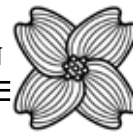




RULES OF
Department of Social Services
Division 40—Family Support Division
Chapter 100—Child Support Program,
General Administration

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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) “Child support case” means an official record comprised of an obligee or payee and dependent child(ren), associated with a particular obligor, receiving services pursuant to section 454.400, RSMo.

(E) “Obligee or payee” means a person to whom payments are or will be required to be made pursuant to a support order.

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

(G) “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.

(H) “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.

(I) “Administrative hearing packet” means a packet containing documents from the child support case record and submitted by the division to the Administrative Hearing Section to be offered as evidence in an administrative hearing on a child support case.

(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 the hearing officer’s 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 submitting 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 or other electronic means. Any party may request to attend the hearing in-person at the Administrative Hearings Section’s office in Jefferson City. Any request to attend a hearing in-person with the hearing officer shall be made at least seven (7) days before the scheduled hearing. Any request to attend a hearing in-person made to the Administrative Hearings Section less than seven (7) days before the scheduled hearing shall be granted at the discretion of the Administrative Hearings Section or the administrative hearing officer. The Administrative Hearings Section will not provide transportation to any party to attend a hearing held by telephone, other electronic means, or in-person. All parties participating in the hearing will pay the party’s own costs.

1. If a party intends to participate by telephone, the party will need to provide the Administrative Hearings Section with a valid telephone number where the party can be reached on the day and at the time of the hearing.

2. If a party is incarcerated at the time of the hearing, it shall be the party’s obligation to make arrangements with the correctional institution to attend the hearing by telephone and to provide evidence or exhibits for the hearing. The incarcerated 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 the Administrative Hearings Section on the day and at the time of the hearing at the telephone number provided for the hearing on the notification letter sent by the Administrative Hearings Section.

(D) All exhibits to be submitted as hearing exhibits in an administrative hearing, including the division’s administrative hearing packet(s), shall be submitted to the Administrative Hearings Section, the division, and all parties within five (5) days prior to the hearing. If hearing exhibits are not received five (5) days prior to the hearing, admission of exhibits as evidence any time thereafter shall be at the discretion of the hearing officer. The hearing officer shall have the discretion to leave the hearing record open for the submission of exhibits as evidence as long as copies of all exhibits are provided to the division and all parties, with the opportunity for the division or any party to submit rebutting evidence.

(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 its discretion, may grant a continuance freely upon the first request for a continuance from any party.

(B) If a party requesting a continuance was granted a prior continuance, the Administrative Hearings Section shall grant an additional 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 at the hearing. All parties shall appear for the hearing and be ready to proceed no later than the starting time listed on the notice. A hearing officer may find a party in default if the party or the party's attorney does not appear within ten (10) minutes after the starting time. However, the hearing officer shall retain the authority to commence the hearing at a time appropriate to the circumstances. 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) All individuals shall comply with all directions given by a hearing officer during a hearing. If any individual fails to follow these directions, the hearing officer may exclude the individual from the hearing or may adjourn the hearing.

(C) 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.

(D) 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 regulation 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 timelines 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

division will notify the parties in writing if the hearing request is granted, resolved, or denied and the reason for the denial. If the request for hearing is granted, the division will forward the hearing request and administrative hearing packet to the Administrative Hearings Section. The Administrative Hearings Section will schedule a hearing and send notice to the parties. The administrative hearing notice shall state the date and time of the hearing, the procedures for participating in the hearing, and state the action or actions that the administrative hearing will address. 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.

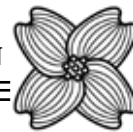
(C) If the Administrative Hearings Section receives multiple hearing requests from the same parties on the same child support case, the Administrative Hearings Section may combine the hearing requests into one (1) hearing if the hearing requests are for similar administrative actions.

(6) Administrative Hearings Procedures for License Suspension.

