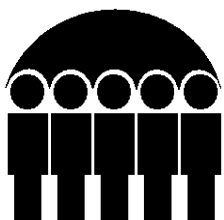


Revised July 16, 2002

Employee's Manual
Title 10
Chapter D

DISESTABLISHMENT OF PATERNITY



Iowa
Department
of
Human Services

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OVERVIEW

Paternity legally established through marriage, paternity affidavit, court or administrative order, or open statement in court is subject to disestablishment. “Disestablishment” of paternity is granted if:

- ◆ The legal father is found not to be the biological father of the child, and
- ◆ A district court enters an order disestablishing paternity.

Future obligations to provide financial or medical support are ended when disestablishment of paternity is granted.

| The Child Support Recovery Unit (CSRU) plays a limited role in the disestablishment process. It is the responsibility of the parties involved to initiate proceedings by filing a petition with the district court. CSRU essentially serves as a communication channel in the initial contact between the requesting and nonrequesting parties.

| The Department of Human Services (DHS) is not responsible for any costs accrued through this process. All costs involved in the disestablishment process, e.g., blood or genetic testing, guardian ad litem fees or service fees are the responsibility of one or both of the parents.

| To begin the disestablishment process, the requesting parent must file a petition with the district court. The requesting parent may then ask CSRU for assistance in contacting the nonrequesting parent by providing CSRU with a file-stamped copy of the petition to disestablish paternity.

| CSRU continues enforcement of current and unpaid financial and medical support until CSRU receives a file-stamped copy of the court order disestablishing paternity. Upon receipt of the disestablishment order, CSRU:

- ◆ Terminates any future financial or medical support obligations in accordance with the provisions of the court order,
- ◆ Satisfies unpaid support depending on:
 - When the order was filed,
 - The language contained in the order, and
 - Whether or not there was a prior dismissal of a disestablishment action.
- ◆ Prepares and files a court-ordered satisfaction of any unpaid child support obligation owed to DHS, if applicable.

Legal Basis

Iowa Code section 600B.41A provides a legal process for “overcoming” (here referred to as “disestablishing”) paternity. Iowa code section 598.21, subsection 4A sets requirements for contesting paternity during a dissolution of marriage proceeding. Any disestablishment action taken after a dissolution of marriage has been entered must be conducted under Iowa Code section 600B.41A.

Iowa Code Section 600B.41A was amended by 1997 Iowa Acts, Chapter 175, to allow more grounds for filing petitions to overcome paternity and to change the terms of satisfactions of judgment.

Rules for the role of DHS in the process of disestablishing paternity are found in Division II, Part C, of 441 Iowa Administrative Code Chapter 99, comprising rules 441 IAC 99.36 through 99.39.

INITIATING THE DISESTABLISHMENT PROCESS

Legal reference: Iowa Code section 600B.41A (3)

A petition to overcome paternity must be filed with the district court to initiate the disestablishment process. The mother of the child, the established father of the child, the child or the legal representative of any of these parties is eligible to file a petition to disestablish paternity. The statute requires that the requesting party file the action to disestablish paternity before the child reaches majority.

The petition to disestablish must include all the following assertions:

- ◆ The belief that the established father is not the biological father of the child,
- ◆ The reasons for this belief, and
- ◆ The desire to disestablish paternity for the child.

An action to overcome paternity established pursuant to a signed paternity affidavit is allowed if the affidavit was based on fraud, duress or material mistake of fact as shown by the parent requesting the action.

In most instances the paternity affidavit would be rescinded if fraud, duress or material mistake of fact is discovered within the 60-day period allowed by law. However, a disestablishment action can be brought before the court at any time if it is determined paternity was established by an affidavit obtained under such circumstances.

The requesting parent files the petition in the original county where the child support order is filed. The requesting parent or the legal representative of the requesting parent prepares, files and serves the petition on any parent of the child not initiating the action and any assignee of the support obligation in accordance with the rules of civil procedure.

