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**Rules of**  
**Department of Social Services**  
**Division 40—Family Support Division**  
**Chapter 100—Child Support Program,**  
**General Administration**

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**Title 13—DEPARTMENT OF  
SOCIAL SERVICES**

**Division 40—Family Support Division  
Chapter 100—Child Support Program,  
General Administration**

**13 CSR 40-100.020 Administrative Hearings**

*PURPOSE: This rule sets forth procedures by which the Family Support Division conducts hearings before its designated hearing officers to resolve disputes between the division and persons from whom the division is seeking to establish or modify an obligation for support or collect an established obligation.*

(1) Definitions.

(A) “Obligor” means any person who owes or is alleged to owe a duty of support.

(B) “Administrative hearing” means a hearing to dispute an action taken by the division on a child support matter that is heard by the Administrative Hearings Section of the Division of Legal Services, Department of Social Services.

(C) “Case” means a matter before the Administrative Hearings Section.

(D) “Division” means the Family Support Division and its employees.

(E) “Hearing request” means a request made by a party to the action, who personally or through a representative, requests a hearing according to the procedures set forth under this rule and applicable federal or Missouri statutes and regulations.

(F) “Administrative Hearing Officer” means a person designated by the Missouri Department of Social Services to resolve child support issues in compliance with all federal and state laws and regulations. The Administrative Hearing Officers have the authority to conduct child support hearings on behalf of the Family Support Division on child support matters.

(2) Administrative Hearing Procedures.

(A) All administrative hearings on child support cases will be conducted by an administrative hearing officer designated by the Director of the Department of Social Services pursuant to section 454.475.1, RSMo. Any hearing officer employed by the Department of Social Services, and appointed to the Administrative Hearings Section as a hearing officer to handle child support matters is deemed to have been designated by the Director of the Department of Social Services. The designation by the Director of the Department of Social Services shall expire when employment with the Department of Social Services, Division of Legal Services, ceases

or at such time as their duties no longer include responsibility for conducting child support hearings.

(B) *Ex-parte* communication with the administrative hearing officer from the parties, the division or its employees, or any attorney representing any party to the case is prohibited. *Ex-parte* communication includes any written or verbal communication with the administrative hearing officer, before or after the hearing, without the presence of all parties about a pending case. *Ex-parte* communication also includes any written communication that has not been provided to all parties prior to any decision being rendered by the hearing officer on the document. This shall not prevent the parties from sending in hearing exhibits so long as all exhibits are provided to all parties to the case.

(C) Hearings held by the Administrative Hearings Section will be held by telephone. Any party may choose to attend the telephone hearing in-person at the Administrative Hearings Section’s office in Jefferson City. The Administrative Hearings Section will not provide transportation to any party to attend a telephone hearing in-person. If a party intends to participate by telephone, the party will need to provide the Administrative Hearings Section with a valid telephone number. If a party is incarcerated at the time of the hearing, the party may either provide a telephone number where the party can be reached on the day and time of the hearing or the party may call in directly to the Administrative Hearings Section. The Administrative Hearings Section will send a letter to all incarcerated parties prior to the hearing providing them with a contact number for the hearing. All parties participating in the telephone hearing will pay their own costs of the call in order to participate. Incarcerated parties will need to make their own arrangements with the correctional institution to participate in the telephone hearing and to provide any exhibits or evidence for the hearing.

(3) Request for Continuance.

(A) In any administrative hearing under this rule, continuances may be granted only by the Administrative Hearings Section. The Administrative Hearings Section, at their discretion, may grant a continuance freely upon the first request for a continuance from any party.

(B) If a party requesting a continuance previously has been granted a continuance, the Administrative Hearings Section shall grant a continuance only upon a clear and present showing that substantive rights of a party in interest will be severely prejudiced by the denial of the request for continuance or for

good cause shown as determined by the Administrative Hearings Section.

