

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

F-130 Child Support Enforcement Services

MS Manual 043/0427/20223

The Office of Child Support Enforcement (OCSE) is mandated to provide services to all Health Care recipients who have assigned ~~to the state~~ their rights to medical support to the State. Each applicant or recipient who is responsible for the care of a dependent child must cooperate with OCSE in establishing legal paternity and obtaining medical support for each child who has a parent absent from the home. (See exception below.)

OCSE must provide all appropriate services to Health Care applicants and recipients without the OCSE application or fee. The OCSE agency is required to petition for medical support when health insurance is available to the absent parent at a reasonable cost. OCSE will also collect child support payments from the absent parent unless OCSE is notified by the recipient in writing that this service is not needed. Child support payments collected on behalf of Health Care recipients are received and distributed to the custodial parent through the ~~Central Office Child Support~~ OCSE Clearinghouse. However, no recovery cost will be collected.

1. Referrals

~~An OCSE referral will be made at initial approval for children w~~When a child's parent, guardian, or caretaker relative voluntarily requests a referral to be made, or is receiving Health Care, ~~or when the parent, guardian, or caretaker relative voluntarily requests a referral to be made~~ an OCSE referral will be made at initial approval. Refer to Exception and Note below.

Act 1091 of 1995, amended by Act 1296 of 1997, requires that both parents sign an affidavit acknowledging paternity, or obtain a court order, before the father's name will be added to the birth certificate.

NOTE: If the father's name is included on the birth certificate of a child born April 10, 1995, or -later, paternity has already been established. As paternity establishment is the only service the Office of Child Support Enforcement can offer to a family when both parents ~~-are~~ in the home, there is no need to make a referral in these instances.

NOTE: For child-only cases, cooperation with OCSE is voluntary. The only time that a referral to OCSE is necessary is when a parent, guardian, or caretaker relative is eligible in another Health Care eligibility group in which cooperation with OCSE is mandatory. Cooperation with OCSE will be strictly voluntary ~~;~~ when a:

- Parent, guardian, or caretaker relative is not receiving Health Care, but the children are receiving Health Care;
- Parent, guardian, or caretaker relative is the only one receiving Health Care and the ~~;~~ children are not receiving Health Care; or
- Parent, guardian, or caretaker relative is receiving Health Care in an exempt category.

A parent is considered to be absent for Health Care purposes when the absence is due to divorce, separation, incarceration, institutionalization, participation in a Rehabilitation Service Program away from home, or military service ~~;~~ These considerations are regardless of support, maintenance, physical care, guidance, or frequency of contact.

2. Good Cause

An applicant or recipient may have good cause not to cooperate in the state's efforts to collect child or Medical support. The applicant or recipient may be excused from cooperating if they believe that cooperation would not be in the best interest of the child, and if the applicant or recipient can provide evidence to support this claim.

The following are circumstances under which DCO may determine that the applicant or recipient has good cause for refusing to cooperate:

- Cooperation is anticipated to result in serious physical or emotional harm to the ~~;~~ child ~~;~~
- Cooperation is anticipated to result in physical or emotional harm to the ~~;~~ individual that is so serious it reduces the ability to care for the child adequately ~~;~~
- The child was born as a result of forcible rape or incest ~~;~~
- Court proceedings are in progress for the adoption of the child ~~;~~ or ~~;~~
- The individual is working with an agency helping to decide whether or not to place the child for adoption.

3. Refusal to Cooperate-Sanction

~~For Health Care, a~~ child's Health Care benefits cannot be denied or terminated due to the refusal of a parent or another legally responsible person to assign rights or cooperate with OCSE in establishing paternity or obtaining medical support. Health Care for the parent or caretaker relative will end after the appropriate notice has expired.

If a parent or another legally responsible person states that they refuse to cooperate with the OCSE referral process during any case action (iefor example, such as during the initial application or, case change, or etc.), the sanction can be applied by the DHS Eligibility Worker.