If there are two or more court orders filed in different counties for the child, the parent must file the petition accordingly. It is the parent's responsibility to ensure all judgments are identified in the disestablishment action.

CSRU becomes involved in the disestablishment process if all the following conditions exist:

- ◆ CSRU is providing IV-D services in the case, and
- ◆ CSRU has a file-stamped copy of the petition to disestablish paternity, and
- ◆ The requesting party has asked for assistance in locating the nonrequesting party, and
- ◆ The requesting party does not know the location of the nonrequesting party, but CSRU does.

CSRU may not become involved until after a court orders disestablishment of paternity. See **RECEIPT OF ORDER DISESTABLISHING PATERNITY** for procedures.

CSRU Response When the Petition Is Filed

Legal reference: Iowa Code Chapters 598 and 600B; 441 IAC 99.37(598,600B)

Upon receipt of a file-stamped copy of the petition to disestablish paternity and at the request of the parent requesting disestablishment, inform the nonrequesting parent that the requesting parent wishes to disestablish paternity.

Prepare form 470-3327, *Notice of Disestablishment of Paternity Action*, and send it to the nonrequesting parent by regular mail. This notice:

- ◆ Informs the nonrequesting parent of the other parent's desire to disestablish paternity,
- ◆ Lets the nonrequesting parent know that the requesting parent was unable to locate the nonrequesting parent, and
- ◆ Explains what actions the nonrequesting parent may take in response to the notice.

After you send form 470-3327 to the nonrequesting parent, inform the requesting parent in writing that the notice was sent. Update all actions taken on the case on the NARRDUP screen.

The collection of current and past due child support remains unaffected. Continue to enforce all financial and medical support obligations against the obligor.

ENTRY OF ORDER DISESTABLISHING PATERNITY

Legal reference: Iowa Code sections 598.21(4A) and 600B.41A(3)

Legally established paternity may be disestablished when:

- ◆ Blood or genetic testing indicates that the previously established father of a child is not the biological father of the child,
- ◆ Paternity was established through affidavit, and the signed affidavit was based on fraud, duress or material mistake of fact, as shown by the petitioner,
- ◆ The requesting parent files the petition to overcome paternity with the court before the child reaches majority and the petition contains the required language,
- ◆ The court serves notice of the action on any parent of the child not initiating the action and any assignee of the support obligation, and
- ◆ The court appoints a guardian ad litem for the child.

Paternity established through marriage of the established father and mother of the child may be disestablished during a dissolution proceeding if:

- ◆ The parents of the child file a written statement with the court that both parties agree the established father is not the biological father, and
- ◆ The court appoints a guardian ad litem for the child for the duration of the disestablishment proceedings.

Under either section, the court may terminate future financial and medical support.

Disestablishment of paternity does not affect any support payment due before the filing date of the order disestablishing paternity. Prior support obligations remain a judgment subject to enforcement until satisfied by DHS (if applicable) or by law.

RECEIPT OF ORDER DISESTABLISHING PATERNITY

Legal reference: Iowa Code sections 598.22A and 600B.41A;
441 IAC 99.38(598,600B), 99.39(598,600B)

Continue actions to establish or enforce financial and medical support obligations against the obligor until you receive a file-stamped copy of a court order disestablishing paternity.

Upon receipt of a file-stamped copy of the order, take the following actions:

- ◆ End the support obligation,
- ◆ Determine what portion of any unpaid support is satisfied by the order,
- ◆ Prepare a satisfaction of judgment (if applicable),
- ◆ End or modify other enforcement actions, as appropriate, and
- ◆ Narrate all actions that you take on the NARRDUP screen.

The following sections provide detailed instructions for you to carry out these actions:

Ending the Support Obligation

To end the support obligation on ICAR:

- ◆ Access the OBLIG screen associated with the affected support obligation. Enter the date the disestablishment of paternity order was filed with the district court in the END DATE field.
- ◆ Access the CHILD screen associated with the affected support obligation. Change the “Y” in the PATERNITY ESTABLISHED field to an “N”. ICAR automatically clears the DATE and HOW fields after you modify the PATERNITY ESTABLISHED field.
- ◆ Check the BALANCE screen to see if the obligor has overpaid the account as a result of entering an earlier date in the END DATE field on the OBLIG screen.