(A) The Administrative Hearings Section shall use procedures contained in this section to conduct hearings to determine whether suspension of a license is appropriate when the director has issued a notice of intent to suspend a license pursuant to section 454.1003, RSMo, on a child support case when an obligor is not making child support payments in accordance with a support order. The obligor may request an administrative hearing on the notice of intent to suspend a license the division issued on the obligor's child support case. The suspension of the license shall be stayed pursuant to section 454.1005.3, RSMo, until the Administrative Hearings Section issues a decision containing written findings of facts and conclusions of law on the factors enumerated within section 454.1005, RSMo, determining whether the license suspension is appropriate. As used in section 454.1005.3, RSMo, "the director shall stay suspension of the license pending the outcome of the hearing" means that the director's action to suspend the obligor's license on the child support case shall be stayed pending the hearing decision and no order suspending the license on the child support case shall be issued by the director to the license authority until a decision is entered and an order is issued pursuant to section 454.1005.6, RSMo.

(B) The hearing officer shall have thirty (30) days to issue written findings of facts and conclusions of law after the hearing has ended and the hearing record has closed.

(C) In determining whether license suspension is appropriate, the hearing officer shall consider relevant factors presented by the obligor, the obligee, the division, and other witnesses that may be received by testimony, exhibits submitted prior to hearing, and exhibits admitted by the discretion of the hearing officer before the hearing record is closed. The obligor shall bear the burden of production and persuasion to show cause why suspension of a license is not appropriate under the totality of the obligor's circumstances enumerated in section 454.1005.4, RSMo, and that the obligor failed to comply with the child support payment obligation for good cause as set forth in section 454.1005.5, RSMo. In providing evidence



regarding license suspension, the obligor will submit such documentation or supporting evidence as requested by the hearing officer if the documentation or supporting evidence has not been submitted by the obligor prior to the hearing.

1. When considering the relevant factors regarding payments, “payments” mean any amount or amounts ordered to be paid pursuant to a “support order” as defined by section 454.1000(13), RSMo.

2. When considering the relevant factors regarding payments, “arrearage” means arrearage as defined by section 454.1000(1), RSMo.

3. When considering the relevant factor of payments that are in arrearage, the hearing officer at the hearing officer’s discretion and the circumstances of the child support case may limit the hearing officer’s consideration to a time frame less than the entire lifetime of the child support obligation.

4. When considering the relevant factor of transportation, “extracurricular activities” means an activity related to a school, job, or profession, but outside of the regular curriculum of the school or outside of the usual duties of the job or profession.

(D) If the hearing officer finds that the obligor failed with good cause to comply with the child support payment obligation and an arrearage exists in excess of two thousand five hundred dollars (\$2,500) or the obligor owes an arrearage greater than or equal to three (3) months support payments, the hearing officer shall not issue an order suspending the obligor’s license on the child support case.

(E) After the issuance of a decision not to suspend a license, the director may issue a new notice of intent to suspend a license pursuant to section 454.1003, RSMo, if the obligor fails to make payments on the child support case and accumulates an additional arrearage in an amount greater than or equal to three (3) months support payments or two thousand five hundred dollars (\$2,500), whichever is less, as of the date of service of the new notice of intent to suspend the license.

(F) Pursuant to section 454.1005.6, RSMo, the director shall issue an order suspending the obligor’s license on the child support case when the hearing officer finds that the obligor has failed without good cause to comply with any of the requirements in section 454.1005.4, RSMo. In section 454.1005.6, RSMo, “to comply with any of the requirements in subsection 4 of this section” means that the obligor failed to comply with the child support payment obligation and an arrearage exists in excess of two thousand five hundred dollars (\$2,500) or the obligor owes an arrearage greater than or equal to three (3) months support payments. In section 454.1005.6, RSMo, “without good cause” means that the obligor did not present sufficient evidence on any of the relevant factors enumerated in section 454.1005.4, RSMo, or the relevant good cause considerations in section 454.1005.5, RSMo, for the hearing officer to find that the suspension of the license is inappropriate.

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. Amended: Filed June 12, 2024, effective Jan. 30, 2025.*

**Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997, 2014, 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 applicant/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 non-cooperation.

(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.

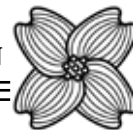
AUTHORITY: sections 454.400 and 660.017, RSMo 2016. This rule originally filed as 13 CSR 30-8.010. Original rule filed March 30, 2000, effective Oct. 30, 2000. Moved to 13 CSR 40-100.030 and amended: Filed Aug. 28, 2018, effective April 30, 2019.*

**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.*