

that the past-due support will be reported to the Treasury for tax refund offset. When the offset is made, the Treasury notifies the noncustodial parent that it has occurred. Included in the process are opportunities for the noncustodial parent to contest and provisions for administrative review and notification of the noncustodial parent's spouse in cases of joint tax refunds.

Several years ago, OCSE formed a regulation workgroup to exchange views, information, and advice on existing regulations in order to eliminate or revise outdated, unduly burdensome, or unproductive regulations. This group was made up of representatives of Federal, State and local government staff and officials. The workgroup conducted its review which resulted in a final rule issued December 20, 1996 (61 FR 67235) which made both substantive and technical changes. However, not all of the workgroup's recommendations were included at that time, owing to the unknown nature of changes that might result from welfare reform proposals then circulating. Some of the changes in this rule result from those initial workgroup discussions and consultations, as well as from suggestions from a tax refund offset workgroup of Federal and State staff under the auspices of OCSE's Office of Automation and Program Operations.

Provisions of the Regulation

We are amending § 303.72(a)(2) to remove the requirement that support be at least 3 months delinquent in a case involving a recipient of title IV-A services before a State refers the case for Federal Tax Refund offset. There is no such requirement for non-title-IV-A cases. In our consultations, States requested the elimination of the 3-month delinquency rule, maintaining that it is difficult to track delinquencies in this way. For instance, how should the State count a month in which a token payment is received? Should a small payment toward the ordered amount of support allow a non-custodial parent to avoid offset for another 3-month period? There also has been confusion among the States about how the 3-month period should be computed. Under current procedures, pre-offset notices are sent to the obligor either by the State or, if the State requests it, by OCSE. The State tells OCSE how long to hold its cases (30, 45, 60, or 90 days) before forwarding them to the Treasury, so that the combination of State hold and OCSE hold will meet the 90-day delinquency requirement. OCSE agrees with the States that Treasury's regulatory requirement for a

30-day hold period beginning with the date of the pre-offset notice to the obligor is sufficient to ensure opportunity for appeal and that the additional 90-day delinquency period required by OCSE regulations before sending the case to Treasury is unnecessary and causes delay in the collection of support.

We have retained the requirement that the total amount of arrears assigned to the State in a Tax Refund Offset case must be a minimum of \$150. We have added a clarification at the redesignated provision at § 303.72(a)(2) that States may combine assigned support arrears together to reach the \$150 threshold in those instances where an obligor has more than one title IV-A case. We have added a parallel clarification on unassigned arrears at § 303.72(a)(3)(ii). However, different types of arrears (*i.e.*, assigned arrears and unassigned arrears) may not be combined to reach the thresholds of \$150 for assigned arrears or \$500 for unassigned arrears for Federal Tax Refund Offset. Paragraph (a)(3)(ii) now reads: "The amount of support is not less than \$500. The State may combine support amounts from the same obligor in multiple cases where the IV-D agency is providing IV-D services under § 302.33 of this chapter to reach \$500. Amounts under this paragraph may not be combined with amounts under paragraph (a)(2) to reach the minimum amounts required under this paragraph or under paragraph (a)(2)." These clarifications incorporate in regulation the policy already articulated in OCSE's policy interpretation question, PIQ-01-06, published July 9, 2001.

The regulation at § 303.72(b)(1) requires States to notify OCSE of a liability for past-due support by means of magnetic tape. We are amending this provision to reflect the fact that notification to OCSE is no longer done by magnetic tape. Hence the phrase "on a magnetic tape" is changed to the more general "in the manner specified by the Office in instructions" to allow for changing technology. Section 303.72(b)(2) lists specific information that must be included in the notification of liability for past-due support that the IV-D agency sends to OCSE regarding each delinquency submitted for offset. We are amending paragraph (b)(2) by adding "to the extent specified by the Office in instructions" before the list to allow OCSE to easily remove current requirements if they become unnecessary. Section 303.72(b)(3) permits the IV-D agency to add in its submittal the taxpayer's IV-D case number and FIPS code for the local IV-D agency where the case originated. We

are amending the language to eliminate the specific types of identifiers permitted, so that States who wish to submit this optional item can submit the IV-D identifier of their choice. The information submitted is passed back to the States for their own use after Federal processing is complete.

Provisions at § 303.72(c)(2) and (4) and (g)(4) are amended to delete the requirement that notifications to States by OCSE are "in writing" or that "written" explanations from the IV-D agency are returned to OCSE, as the transmission of administrative review results is now done electronically.

Similarly, in § 303.72(d)(2) and (f)(3), the requirement for State IV-D agencies to inform OCSE "in writing" of changes in case status or the amount referred for collection is deleted. In addition, we are amending these sections to recognize that the amount to be offset may increase as well as decrease after the submittal, due to the transition from annual updates to a continuous data processing schedule. In both these sections, and at § 303.72(g)(4), where an administrative review may lead to an increase rather than a reduction in the amount due, the regulation is amended by replacing the word "decrease" with the word "change".

Paragraph (g) sets forth procedures for contesting an offset in interstate cases. The existing regulation at paragraph (g)(4) calls for the State having the order to report any change in the amount of past-due support to OCSE. This is in conflict with the overall goal that only one State be the submitting State for purposes of Tax Refund Offset. The submitting State controls every aspect of the submission. State officials have informed us that they prefer that any updates based on administrative review be conveyed to OCSE by the submitting State. Thus, we are amending § 303.72(g)(4) to require that changes based on administrative review in interstate cases be reported to the submitting State and that the submitting State in turn notifies OCSE.

We made a technical conforming change to update the reference at § 303.72(g)(8) to reflect the current regulatory citation for the State performance measure on collections of arrears.

The requirements at § 303.72(h)(6) are amended to clarify that collections from offset may only be applied to cases that were being enforced by the IV-D agency at the time the advance notice described in paragraph (e)(1) of this section was sent. Paragraph (h)(6) had provided that collections from offset could be applied only against the past-due support amount that was specified in the