Note: Do not request a refund on money paid under the child support order before the date you receive the file-stamped copy of the disestablishment order unless entry of the end date “overpays” the account. See 11-W, *SPECIAL ABSTRACTS AND REFUNDS*, for additional information.

See **Determining If the Judgment Is Satisfied** for procedures when the BALANCE screen displays unpaid support owed.

Determining If the Judgment Is Satisfied

House File 612, 1997 Iowa Acts, enacted on May 21, 1997, includes changes that affect the satisfaction of judgement and the continuation of collection actions. Therefore, you must determine the following about the disestablishment order:

- ◆ Was it entered before May 21, 1997?
- ◆ If it was entered on or after May 21, 1997, was there a previous disestablishment action determination involving the same child that was dismissed?

Disestablishment Order Entered Before May 21, 1997

If the disestablishment order was entered before May 21, 1997, satisfy any unpaid child support due DHS when

- ◆ A guardian ad litem was appointed for the child as part of the disestablishment process.
- ◆ For action taken under Iowa Code section 600.41A, genetic testing was done.
- ◆ For action taken under Iowa Code section 598.21, the parents filed a joint written statement that the parents agree the established father is not the biological father.

Continue actions to collect balances other than those owed to DHS.

Do not satisfy the unpaid support owed to DHS if the above conditions are not met. If asked why a satisfaction was not done, explain which condition has not been met and what actions must be taken to correct the situation before a satisfaction can be granted. Continue actions to enforce payment on any unpaid support.

Disestablishment Order Entered on or After May 21, 1997

If the disestablishment order was entered on or after May 21, 1997, Iowa Code Section 600B.41A requires that the court shall:

- ◆ Relieve the established father of any and all future support obligations owed on behalf of the child from the date the order is filed, and
- ◆ Satisfy any unpaid support due before the date the order is filed.

If the order meets these requirements, satisfy all unpaid obligations. No further enforcement action is appropriate.

Note: If the court granted the disestablishment but failed to ensure that the parties notified CSRU of the disestablishment action and performed genetic testing, CSRU is not prohibited from taking some action to challenge the court order.

If the court enters an order that disestablishes paternity but does not satisfy unpaid support, satisfy only the obligation due DHS. Notify the party who requested the disestablishment action that the order does not address the support issue and a satisfaction for arrears owing to someone other than DHS cannot be given. The issue of unpaid support must be brought before the court again.

Proceed in satisfying unpaid support due DHS. Continue enforcement of other unpaid obligations. See **Ending or Modifying Other Enforcement Actions**.

A party whose previous action to disestablish paternity was dismissed before May 21, 1997, may bring another action if the court had determined that genetic testing excluded the established father as the biological father.

In these circumstances, the court shall enter another order terminating paternity and relieving the established father of all future support obligations owed on behalf of the child, while preserving the paternity determination. CSRU satisfies any unpaid child support due DHS and continues enforcement of other unpaid obligations.

Entering a Satisfaction of Judgment

If the case has unpaid support that should be satisfied according to the instruction under **Determining If the Judgment Is Satisfied**, proceed as follows:

- ◆ Prepare an original and one copy of form 470-3298, *Paternity Disestablishment Satisfaction of Judgment Assigned to the Iowa Department of Human Services*, and its accompanying *Cover Letter*, form 470-3299, from the FORMOSEL module on ICAR. The satisfaction of judgment satisfies unpaid support due DHS as of the filing date of the order disestablishing paternity.

- ◆ Mail the original *Satisfaction of Judgment* and *Cover Letter* to the obligee to obtain the obligee's signature acknowledging no interest in monies assigned to DHS. The cover letter instructs the obligee to complete and return the form to you within ten days of the *Cover Letter* date. Put a copy of the *Satisfaction of Judgment* in the case file.