MEDICAL SERVICES POLICY MANUAL, SECTION G

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G-100 Verification Standards

G-111 Eligibility Factors That Require Verification

MS Manual 03/27/23

The following must be verified when determining eligibility for ~~Medicaid~~Health Care:

- Social Security Number (SSN)
- Citizenship
- Alien Status
- Income
- Age/Date of birth
- Disability (when required)
-
- Resources (For categories that require a resource test). Refer to MS E-110.
-

NOTE: When citizenship cannot be verified via the electronic data sources, the applicant will be notified to provide verification of citizenship and identity. Refer to MS G-133.

NOTE: If a client refuses to provide an attestation of their willingness to cooperate -with the Office of Child Support Enforcement (OCSE), this will -cause the parent's case to be sanctioned. The client's case will continue to be sanctioned (ineligible for Health Care coverage) until they cooperate with OCSE or the child(ren) in the home turn(s) eighteen (18) years of age. Refer to MS F-130.

Refer to sections below for specific information regarding verification of the above eligibility factors.

SNAP CERTIFICATION MANUAL – SECTION 1000

1623.3 Disqualification for Non-Cooperation with OCSE (Office of Child Support Enforcement)

SNAP Manual ~~023/0127/203~~

Under state and federal law, cooperation with the Office of Child Support Enforcement (OCSE) is a condition of eligibility for SNAP benefits. Applicants for SNAP must cooperate with OCSE, unless it is determined that good cause for non-cooperation exists.

Any parent (custodial, teen, or non-custodial) who states a refusal to cooperate with the OCSE requirement, will not be eligible to participate in the Supplemental Nutrition Assistance Program. -Custodial and non-custodial parents will be disqualified according to SNAP 1623.3.4, if there are other eligible household members.-

A Certified Eligibility Specialist ~~will deny~~ may disqualify SNAP eligibility to a custodial parent or non-custodial ~~parent, or both,~~ of a child under ~~the age of~~ eighteen (18) years of age, if the individual does not cooperate with the OCSE, as described below:

Custodial Parents ~~will be denied~~ may be disqualified from receiving SNAP benefits if they fail to cooperate with the ~~-OCSE~~ in establishing paternity of the child (if the child is born out of wedlock) and obtaining support for the child. The Agency must determine if the individual has good cause for the individual's refusal to cooperate, by taking into consideration circumstances in which cooperation may be against the best interest of the child.

Non-Custodial Parents ~~will be denied~~ may be disqualified from receiving SNAP benefits if the determined *putative* or identified *noncustodial parent* refuses to cooperate in establishing paternity of a child (if the child is born out of wedlock) and ~~OCSE is not~~ providing support for the child ~~by OCSE~~. If OCSE determines that the non-custodial parent is not cooperating in good faith, the Agency will determine whether non-cooperation constitutes a refusal or unwillingness to cooperate as opposed to an inability to cooperate. *Noncustodial parents* determined to have refused to cooperate are ineligible, and the Agency does not have the ability to establish good cause. If the Agency determines that the non-custodial parent has refused to cooperate, then that individual shall be ineligible to participate.

1623.3.1 Child Support Cooperation Requirements

SNAP Manual ~~02/01/20~~ 03/27/23

Cooperation with the OCSE by a **parent** ~~or guardian~~ is required when:

- The parent is applying for or receiving SNAP benefits;i
- ~~—~~ Paternity has not been established and the alleged father is not in the home;i
- _____
- One (1) or both parents are absent from the home, or

SNAP CERTIFICATION MANUAL – SECTION 1000

—Good cause for non-cooperation does not exist as determined by the agency.

Custodial ~~Parent~~ cooperation includes the following:

- Providing complete information required to obtain child support (if information about the non-custodial parent is known by the individual but is withheld, the individual may face a possible penalty of perjury).
- Completing and signing affidavits attesting to paternity of the child; and
- Making court appearances and providing testimony in paternity hearings and support actions.

If both a legal and putative father exists, or the responsibility for support is not clear, the parent must provide the information on both the legal and putative father.

Pregnant women who are receiving SNAP benefits for themselves and other dependent children are required to cooperate with the ~~agency~~OCSE unless they have good cause reasons not to cooperate.

Non-custodial Parent cooperation with the OCSE requires:

- Assisting the OCSE with establishing parentage.
- Providing verification of income for new court orders, modifying existing orders.
- Paying arrearages if there is an obligation that exists.

