of initial costs under Article VI A. Design actions will be completed by _____, if possible. The agreed upon questions will be included in claim forms ordered about _____ (or has already been done). Pending receipt (if relevant), present claim forms will be (overprinted) (supplemented by an added form). Withholding orders should be postponed until about _____ as a target date.

14. In a week for which benefits are reduced because of wages or other provisions of law, how is withholding affected?

SESAs can withhold only as much as the claimant would be paid after any other reduction under State law.

15. How much reimbursement of our expenses will the IV-D agency supply?

The statute requires IV-D agencies to pay all SESA direct and indirect costs, including startup costs in planning and preparation and negotiation of the agreement with the IV-D agency.

16. While estimated startup costs depend on the automation involved, what is the best way to compute and bill later operating costs?

In a highly automated system, little cost will exist except for data processing services. In largely manual systems, a cost model study should yield workable guidelines. Either should be reducible to a charge per transaction, and billing simply involves counting the actions taken and multiplying by the unit rate. A pattern is suggested in the attached model agreement.

17. If a SESA paid a claimant for a week and deducted an amount for child support but later established an overpayment for the week, is the claimant required to repay the entire amount or can we recover from the IV-D agency the amount we paid it?

The statute provides that the amount withheld is treated as if it had been paid to the claimant and been paid by the claimant to the child support agency. Therefore the claimant will have to repay the SESA the entire amount; the claimant may have recourse against the IV-D agency.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF CHILD SUPPORT ENFORCEMENT
ROCKVILLE, MARYLAND 20852

INFORMATION MEMORANDUM

OCSE-IM-81-10
July 8, 1981

TO : STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT
PLANS APPROVED UNDER TITLE IV-D OF THE SOCIAL SECURITY
ACT AND OTHER INTERESTED INDIVIDUALS

SUBJECT : State IV-D Agency Listing

ATTACHMENT : Listing of Title IV-D State agencies

Attached is an updated listing of State agencies
administering child support programs approved
under title IV-D of the Social Security Act.
States should submit any changes to the appropri-
ate Regional Office of the Office of Child Support
Enforcement.

SUPERSEDED
MATERIAL : Information Memorandum, OCSE-IM-81-5, dated
April 16, 1981

INQUIRIES TO : OCSE Regional Representatives

Marshall S. Mandell
Acting Deputy Director
Office of Child Support Enforcement

STATE AGENCIES ADMINISTERING CHILD SUPPORT PROGRAMS UNDER
TITLE IV-D OF THE SOCIAL SECURITY ACT

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MAINE

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SOUTH CAROLINA

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PROGRAM INSTRUCTION

ACTION TRANSMITTAL

OCSE-AT-82- 2

March 4, 1982

TO: STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT PROGRAMS UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS

SUBJECT: Withholding of Unemployment Benefits — Section 2335 of Public Law 97-35

ATTACHMENTS: Unemployment Insurance Program Letter and sample agreement issued by the Department of Labor

PURPOSES: This action transmittal provides States with information on the withholding of unemployment benefits as a method of collecting unmet support obligations and prescribes procedures to be used by State agencies in accomplishing the withholding of these benefits. The content of this action transmittal is based on the provisions of Section 2335 of P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981. Regulations on the withholding of unemployment benefits for purposes of satisfying an unmet support obligation are currently being prepared by OCSE in coordination with the U.S. Department of Labor.

BACKGROUND: The Omnibus Budget Reconciliation Act of 1981 was enacted on August 13, 1981 as Public Law 97-35. Section 2335 of this law revises the Social Security Act by amending sections 303 and 454 to authorize the collection of unmet support obligations through the withholding of unemployment benefits under specific procedures set forth in the statute. States may implement the withholding process as of August 13, 1981; however, States should note that the process is mandatory as of October 1, 1982.

Under the provisions of the statute, the child support enforcement (IV-D) agency is required to collect unmet support obligations owed by an individual by having all or part of the individual's unemployment benefits withheld by the State

employment security agency (SESA) and forwarded to the IV-D agency. The amount withheld is to be determined by the IV-D agency through an agreement with the individual or, if an agreement cannot be obtained, through legal process as defined in section 462(c) of the Social Security Act. This process is explained more fully below. The SESA is required to withhold and forward to the IV-D agency the amount of the individual's unemployment benefits as specified by agreement or as required as a result of legal process. An arrangement to withhold less than the amount of the support obligation does not excuse the individual's legal obligation to pay the remaining amount. Section 2335 also specifies that the IV-D agency must reimburse the SESA for the administrative costs of carrying out its withholding activities.

