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INTRODUCTION

MISSION STATEMENT

Mille Lacs Band Statutes Annotated Title 8, Chapter 12, §Section 2004(b)

The mission and goal of the Mille Lacs Band Tribal Child Support Program (MLB TCSP) is to provide child support services to all parents and children subject to the jurisdiction of the Band. Services provided include:

- Location of obligors and/or their assets and debts ,
- Establishment of paternity,
- Establishment or modification of a child support order, and
- Enforcement of an established child support order and laws related to the duty of support.

It is the intent of the MLB TCSP to serve as the foundation on which quality services to Band families and children. The MLB TCSP will work to incorporate, whenever possible, the customs and traditions of the Band when working with Band members and their families when performing any of the services listed above.

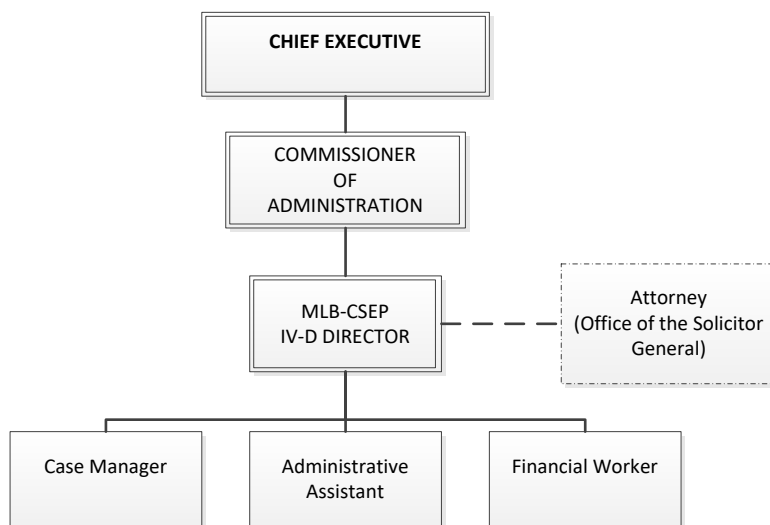
The MLB TCSP will strive to form strong partnerships with the Tribal Court and other Tribal agencies that provide services and assistance to Band families and children within the MLB TCSP service area for the purpose of providing well-rounded and holistic services to promote healthy families.

ORGANIZATION OF THE MLB-CSEP

The Mille Lacs Band Tribal Child Support Program (MLB TCSP) is a department located within the Executive Branch of the Mille Lacs Band of Ojibwe government, Department of Health and Human Services. The MLB TCSP IV-D Director reports directly to the Commissioner of Administration. Please refer to the Organizational Chart below.

MILLE LACS BAND OF OJIBWE CHILD SUPPORT ENFORCEMENT PROGRAM

Organizational Chart



MLB-CSEP Organizational Chart

CHAPTER I – PROCESSING AN APPLICATION

§309.65 (a)(2) Evidence that the Tribe or Tribal Organization has in place procedures for accepting all applications for IV-D services and promptly providing IV-D services required by law and regulation.

Tribal Code:

A. WHO MAY APPLY FOR SERVICES

POLICY:

The Mille Lacs Band TCSP (MLB TCSP) will provide an application for child support services to anyone that makes a request. Requests may be made over the telephone or requested by mail.

Any person who has physical custody of a child may apply for child support services. An application for services must be completed and signed before the MLB TCSP may proceed working the case. Services that can be requested are:

- *Establishing paternity*
- *Establishing a child support order*
- *Enforcement of a child support order*
- *Modification of a child support order*
- *Location of the non-custodial parent and his/her assets*

Referrals

A referral may be received from the Tribal TANF program or from another state or tribal child support program.

For procedures on accepting a TANF referral, refer to Section C of this chapter.

For policy and procedures on processing a referral from another state or tribal child support agency, refer to Chapter XI Intergovernmental.

B. PROVIDING AN APPLICATION

POLICY:

The MLB TCSP will provide an Application to anyone who requests one, either in person, via a phone call or by mail.