1623.3.3 Failure to Cooperate

SNAP Manual 023/0127/203

When the **parent**, including a **teen parent**, refuses to provide information regarding the non-custodial parent of a child under ~~the age of~~eighteen (18) years of age, residing in the home during the application or eligibility review, the eligibility worker must review child support cooperation requirements for the individual. If, at application, the parent declares a refusal to cooperate, the parent is ineligible to participate in SNAP. Refusal to cooperate at application results in application denial or removal from the SNAP case.

When the **non-custodial parent** refuses to provide information regarding establishing the paternity or providing support, the eligibility worker must review child support cooperation requirements for that individual.

SNAP CERTIFICATION MANUAL – SECTION 1000



Note: A Pregnant woman with no other deprived children is not subject to child support cooperation until the child's birth.

When the parent, teen parent, or non-custodial parent has not cooperated per OCSE, the eligibility worker can deny SNAP benefits for the individual (adult or teen parent) subject to the child support cooperation if ~~he or she does~~they do not express an intent to claim good cause or the intent to cooperate with the agency and authorize benefits for the other household members, if eligible.

1623.3.4 Disqualification for Failure to Cooperate

SNAP Manual 023/0127/203

For households with an absent parent, the county office will disqualify a custodial parent from receiving SNAP benefits if ~~he or she~~they fails to cooperate with the OCSE and ~~are~~is unable to demonstrate good cause for failure to cooperate. For individuals subject to the requirement, cooperation includes opening a case against the absent parent, ~~and~~ working with the ~~agency~~OCSE to determine parentage (if necessary), ~~and~~ establishing~~ing~~, modify~~ing~~, or enforc~~ing~~e an order.

When the custodial parent does not cooperate, a 10-day notice of adverse action will be sent informing them of their removal from the SNAP case for non-cooperation. The custodial parent will be removed from the SNAP case once the 10-day notice of adverse action has expired. If other eligible household members are in the SNAP case, only the custodial parent will be removed from the SNAP budget. The income, expenses and resources of the sanctioned individual will still be used for SNAP budgeting purposes.

-For a non-custodial parent, the county office will disqualify a non-custodial parent from receiving SNAP benefits if they are determined to be refusing to cooperate with OCSE in establishing paternity (if necessary) or providing support. When the non-custodial parent does not cooperate, a 10-day notice of adverse action will be sent informing them of their removal from the SNAP case for non-cooperation. The non-custodial parent will be removed from the SNAP case once the 10-day notice of adverse action has expired. After a 10-day notice of adverse expires, the SNAP case will close unless the SNAP household contains other eligible household members. Only the non-custodial parent who is not complying will be removed. The income, expenses, and resources of the sanctioned individual will still be used for SNAP budgeting purposes.

To disqualify a member for failure to comply with the child support requirements:

1. Include the resources of the ineligible member in their entirety.
2. Calculate a pro rata share of any income received by the disqualified member. To calculate a pro rata share:
 - o Subtract allowable exclusions (see SNAP 5400).

SNAP CERTIFICATION MANUAL – SECTION 1000

- Divide the remaining income evenly among the total household members including the disqualified member.
 - Multiply the pro rata share by the number of eligible members.
 - Count the resulting figure as income.
- 3. Apply the earned income deduction after the prorated earned income of the disqualified member has been determined and added to the household budget.
- 4. When the disqualified member does not incur any portion of an allowable expense, do not prorate the expense. Prorate any allowable shelter, child support payments, or dependent care expense paid totally or in part by the disqualified individual. To prorate, divide the expense evenly among all household members including the disqualified member. Multiply the pro rata shares by the number of eligible members. Count the resulting figure as an allowable expense. If the household has elected to use the utility standard (see SNAP 6620), do not prorate the utility standard.
- 5. Do not allow uncapped shelter costs if the disqualified member is the only aged/disabled individual in the household. Do not allow medical expenses incurred by a disqualified aged or disabled member. See the Glossary for a definition of individuals in an aged/disabled household.
- 6. For households still entitled to uncapped shelter costs after an individual has been disqualified, prorate the expenses as explained above. Allow the uncapped amount of the prorated expenses as instructed in SNAP 7610.
- 7. Do not include the disqualified member when determining income, eligibility, or SNAP benefit amount.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Of County Operations