Under Section 2335 of P.L. 97-35, the withholding of unemployment compensation is required for unmet child support obligations owed both in AFDC and non-AFDC cases. Since section 303 of the Social Security Act (the SESA provisions) defines the term "child support obligations" as including any obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act, and section 454 of the Act is amended to authorize collection of certain spousal support at the option of the State, States that choose to collect spousal support may do so via withholding of unemployment compensation.

DEFINITIONS:

For purposes of this action transmittal, the following definitions apply: (1) "unemployment compensation" means any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law); it includes extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, disaster unemployment assistance, and payments under the Redwood National Park Expansion Act. (2) "State employment security agency" or "SESA" means the agency charged with the administration of State unemployment compensation laws in accordance with title III of the Social Security Act.

CONTENT:

I. ACTIVITIES OF THE CHILD SUPPORT ENFORCEMENT AGENCY

A. State Plan Amendment

Withholding of unemployment compensation for purposes of meeting support obligations was authorized beginning August 13, 1981. It becomes a requirement on October 1, 1982. States that desire to implement the new section 454(20) of the Social Security Act before October 1, 1982 must amend their IV-D State plans during the quarter in which they implement the section in order to receive FFP for associated costs for that quarter beginning with the date of implementation. A pre-printed State plan amendment will be issued upon publication of final regulations. In the interim, a State that desires to implement withholding of unemployment compensation should consult the Regional Office for instructions on amending their State plans to include this process.

B. Interagency Agreement between IV-D Agency and SESA

Section 2335 of P.L. 97-35 imposes requirements for withholding of unemployment compensation both on the IV-D agency and the SESA. In order for the required withholding to take place, these agencies must make arrangements for information exchanges, for payments of amounts withheld and for reimbursement of SESA costs. To ensure that the requirements of each program are covered adequately and to prevent costly misunderstandings about procedures, time frames and financial matters, the State IV-D agency and the SESA in a State must negotiate a written interagency agreement. For guidance in doing so, States may wish to refer to OCSE-IM-81-8 dated June 22, 1981. Although this Information Memorandum provides guidance in developing agreements between State agencies for the purpose of medical support enforcement, the suggested steps to be followed and the elements of a well-written agreement are applicable to any agreement. In addition, the Department of Labor has prepared the attached sample agreement dealing specifically with the withholding of unemployment compensation for payment of support. The sample agreement language and provisions are not required; they are intended to provide guidance only.

To simplify and expedite negotiations between the two programs, the State IV-D agency must enter into the agreement on behalf of any local IV-D agencies that administer the State's Child Support Enforcement program. Since both the State and local IV-D agencies will be bound by the agreement, the State IV-D agency must ensure that the needs and concerns of the local agencies are addressed. This requirement is not meant to limit in any way the transmittal of information or

monies directly to local agencies, as permitted by the statute. The purpose of this requirement is to facilitate negotiations with the SESA and promote coordinated, cost-effective planning on the part of the IV-D program in the State.

C. Periodic Determination of Whether an Individual Receiving Unemployment Compensation Owes Support

The IV-D agency must determine periodically whether individuals receiving any State or Federal unemployment benefits owe support obligations which are being enforced by the IV-D agency. The interval at which these determinations will be made is left to the discretion of the IV-D agency. The determination is to be made based on information provided by the SESA in accordance with Section 508 of the Unemployment Compensation Act of 1976. Under this act, information required to be supplied to IV-D agencies upon request includes: (a) whether an individual is receiving, has received, or has applied for unemployment compensation and the amount of any compensation being received by the individual; (b) the most recent address of an individual; and (c) whether an individual has refused an offer of employment and, if so, a description of the employment offered including terms, conditions and pay.

It is not necessary for the IV-D agency to request information from the SESA on all IV-D cases at any given time. Depending upon the size of the caseload, case prioritization policies, and so forth, the IV-D agency may wish to limit the cases referred to the SESA for matching against the SESA's records. Since the statute refers specifically to withholding of unemployment compensation to enforce "obligations which are owed . . . but are not being met", it may be more practical for a IV-D agency to request SESA information only for delinquent cases, although the information is available under Section 508 for any IV-D case and for any IV-D related activity.