Note: Failure of the obligee to sign and return the *Satisfaction of Judgment* within ten days does not prevent CSRU from satisfying any unpaid child support owed. Set a calendar flag for ten days to check on the return of the *Satisfaction of Judgment* from the obligee.

- ◆ When you receive the *Satisfaction of Judgment*, 470-3298, or if it has not been returned to your office after 10 days from the date on the *Cover letter*, prepare form 470-3297, *Paternity Disestablishment Order Approving Satisfaction of Judgment Assigned to the Iowa Department of Human Services*.
- ◆ Give forms 470-3298 and 470-3297 both the satisfaction of judgment (either the original signed by the obligee or the file copy) and the order approving satisfaction of judgment to the appropriate legal staff to obtain a judge's signature on the order approving satisfaction of judgment and to file it with the district court.
- ◆ Upon the return of the file-stamped forms 470-3297 and 470-3298 from the district court, enter the court-ordered satisfaction on ICAR.

For orders entered before May 21, 1997, and cases where a previous disestablishment action was dismissed:

- ◆ Look at the coupon balance for the 11 account type only on the BALANCE screen.
- ◆ Access the CONVERT screen and enter the 11 account balance from the BALANCE screen as the amount of the satisfaction.

Note: The balance for the 11 account should be zero. For additional information, see **When Other Children Are on the Affected Order**, if applicable.

For orders entered on or after May 21, 1997, other than those where a previous disestablishment action was dismissed:

- ◆ Look at the coupon balance for all account types on the BALANCE screen.
- ◆ Access the CONVERT screen and enter the account balances reflected on the BALANCE screen as the amount of satisfaction for each account type.

Note: The balances for all account types that are satisfied should be zero. For additional information, see **When Other Children Are on the Affected Order**, if applicable.
- ◆ Send a copy of the file-stamped forms 470-3297 and 470-3298 to the attorneys for both the requesting parent and the nonrequesting parent (or directly to any party who has no attorney).
- ◆ Replace any unfinished or unsigned copies of forms 470-3297 and 470-3298 in the case file with the file-stamped copies.

Ending or Modifying Other Enforcement Actions

Determine if there are any enforcement actions in the case that need to be modified or ended. Unpaid obligations that are not satisfied are still subject to enforcement. Collection efforts continue for any unpaid IV-D child support.

Once a disestablishment order has been entered for a child, a new case must be set up for any further actions to establish a biological father for that child. Establish the new case on ICAR when the obligee completes a new form 470-0172, *Paternity Questionnaire*, or a new *Non Public Assistance Application*. If the child's mother cannot identify an alleged father, establish the case as an unknown father.

To determine the reimbursement amount of public assistance to the State of Iowa in a case established for the biological father after a disestablishment of a legal father, calculate the debt from the date the disestablishment became effective. In those cases where there was no monetary amount of child support ordered on the legal father prior to the disestablishment, you may proceed with 36 months of arrears.

When Other Children Are on the Affected Order

If the order affected by the disestablishment lists more than one child, and paternity is not disestablished for all the children, continue actions to establish or enforce financial and medical support for the remaining children for whom paternity remains established. Distribute the remaining obligation to no longer include the child for whom paternity was disestablished to avoid any monies being distributed on behalf of that child.

To prorate the satisfaction for all periods of time when the child for whom paternity is disestablished is eligible for payments, use the method shown in example below:

There is a support obligation of \$100 per month for Child A and Child B. A \$75.00 payment is received in January, 2002, a \$100.00 payment is received in February, 2002, and a \$50.00 payment is received in March, 2002. Paternity for Child A is then disestablished.

1. Determine the months that the child A for whom paternity was disestablished was eligible for support.

Child A was eligible for support in January, February, and March.

2. Determine the percentage of support owed to that child for each month (1/2 if one other child, 1/3 if two other children, etc.).

Since there is only one other child on this case, 50% or 1/2 of the support is owed to Child A in each of the three months.

