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**DCSE Policy & Procedures Unit**

**Policy Update**

**PPU 03-12-003**

**December 16, 2003**

**SUBJECT: Implementation of legislative changes to IWO Payment On Arrears**

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**Please contact the Policy and Procedures Unit if you have any questions regarding this process or any other changes at \*DCSE-POLICYQUESTIONS, CSE.POLICY or (602) 274-7951.**

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Based upon changes in Arizona law, the way DCSE and its agents calculate the amount of payment on arrears for an **Administrative Income Withholding Order (IWO)** has been changed for arrears only cases. This Policy Update is being sent to notify and describe to all child support workers the method that will be used now for calculating the payment on arrears for an **IWO** on an arrears only case.

The payment on arrears (excluding the Clearinghouse fee of \$2.25) for an **IWO** on an ATLAS case, where current support is no longer owed (an arrears only case), is calculated as being the support amount found on the most recent support order or the most recent order regarding payment on arrears, whichever of the two amounts is greater.

When an ATLAS case has only a current child support order and the child or children for the case have either emancipated or for another reason the non-custodial parent no longer is obligated to pay the current support obligation, the **IWO** payment on arrears amount will be the last amount ordered for current support. For example, the last child support order is for \$400.00 per month, and will end on 12/31/03. The payment on arrears for the **IWO** after 12/31/03 will be \$400.00 per month.

When an ATLAS case has both a current child support order and a spousal maintenance order, the payment on arrears amount for the **IWO**, after both of the current support obligations have stopped, will be the obligation that stopped last. For example, a current spousal maintenance order for \$100.00 per month ends on 12/31/02. The current child support for \$400.00 per month ends on 12/31/03. The payment on arrears after 12/31/03 for the **IWO** will be \$400.00 per month. An example with these support end dates reversed would be where the current spousal maintenance for \$100 per month ends on 12/31/03 and current child support for \$400.00 per month ends on 12/31/02. The payment on arrears for the **IWO** after 12/31/03 will be \$100.00 per month.

In the rare instance where both the current spousal maintenance and the current child support obligations end on the same date, the payment on arrears for the **IWO** will equal the sum of the two obligations. For example, the current child support of \$400.00 per month ends on 12/31/03 and the current spousal maintenance ends on 12/31/03. The payment on arrears for the **IWO** after 12/31/03 will be \$500.00 per month.

On an arrears only case, where a judgment on arrears is present, the amount ordered towards payment on arrears will be compared with the last current support amount. The greater of these two amounts will be the payment on arrears for an **IWO** that issues for this case. For example, an ATLAS case has a current child support obligation of \$200.00 per month that ended on 10/31/03, a current spousal maintenance obligation for \$100.00 per month that

ended on 12/31/02, and a judgment on arrears for child support signed on 02/14/02 with a payment on arrears ordered at \$250.00 per month. The payment on arrears for this **IWO** is \$250.00 per month.

If there is more than one type of judgment on arrears amongst these types, JCH-Judgment for Child Support, JSP-Judgment for Spousal Maintenance, JPM-Judgment for Past Medical Expenses, JMS-Judgment for Medial Support, and JLI-Judgment for Lying In Costs, the sum of the amounts ordered for each of these judgments will be compared with the last current order. The greater of these two amounts will be the payment on arrears for an **IWO** on an arrears only case. For example, an ATLAS case has a current child support obligation of \$200.00 per month that will end on 12/31/03, a current spousal maintenance obligation for \$100.00 per month that ended on 12/31/02, a judgment for child support signed on 02/14/02 with a payment on arrears ordered at \$250.00 per month, and a judgment for spousal maintenance signed on 10/03/00 with a payment on arrears amount of \$100.00 per month. The payment on arrears for the **IWO** after 12/31/03 will be \$350.00 per month.

If there are multiple judgment debts of the same obligation type, the amounts ordered for payment on arrears will not be added. The latest amount ordered for payment on arrears for the given obligation type will be used.

A judgment on arrears will not be considered if no payment on arrears has been ordered for that judgment. For example, an ATLAS case has become an arrears only case (all children have emancipated or current child support has otherwise terminated), with the current child support amount of \$200.00 per month that ended on 09/30/03, a judgment for child support signed on 01/03/00 with a payment on arrears of \$250.00 per month, and a subsequent child support judgment signed on 01/31/02 with no payment on arrears ordered. Unless there is specific language in the judgment signed on 01/31/02, which terminates the prior payment on arrears or indicates that no payment on arrears is appropriate, then the most recent order regarding payment on arrears for this case would be the judgment signed on 01/03/00. The payment on arrears for the **IWO** after 09/30/03 is \$250.00 per month.

If the court enters a zero court order or terminates a support order without addressing arrears, an **IWO** can be issued with a payment on arrears equal to the last support order prior to the termination or entry of the zero court order. For example, an ATLAS case has a current child support order, signed 03/15/00, for \$200.00 per month. The court entered an order for \$0.00 current child support on 06/14/03 because the non-custodial parent is incarcerated. The 06/14/03 order does not address the issue of payment on arrears. The children that are subject to this order are not yet emancipated. At such time that DCSE or its agents learn that the non-custodial parent is employed, an **IWO** for arrears only, at \$200.00 per month (plus the clearinghouse fee of \$2.25) can be issued to the non-custodial parent's employer.

The existence of a per child order (a.k.a. divisible order) does not change the method of calculating the payment on arrears for an **IWO** on an arrears only case. After the youngest or last child(ren) subject to a per child order emancipates, the amount for the payment on arrears for an **IWO** will be what the current child support amount was for the youngest or last child(ren) just prior to emancipation (unless there is a judgment on arrears with a greater amount ordered for payment on arrears, a current spousal maintenance debt that stopped after the current child support order, or an order which otherwise states that an **IWO** is not appropriate).. For example, a case has a child support order of \$100.00 per child per month. There are three

children that are subject to the order. The total current child support is \$300.00 per month. After the oldest child emancipates on this case, the current child support is \$200.00 per month. After the second child emancipates, the current child support is \$100.00 per month. After the third child emancipates on this case, the amount for the payment on arrears on an **IWO** will be \$100.00 per month.

If the accrual stops on a per child order prior to emancipation of the youngest or last child or children, the amount of the payment on arrears will be the amount that the support accrual was just prior to the termination of the accrual. For example, a case has a child support order of \$100.00 per child per month. There are three children that are subject to the order. The total current child support is \$300.00 per month. After the oldest child emancipates, the current child support is \$200.00 per month. There is a subsequent change of custody order that stops the current child support prior to when the second oldest child emancipates. There are no spousal maintenance or judgment orders on this case. The payment on arrears for the **IWO** would be \$200.00 per month.

A balance will have to exist for a debt type and the debt type must be coded as being "Active" before it can be considered as a component in determining the amount for a payment on arrears of an **IWO**.

If the total amount of arrears for the non-fee debts on a case is less than the amount calculated for the payment on arrears for the **IWO**, do not generate an **IWO**.

Systems and Automation Administration has altered the programming in ATLAS so that **IWO's** will automatically issue according to this new policy regarding payments on arrears.

If you have any questions, please send these inquiries to the Policy and Procedures Unit via e-mail at \*DCSE-POLICYQUESTIONS or sysm at CSE.POLICY.