D. Enforcement of Support Obligations Owed by Individuals Receiving Unemployment Compensation

The IV-D agency is required to enforce support obligations owed by individuals receiving unemployment compensation based on enforcement criteria established by the State. First, however, the IV-D agency must attempt to secure an agreement with the obligor to have an amount withheld from his or her unemployment benefits. The terms of the agreement should be based on the individual's ability to pay. If the individual signs an agreement, the SESA is entitled to receive a copy of it. If the SESA does not need a copy of each agreement, it will probably be more useful and less expensive to notify the SESA by manual or automated report. The agreement or report may include, but need not be limited to, the following information:

- name of obligor
- social security number of obligor
- amount of arrearage owed
- amount to be withheld from each check until arrearage is satisfied

If the IV-D agency and the individual receiving unemployment compensation cannot reach an agreement which satisfies both parties, the IV-D agency may use a legal process to require the withholding of unemployment compensation. The applicable legal process is defined in section 462(e) of the Act as a writ, order, summons, or other result of a legal process in the nature of a garnishment and includes both court and administrative orders. We believe this definition is broad enough to encompass the pertinent legal processes in all States, since it does not require garnishment action per se, but permits legal action by "similar process". The decision to pursue the case via legal process should depend upon sufficient time being available for legal process to result in a withholding and the agency's determination of whether or not the individual possesses sufficient resources to warrant the additional action on the part of the IV-D agency. If, under legal process, an order for withholding is obtained, the SESA may be provided a copy of the order or may be provided with the same type of information in report form as would be provided if an agreement had been reached with the individual. In order to provide maximum flexibility to States with respect to information exchange, OCSE does not plan to impose specific requirements in this area.

The statute at section 454 (20)(B) provides that the IV-D agency "shall enforce any . . . child support obligations which are owed by . . . an individual but are not being met" through the withholding of unemployment compensation. OCSE interprets this language as permitting withholding to satisfy either current unmet obligations or arrearages that are owed. For AFDC cases, amounts collected must be treated first as payment on the current support obligation (as per 45 CFR 302.51(a)), if it is unmet, and any remainder must be applied to an arrearage. Incentive payments are also available on AFDC collections made via the withholding process.

E. Reimbursement of the SESA's Incremental Administrative Costs

The IV-D agency must reimburse the SESA for the administrative costs associated with the withholding of unemployment benefits for payment of support. The frequency and the amount of the reimbursement must be agreed to in writing by the State IV-D agency and the SESA. The amount of the reimbursement may not exceed the SESA's actual costs of providing services to the IV-D agency. This means that the SESA is to charge the IV-D agency only those actual incremental costs incurred with respect to IV-D related activities and that the SESA's normal "costs of doing business" are not to be absorbed by the IV-D agency.

It is important that the IV-D agency ensure that costs are kept to a minimum by considering whether high cost items are necessary to the withholding process. The IV-D agency should not agree to pay for those items that it considers unnecessary. For example, the IV-D agency may find it unnecessary for the SESA to question each new applicant to determine whether he or she owes a support obligation that is being enforced by the IV-D agency. If this is the case, the IV-D agency should not agree to pay the SESA for such questioning. As a final measure, we urge the IV-D agency to periodically review the withholding process to identify high cost procedures that could be modified or eliminated by the IV-D agency directly or through renegotiation of the agreement with the SESA.

7. Receipts to the Obligor

The Department of Labor and OCSE believe that it is important to ensure that individuals whose unemployment compensation is withheld receive receipts on a periodic basis so that they are able to prove payment of support in the amount withheld. Providing receipts may be handled in various ways through the SESA or the IV-D agency, depending upon the arrangements already in place for providing receipts and the working procedures preferred by the two agencies.

In some States, SESAs provide check stubs to the claimants which show the amount of unemployment compensation paid and deductions taken from it. This process constitutes one acceptable method for giving receipts for payment of support. In some States, the IV-D agency bills absent parents for the support they owe. Often these bills contain statements of the individual's account indicating amounts paid for a given period. This type of billing statement provides a second acceptable method for providing receipts. If these or other routine methods of providing receipts are not used in a State, the IV-D agency must provide receipts to individuals upon request. If requested, receipts must be provided at least annually.