(C) All requests for continuances filed prior to the hearing date must be in writing, must contain a clear explanation as to why the continuance is needed, and all parties must be notified of the request. If notification to one (1) of the parties is not possible, the request for continuance filed with the Administrative Hearings Section must explain why notification to the parties is not possible. Any request for continuance must provide available dates for the resetting of the hearing date. If necessary, a party may request a continuance at the time of the hearing for good cause as determined by the Administrative Hearings Section.

(4) Default Administrative Decision.

(A) In any proceeding under this rule, the administrative hearing officer may enter a decision in default against any party who has failed to appear, by telephone or in-person, at the proceeding. It shall be the parties’ responsibility to provide the division and the Administrative Hearings Section with a current mailing address for notices issued by the Administrative Hearings Section including, but not limited to, hearing notices, continuance notices, and hearing decisions and/or orders, or proposed modification decisions and orders.

(B) The valid entry of a decision in default by the administrative hearing officer may be made in all cases, subject to the defaulting party’s right to move that the decision in default be set aside for good cause, but only if the defaulting party gives notice of the good cause to the administrative hearing officer in writing within ten (10) calendar days after the default decision is mailed to all parties. Nothing in this subsection abrogates the rights of the parties under section 454.475, RSMo, to file a motion for correction or motion to vacate with the Administrative Hearings Section.

(C) Any notice mailed to the last-known address of any party in interest will be deemed valid delivery of that notice.

(5) Hearing Requests.

(A) If the parties are entitled to a hearing under federal or state law or regulation or the division has notified the party of the right to a hearing due to an action taken by the division in the administration of the child support program, the division will provide, upon request, a hearing as set forth in section 454.475, RSMo. Any request for hearing must comply with any request procedure as set out in the law or statute authorizing the hearing. For Missouri tax refund offset hearings for the



obligor or nonobligated spouse, the notice to contest the tax offset is deemed received ten (10) calendar days after the date on the notice, unless refuted by competent evidence to the contrary. If the parties are entitled to a hearing, but federal or state law or regulation does not provide specific procedures or time-lines for when the hearing requests must be made, then the parties to the child support case have thirty (30) calendar days from the date of the notice of the division’s action to request a hearing. The hearing request, unless it is for a federal tax refund offset, must be in writing and provided to the division, unless the authorizing law or regulation requires otherwise. Hearing requests on federal tax refund offsets may be verbal or in writing. The division will review the hearing request and may contact the party requesting the hearing in an effort to resolve the issues raised by the hearing request. The parties will be notified in writing if the hearing request is granted, resolved, or denied and the reason for the denial. The division may deny a request for an administrative hearing for any one (1) of the following reasons:

1. The party’s hearing request is based solely on issues that have previously been litigated and decided by a court of law;
2. The hearing request was untimely as set forth in either federal or state law or regulation; or
3. The party’s request for administrative hearing is based solely on issues which cannot be decided in an administrative hearing including, but not limited to, visitation, legal custody, and nonpaternity.

(B) An administrative hearing need not be held if all disputed matters are resolved before the hearing.

(C) If the Administrative Hearings Section receives multiple hearing requests from the same parties, the Administrative Hearings Section may combine the hearing requests into one (1) hearing.

*AUTHORITY: sections 454.400 and 660.017, RSMo 2016.\* This rule originally filed as 13 CSR 30-7.010. Original rule filed May 2, 1989, effective Aug. 25, 1989. Amended: Filed Dec. 13, 1989, effective April 26, 1990. Emergency amendment filed Sept. 15, 1992, effective Sept. 25, 1992, expired Jan. 22, 1993. Emergency amendment filed Jan. 7, 1993, effective Jan. 23, 1993, expired May 22, 1993. Amended: Filed Sept. 15, 1992, effective April 8, 1993. Emergency amendment filed June 2, 1995, effective July 15, 1995, expired Nov. 11, 1995. Amended: Filed June 2, 1995, effective Sept. 30, 1995. Moved to 13 CSR 40-100.020 and amended: Filed Sept. 27, 2018, effective May 30, 2019.*