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE 501-320-6540 **FAX** _____ **EMAIL:** Jason.Callan@DHS.Arkansas.Gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE SNAP and Medicaid – Office of Child Support Enforcement Related Changes

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☒ No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

General Revenue	\$ _____
Federal Funds	\$ _____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Total	\$ _____	Total	\$ _____
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(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue	(\$14,392)
Federal Funds	(\$36,320)
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 (\$50,712)

General Revenue	(\$57,569)
Federal Funds	(\$145,280)
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
 Total	 (\$202,849)

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ (14,392)

\$ (57,569)

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Statement of Necessity and Rule Summary

SNAP and Medicaid – Office of Child Support Enforcement Related Changes

Why is this change necessary? Please provide the circumstances that necessitate the change.

Medical Services Policy and the Supplemental Nutrition Assistance Program (SNAP) Manual are being updated to streamline the process for providing accurate information to the Office of Child Support Enforcement (OCSE) regarding the absent parent(s) for a Medicaid or SNAP applicant or recipient.

For Medicaid, the rule needs to be updated to reflect the change that, if an absent parent is determined to exist and a valid good cause reason is not verified or the caretaker relative voluntarily request a referral to be made, they are to be referred to OCSE for child support services during initial approval. If the applicant or recipient refuses to comply during any case action, a non-compliance sanction can be applied by the DHS Eligibility Worker.

For SNAP, any parent (custodial, teen, or non-custodial) who states a refusal to cooperate with the OCSE requirement, will not be eligible to participate in SNAP. Custodial and non-custodial parents will be disqualified from receiving SNAP benefits if they fail to cooperate with OCSE.

Technical language and grammar are corrected throughout all sections.

What is the change? Please provide a summary of the change.

- **Medical Services Policy F-130** - Clarifies that OCSE referrals will be made at initial approval for Medicaid. States that if a parent or another legally responsible person states that they refuse to cooperate with OCSE during any case action, the DHS Eligibility worker may apply the sanction.
- **Medical Services Policy G-111** – Notes that if a parent fails to provide absent parent information for their children, they will not be eligible for Medicaid coverage. Also removes absent parent information from eligibility factors that must require verification.
- **SNAP 1623.3** – Adds the clarification that any parent may be disqualified from receiving SNAP benefits if they fail to cooperate with OCSE.
- **SNAP 1623.3.1** – removes the word “guardian”.
- **SNAP 1623.3.3** – States that, if a parent declares a refusal to cooperate with OCSE at application, the parent is ineligible to participate in SNAP.
- **SNAP 1623.3.4** – Clarifies that parents must cooperate with OCSE rather than the agency and adds rules for disqualifying the parent for non-cooperation.

NOTICE OF RULE MAKING

The Director of the Division of County Operations of the Department of Human Services (DHS) announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129.

Effective March 27, 2023:

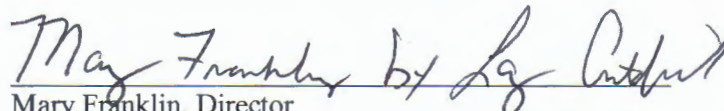
The Director of the Division of County Operations (DCO) amends the Medical Services Policy Manual and the Supplemental Nutrition Assistance Program (SNAP) Manual to streamline the process for providing accurate information to the Office of Child Support Enforcement (OCSE) regarding the absent parent(s) for a Medicaid or SNAP applicant or recipient. Medical Services Policy is updated to clarify that OCSE referrals will be made at initial approval for Medicaid, and to state that if a parent or another legally responsible person refuses to cooperate with OCSE during any case action, the DHS Eligibility worker may apply a sanction.

The SNAP manuals are revised to clarify that any parent may be disqualified from receiving SNAP benefits if they fail to cooperate with OCSE. Additional updates include provisions that if a parent declares a refusal to cooperate with OCSE at application, the parent is ineligible to participate in SNAP, and that parents must cooperate with OCSE. Technical language and grammar corrections are made in all manuals as needed.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than October 24, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-396-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. 4502100209


Mary Franklin, Director
Division of County Operations