

15.3 CHILD SUPPORT REQUIREMENTS AND PROCEDURES (WV WORKS)

See Chapter 16 for child support requirements for Medicaid.

Federal law mandates that efforts be made to locate absent parents, establish paternity and/or obtain support for the children. The specified relative receiving WV WORKS must cooperate with child support activities and redirect to the Bureau for Child Support Enforcement (BCSE) any child support payments received.

The major responsibility for this effort rests with the BCSE through its staff of **Child Support Specialists**.

In addition, the Worker has the following responsibilities:

- To explain the requirements and benefits of BCSE services, including the right of the specified relative to claim good cause for refusal to cooperate
- To refer appropriate cases to the **Child Support Specialist**. Referral is accomplished by data system exchange or DHS-1.
- To evaluate evidence presented if the client claims good cause
- To determine if good cause for failure to cooperate with BCSE exists
- To apply the **Personal Responsibility Contract (PRC)** penalty for refusal without good cause to cooperate or redirect child support payments for WV WORKS
- To respond to RAPIDS alert 191. See Section 16.1, D for the required action.

The following information provides details about the responsibilities of the Worker, the **Child Support Specialist**, and the client in the child support process.

2. When The Client Refuses To Cooperate Prior To BCSE Referral

If the client indicates to the Worker, prior to BCSE referral, that he does not intend to cooperate in BCSE activities, the Worker must determine if good cause exists for the refusal.

If good cause does exist, no BCSE action is required or taken and no penalty is applied to the client. If good cause does not exist, the WV WORKS case is referred to BCSE and the penalty described in Item H below is applied. The Worker must record in RAPIDS the circumstances involved in the determination of good cause.

NOTE: There are some circumstances under which a letter is automatically generated to the absent parent(s) from the BCSE data system (OSCAR) as soon as the case is referred through RAPIDS. Therefore, it is important that the client be given the opportunity to establish good cause for not cooperating prior to the data exchange between RAPIDS and OSCAR. If the case is approved, or benefits added to an existing case, prior to verification of the good cause claim, the claim of having good cause that is pending verification, as entered into RAPIDS, will prevent the automatic production of a notice to the absent parent by the OSCAR system.

For WV WORKS cases, a **PRC** sanction is applied when the client fails to comply with the child support requirements of the PRC.

Specific WV WORKS Requirements

3. When The Client Claims Good Cause For Refusal To Cooperate Prior To BCSE Referral

When a client claims good cause prior to referral, the Worker makes a determination according to the procedure in item 4 below.

If there is evidence to immediately establish good cause, the Worker notifies BCSE at the time of referral that good cause has been established.

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If good cause is not established, the Worker notifies BCSE at the time of referral that good cause was claimed but not established. If BCSE then notifies the Worker that the client has failed to cooperate, the Worker sends the notification of sanction.

4. When The Client Claims Good Cause For Refusal To Cooperate After BCSE Referral

When the client claims good cause after the referral, the **Child Support Specialist** refers the case back to the Worker for a determination of good cause. The Worker enforces the cooperation requirement; however, the Legal Assistant must participate in the good cause determination in an advisory capacity. The Worker must give the **Child Support Specialist** an opportunity to review and comment on the good cause investigation and the decision. The Worker must consider the recommendation of the **Child Support Specialist** in making the final decision.

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- If good cause is established, the Worker must refer the case to the **Child Support Specialist** in writing (DHS-1) and indicate the basis for good cause. The case is not acted on by BCSE. At each redetermination of eligibility, the Worker determines if good cause still exists. If good cause no longer exists the Worker must notify the client and take appropriate action.
- If good cause is not established, the Worker initiates the **PRC** penalty by sending the client an **DFA-NL-C**. The Worker notifies the **Child Support Specialist** that good cause was claimed, but not established, and that the penalty or sanction for refusal to cooperate has been applied.

5. BCSE Case Closure of WV WORKS Cases

BCSE closes a case after referral for reasons such as, but not limited to, the following:

- The non-custodial parental rights and responsibilities are terminated and no arrears are owed
- The non-custodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken.
- Paternity cannot be established because the alleged father's identity is unknown
- The non-custodial parent's location is unknown and BCSE has been unsuccessful in locating the person after exhausting all efforts.
- The non-custodial parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and there is no reciprocity with the other country.
- The non-custodial parent cannot pay support for the duration of the child's minority and the person has no income or assets which can be levied or attached for support for one of the following reasons:
 - The non-custodial parent is incarcerated and there is no chance for parole for the duration of the child's minority; or

Specific WV WORKS Requirements

- The non-custodial parent is receiving SSI and there is no income or assets to pay support and a doctor's statement or statement from SSA is provided to state that the non-custodial parent is permanently and totally disabled; or
- The non-custodial parent has a medically verified permanent and total disability with no evidence of support potential.