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

**13 CSR 40-100.030 Cooperation Requirement**

*PURPOSE: This rule sets forth the requirement for individuals who are applicants for or recipients of public assistance benefits (applicants/recipients) to cooperate with the Family Support Division in its efforts to establish paternity and establish, modify, and enforce child support orders.*

(1) Definitions. For the purposes of this rule the following definitions are applicable:

(A) “Division” means the Family Support Division;

(B) “Good cause” means the circumstances under which cooperation is not in the best interest of the child or custodian who has applied for or is receiving public assistance benefits;

(C) “Cooperation” means the duty of applicants/recipients to provide, within their ability to do so, all requested information and assistance to the division to enable it to establish paternity and establish, modify, and enforce child support and medical support orders;

(D) “Public assistance” means any benefits from a program funded pursuant to Part A or Part E of Title IV of the Social Security Act, Title XIX of the Social Security Act, or the Food Stamp Act;

(E) “Applicant/recipient” is a person who has applied for or is receiving public assistance;

(F) “NCP” means noncustodial parent;

(G) “AF” means alleged father;

(H) “Genetic Testing” means testing for paternity using blood cells, other tissue, or fluid.

(2) Cooperation Requirements. If it is determined by the Division’s Child Support Program that an applicant/recipient is not cooperating in establishing paternity, establishing a medical support order with respect to a child, or in establishing, modifying, or enforcing a support order, and the applicant/recipient does not qualify for a good cause or other exceptions established by the Division, the Division’s Child Support Program shall notify the Division’s Income Maintenance Program, who shall impose sanctions. Cooperation requirements include, but are not limited to, providing to the Division’s Child Support Program the following information pertaining to the noncustodial parent (NCP) or alleged father (AF) and

assistance to establish paternity and establish, modify, and enforce support orders:

(A) Information relating to the NCP or AF includes, but is not limited to:

1. The name;
2. Date of birth or approximate age;
3. Social Security number;
4. Known address or last known address;
5. Past or present employer and usual occupation;
6. Name of high school, college, university, vocational school/expected graduation date;
7. Names of friends or relatives who may have information;
8. Names of clubs or union memberships;
9. Driver’s license information;
10. Physical description;
11. Make, model, or license plate of any vehicles owned;
12. Any information regarding any other property owned; and
13. Any other pertinent information relevant to locating the NCP/AF;

(B) Assistance required from the applicant/recipient—

1. Providing financial and income information, education, and work history of the applicant/recipient;
2. Providing and updating the street and mailing address of the applicant/recipient;
3. Appearing at and cooperating with the Division’s Child Support Program or prosecuting attorney’s offices and supplying written documentary evidence;
4. Appearing as a witness at judicial or administrative hearings;
5. Completing a notarized affidavit attesting to a lack of relevant requested information regarding the NCP or AF; and
6. All other assistance requested by the Division’s Child Support Program to establish paternity including, but not limited to, keeping appointments for genetic testing and participating in genetic testing.

(3) Good Cause for Noncooperation.

(A) An applicant/recipient may refuse to cooperate with the Division’s Child Support Program based upon good cause. Each applicant/recipient will be informed by the division about the duty to cooperate and the right to claim good cause. Each applicant/recipient will also be provided information regarding good cause, including its definition and how good cause can be claimed and what evidence is needed to support such a claim.

(B) If the applicant/recipient claims good cause to the Division’s Income Maintenance Program, the Division’s Income Maintenance



Program may make the good cause determination in compliance with this regulation.