II. ACTIVITIES OF THE SESA

A. Disclosure of Support Obligations by New Applicants for Unemployment Compensation

Under Section 2335 of P.L. 97-35, the SESA must ask each new applicant for unemployment compensation to disclose whether he or she owes support obligations that are being enforced by the IV-D agency.

The SESA and the IV-D agency in the same State may decide that it is more efficient and cost-effective to substitute a frequent cross-match of their respective case records for the SESA questioning of the applicant. This might be accomplished by forwarding a IV-D computer tape to the SESA which could be used in checking whether a new applicant for unemployment compensation owes support to the IV-D agency. This is permissible as long as it results in all applicants for unemployment compensation being quickly screened to determine their status with respect to the IV-D program. Secondly, the agencies may decide that the SESA should take no withholding action based solely on the word of the applicant, without prior consultation with the IV-D agency. This would eliminate the potential problem of withholding from individuals who are not IV-D cases. If withholding is initiated on the word of the applicant, it does not preclude the IV-D agency from attempting to increase the amount withheld or from pursuing other means to collect the support owed. These modifications to the basic screening and withholding process are discretionary within a State and may be implemented if the agencies find them to be more appropriate and more effective than the SESA's questioning of each applicant.

A special situation arises when an individual applies for unemployment compensation in one State, but worked in another State. In these cases, the State where application is made is referred to as the "agent" State. The State where the person worked is known as the "liable" State. The latter is responsible for determining the applicant's eligibility for benefits and making benefit payments. In these SESA interstate cases, the agent SESA takes the application on the standard form IB-1. This form is being modified to include the following questions: "Are you required to make or do you owe child support payments? If yes, where? (City), (County), (State)." Upon completion of the IB-1, the agent SESA forwards the form and any supporting documentation to the liable SESA. All subsequent dealings with the applicant, including eligibility determination and payment of unemployment compensation, are handled by the liable SESA. The liable SESA will communicate with the IV-D agency in its own State concerning applicants who have responded positively to the questions on support included on the IB-1. Similarly, any withholding of unemployment compensation will be paid to the IV-D agency in the liable SESA's own State.

B. Withholding of Unemployment Compensation for Support Purposes upon Notification from the IV-D Agency

Upon receipt of notification from the State or local IV-D agency in its State that an amount must be withheld from an individual's unemployment compensation, the SESA will initiate the withholding as quickly as possible. The SESA will pay any amounts withheld to the State or local IV-D agency in its State on an agreed-upon schedule and notify that IV-D agency of the amount withheld from compensation for each individual,

the total amount forwarded to the IV-D agency for the period, and any other information mutually determined to be necessary to the process. This information will enable the IV-D agency to apply the appropriate amount to each individual's account and to reconcile any discrepancies with respect to the total amount sent and received.

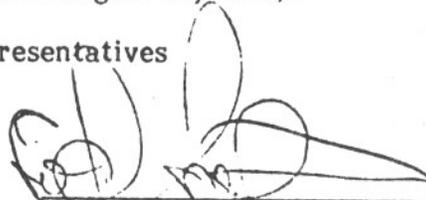
Communication with the SESA concerning withholdings should come from the State or local IV-D agency in the SESA's own State. Similarly, if unemployment compensation has been withheld by a SESA in one State and that support payment belongs to a IV-D agency in another State, the SESA will forward the amount withheld to the IV-D agency in its own State. That IV-D agency is responsible for transmitting the payment to the IV-D agency in the State where it appropriately belongs.

C. Reimbursement of Administrative Costs by the IV-D Agency

The SESA shall receive reimbursement from the IV-D agency for the administrative costs attributable to the withholding of unemployment compensation for payment of support. Reimbursement shall be on a periodic basis and in an amount agreed to in writing by the two State agencies. The IV-D agency will be reimbursed 75 percent of its costs by OCSE under routine reimbursement procedures. As noted above, it is vitally important that the IV-D agency take steps to ensure that the procedures for withholding unemployment compensation are the most cost-effective possible.

REFERENCES: Section 2335 of P.L. 97-35, enacted on August 13, 1981 (see OCSE-IM-81-13, dated August 19, 1981).

INQUIRIES TO: OCSE Regional Representatives



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