When BCSE closes a case for one of the above stated reasons, the BCSE **Child Support Specialist** enters the absence code PX. When this code is entered, information about the absent parent is no longer exchanged with OSCAR. The code cannot be changed by the Worker. The code is retained in RAPIDS and no entry is required at redetermination. If the Worker receives information about the absent parent which he believes is pertinent and which may require action by BCSE, he sends a DHS-1 to the **Child Support Specialist**.

D. REDIRECTION OF CHILD SUPPORT PAYMENTS (WV WORKS)

All child support payments made on behalf of children who are recipients of WV WORKS must be redirected to BCSE. The first \$100 in child support collected for families with 1 child and \$200 for families with more than 1 child eligible for TANF will pass through to families and will not count against WV WORKS, WV WORKS solely state funded programs, DCA, and EAP.

Exceptions are as follows:

- The case is exempt from referral to the **Child Support Specialist** due to good cause
- The specified relative refused to cooperate with child support activities after referral to BCSE and good cause was established.
- If paternity has not been established, but the putative father voluntarily makes child support payments, such payments are not required to be redirected.

After receiving a referral, the **Child Support Specialist** arranges for support payments to be sent directly to BCSE rather than the specified relative. If direct payments to BCSE cannot be arranged, the client must forward the payment to BCSE. Failure to do so will result in application of a sanction for WV WORKS for failure to cooperate with child support activities.

NOTE: While there is no penalty for Medicaid recipients who refuse to redirect support payments, they must be instructed that being referred to BCSE automatically triggers income withholding, whenever there is an existing court order for support and an identifiable source of income.

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A child may receive statutory benefits (RSDI, VA benefits, etc.) on the basis of his own entitlement, as a dependent of the absent parent who is the primary beneficiary. This benefit amount is not considered child support and is not redirected even though the court order may refer to such income as a source of support to the child, or even as child support.

G. PENALTIES FOR FAILURE TO COOPERATE (WV WORKS,)

WV WORKS

The decision about the application of a sanction is made by the Worker. The case is sanctioned for failure to cooperate with BCSE requirements based on the PRC. See Chapter 13 for the WV WORKS sanction.

An mp, who is included in the payment, must always cooperate for the mp's included child(ren) or a sanction is imposed, unless good cause exists. An included MP, or other caretaker, must cooperate for the mp and the mp's siblings, if any, or a sanction is imposed, unless good cause exists. In addition, an included MP must cooperate for the mp's included child(ren), as required by BCSE. Failure to comply, without good cause, results in application of a sanction.

Failure, without good cause, of either the mp or the MP to meet the cooperation requirements results in one sanction. Failure, without good cause, of both to cooperate may result in 2 sanctions. However, if there is more than one absent parent for either the mp or the MP, or both, failure, without good cause, results in one sanction for the case.

NOTE: The WV WORKS benefit is sanctioned on the Personal Responsibility Contract sanction request screen in eRAPIDS. An additional sanction on the Medicaid benefit is not applicable.

H. COMMUNICATION BETWEEN THE WORKER AND THE CHILD SUPPORT SPECIALIST

Communication between the Worker and the **Child Support Specialist** continues until the case is closed or the child whose parent(s) is absent is removed from the AG,.

The Worker must notify the **Child Support Specialist**, in writing, of the following:

- A good cause determination is being made and the **Child Support Specialist** comments and recommendations are being requested prior to a final decision.
- The client has requested a Fair Hearing as the result of the Department's finding that good cause for non-cooperation is not established.
- Should the Worker become aware of information which could help the **Child Support Specialist** in obtaining support, this information must be shared.

The **Child Support Specialist** must notify the Worker, in writing, of the following:

- The client refuses to cooperate in child support activities and the reason for the refusal.
- Information which affects eligibility or the amount of the payment.
- Change of address.
- Paternity is established.
- Information regarding a change in the deprivation factor or cause of absence is secured.
- The client refuses to redirect child support payments and/or refuses to repay child support payments which were not redirected.

Changes in case circumstances are automatically referred to BCSE through the data systems. When health insurance information is entered by BCSE, RAPIDS alert 191 is sent to the Worker. See Section 16.1.