3. Multiply the percentage in step 2 by the monthly support obligation to determine the support owed to the child for whom paternity was disestablished.

January: 50% x \$100.00 = \$50.00
February: 50% x \$100.00 = \$50.00
March: 50% x \$100.00 = \$50.00
\$150.00

4. Multiply the percentage in step 2 by current support received in each month to determine the support to be paid to the child for whom paternity was disestablished.

January: 50% x \$75.00 = \$37.50
February: 50% x \$100.00 = \$50.00
March: 50% x \$50.00 = \$25.00
\$112.50



August 26, 1997

GENERAL LETTER NO. 10-D-9

ISSUED BY: Bureau of Collections, Division of Policy Coordination

SUBJECT: Employees' Manual, Title 10, Chapter D, *Treatment of Child Support Payments*, Contents (page 1), revised; pages 5 through 10, 11, 12, 12a, 13, and 14, revised; and pages 10a, 10b, and 12b, new.

Summary

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 no longer allows for federal financial participation in issuing child support rebates to families. A state which chooses to continue issuing rebates is entirely responsible for the cost of the rebates. The 1997 session of the Iowa Legislature decided to phase out rebates by continuing to pay rebates to families who are active on a FIP case as of June 30, 1997. Families who leave FIP on or after July 1, 1997, will no longer be eligible to receive rebates.

The decision issued by the Iowa District Court of Wapello County in *Jones v. Palmer* states clearly that appeals by obligees regarding the distribution of support payments and support rebates shall be directed to the Collections Services Center (CSC).

These pages are revised to address the eligibility of families for support rebates and clarify that obligees' appeals regarding distribution must be directed to CSC.

Effective Date

July 1, 1997

Material Superseded

Remove the following pages from Employees' Manual, Title 10, Chapter D, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	February 4, 1997
5-7	February 24, 1987
8-10	February 4, 1997
11, 12, 12a, 13	March 13, 1990
14	February 4, 1997

Also remove from the file and destroy Circular Letter 56Z 167-PC, dated August 16, 1994, along with remaining supplies of Comm. 68, "rebate Appeal Information."

Additional Information

Refer questions about this general letter to your regional collections administrator.



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

September 29, 1998

GENERAL LETTER NO. 10-D-10

ISSUED BY: Bureau of Collections, Division of Policy Coordination

SUBJECT: Employees' Manual Title X, Chapter D, *Treatment of Child Support Payments*, Contents (page 1), revised.

Summary

This chapter is revised to remove materials now found in new Employee's Manual, Title 11, Chapter V, *Quarterly Notice of Support Collected*.

Effective Date

Upon receipt.

Material Superseded

Remove the following pages from Employees' Manual, Title X, Chapter D, and destroy:

<u>Page</u>	<u>Date</u>
Contents (page 1)	August 26, 1997
26a-26e	April 6, 1993

Additional Information

Refer questions about this general letter to your regional collections administrator.



July 16, 2002

GENERAL LETTER NO. 10-D-11

ISSUED BY: Bureau of Collections,
Division of Child Support Recovery, Case Management, and Refugee Services

SUBJECT: Employees' Manual, Title 10, Chapter D, DISESTABLISHMENT OF
PATERNITY, Title page, revised; Contents (page 1), revised; and pages 1
through 11, revised.

Summary

This chapter replaces Title X, Chapter D, TREATMENT OF CHILD SUPPORT PAYMENTS,
that is now obsolete. This revision of the material previously in Title 10, Chapter L,
DISESTABLISHMENT OF PATERNITY, contains changes relative to those orders
disestablishing paternity entered before or after May 21, 1997, and discussion of other actions
required after a disestablishment order is filed.

Effective Date

Immediately.

Material Superseded

Remove the entire Employees' Manual, Title X, Chapter D, and destroy it. This includes:

Table with 2 columns: Page and Date. Lists various pages and their corresponding dates from 1980 to 1998.

Additional Information

Refer questions about this general letter to your regional collections administrator.