(C) The applicant/recipient shall be provided a written copy of the requirement to cooperate and the right to claim good cause for refusal to cooperate with the Division's Child Support Program. It is the responsibility of the applicant/recipient to specify the circumstances under which good cause is claimed and provide corroborative evidence. Good cause for refusing to cooperate is deemed to exist in one (1) or more of the following circumstances, but may not be limited to these circumstances:

1. Physical or emotional harm to a child;
2. Physical or emotional harm to the applicant/recipient of sufficient severity that it would reduce the applicant/recipient's capacity to adequately care for a child;
3. Physical or emotional harm to the applicant/recipient as a result of domestic violence;
4. The child for whom support is sought was conceived as a result of incest or rape; or
5. Legal proceeding for the adoption of the child is pending before a court.

(4) The documentation will be submitted to the Division's Income Maintenance Program which will review it to determine if there is sufficient evidence to establish a claim of good cause. A claim of good cause may be verified by one of the following:

(A) Birth certificate or medical or law enforcement records that indicate that a child was conceived as the result of incest or forcible rape. Acceptable medical records shall include records reflecting the judgment of a disinterested third party including, but not limited to, counselors, therapists, or any other medical or psychological health professional that conception is the result of rape;

(B) Court documents or other records that indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(C) Court, medical, criminal, child protective services, social service, psychological, or law enforcement records that indicate the NCP/AF might inflict physical or emotional harm on the child or applicant/recipient;

(D) Medical records regarding the emotional health history and present emotional health status of the applicant/recipient or the child for whom support would be sought that indicate emotional harm would result from cooperation, or written statements from a mental health professional indicating such results;

(E) A written statement from a public or licensed private social agency that the appli-

cant/recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption; or

(F) When none of the items listed above is present or conclusive, a sworn statement from the applicant/recipient, and at least one other individual with knowledge of the circumstances that provide the basis for the claim of good cause may be submitted.

#### (5) Due Process Rights.

(A) Upon application, the applicant/recipient will be given, in writing, notice of the cooperation requirements. These requirements will be explained along with what sanctions can be applied when the applicant/recipient fails to cooperate with the Division's Child Support Program. If the applicant/recipient claims good cause, he/she will have twenty (20) calendar days to provide evidence to support the claim of good cause. The twenty (20) days may be extended, in the case of difficulty in obtaining the evidence, for a period of time not to exceed forty-five (45) days as determined by the Division's Income Maintenance Program.

(B) Review and Determination. If the applicant/recipient claims good cause, the Division's Income Maintenance Program will review the information provided and make the final determination as to whether there is good cause for noncooperation.

(C) Notification of Final Determination. The Division's Income Maintenance Program will notify the applicant/recipient of its decision in writing. If the division finds that there is good cause for noncooperation, the division will give the applicant/recipient the option to have child support services stopped or be continued. If the division finds that there is no good cause to refuse to cooperate, the division will give the applicant/recipient an opportunity to cooperate, withdraw the request for assistance, or terminate assistance.

*AUTHORITY: sections 454.400 and 660.017, RSMo 2016.\* This rule originally filed as 13 CSR 30-8.010. Original rule filed March 30, 2000, effective Oct. 30, 2000. Moved to 13 CSR 40-100.030 and amended: Filed Aug. 28, 2018, effective April 30, 2019.*

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

### 13 CSR 40-100.040 State Directory of New Hires

*PURPOSE: For new hire reporting purposes under section 285.300, RSMo, this rule defines "newly hired employee" in accordance*

*with The Trade Adjustment Assistance Extension Act of 2011 (Public Law 112-40) amendment to section 453A(a)(2) of the Social Security Act.*

(1) "Newly hired employee" means an employee who—

(A) Has not previously been employed by the employer; or

(B) Was previously employed by the employer but has been separated from such prior employment for at least sixty (60) consecutive days.

*AUTHORITY: section 454.400.2(5), RSMo 2000.\* Emergency rule filed Sept. 16, 2013, effective Sept. 26, 2013, expired March 24, 2014. Original rule filed Sept. 16, 2013, effective Feb. 28, 2014.*

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