The MLB TCSP does not charge an Application Fee for the provision of child support enforcement services to any individual filing an Application for Child Support Enforcement Services or to any state or Tribal IV-D agency that has referred or transferred a child support case to the MLB TCSP.

Procedures:

- 1) An Application for Child Support Enforcement Services and Application Packet must be provided whenever a request for services is received, **either the same day or no later than two (2) business days** if the request is made by phone or mail.
- 2) The Application Packet should contain the following:
 - Application for Child Support Enforcement,
 - Verification Checklist,
 - Domestic Violence Sheet
 - Change of Venue Authorization Form,
 - Financial Affidavit,
 - Case Closure Form, and
 - Informational pamphlet and other applicable Outreach materials.

C. ACCEPTING AN APPLICATION

POLICY:

A child support case must have one CP, one NCP and at least one child. If the child is unborn, the CP cannot request services until after the birth of the child. If the case is a TANF referral, then the case is held in a pending status until the birth of the child is reported.

*MLB TCSP will accept all applications or referrals from other State's IV-D or Tribal IV-D agencies. A Child Support case must be set up within **five (5) business days** of receiving an application or referral from another state or tribal agency for applicants who are under the jurisdiction of the MLB.*

Supporting documentation is required for all applications to be considered complete.

Procedure:

- 1 An Application is considered incomplete without a signature. If the application is not signed have the Applicant sign it. If the application was received in the mail, return the application with a letter stating a case cannot be opened without a signature. DO NOT set up a case file unless the application has been signed.
- 2 Applications should be date stamped by the Front Desk or MLB TCSP Case Manager on the date it is received by the MLB TCSP.

- 3 Provide the application to the Front Desk for creation of a hard copy case file.
- 4 Review the application. If the CP is in the office conduct an interview and review the application together. Review the application for:
 - a. Complete information on the application
 - b. All necessary documentation is provided. Documentation may include:
 - Birth Certificate for child(ren)
 - CP's tribal enrollment card
 - Copy of Social Security Cards
 - Copy of any court order for divorce or child support
 - Copy of any Paternity Affidavits or Minnesota Recognition of Paternity form
 - Financial Affidavit
 - Change of Venue if the court order is from a Foreign Jurisdiction (See Chapter XI Intergovernmental)
 - c. If Information is incomplete or documentation is missing:
 - If the CP is in the office explain what documentation is needed and that the CP has **fifteen (15) calendar days** to provide the missing information or documentation. Give the CP a Request for Additional Information letter, indicating on the letter the information required.
 - If the CP is not in the office, attempt to contact the CP by telephone and request the missing information; or
 - Schedule a formal interview time for the CP no later than **fifteen (15) calendar days**. Send the CP a letter requesting the missing information or documentation.
 - Create a reminder to check if the CP appeared for the scheduled interview and provided the necessary information.
 - If the information is not returned by the 15th day, send the CP a closure letter (see Chapter IX for information on Case Closure)
 - d. Review the application for any indication that family violence may be an issue or look to see if the applicant completed the Domestic Violence Questionnaire.
 - e. Review the application to ascertain whether any MLB TCSP employee has a conflict with any of the parties listed on the application form. If a potential Conflict of Interest exists, refer the application to the MLB TCSP Director immediately. Refer to Chapter II Safeguarding Information for policy and procedures regarding Conflict of Interest.

- f. Determine MLB TCSP's jurisdiction. Refer to Chapter III Establishing Jurisdiction. If the application does not fall within the MLB TCSP's jurisdiction, refer to Chapter XI Intergovernmental for the policy and procedures on transferring the case from the MLB TCSP to the appropriate child support agency for handling the application and providing child support services.

D. ACCEPTING A REFERRAL

POLICY:

The MLB TCSP will accept a referral from:

1. Any state IV-D agency
2. MLB Tribal TANF agency
3. Any Tribal IV-D agency
4. Public Assistance Arrears Only Companion Cases from the State of Minnesota

The MLB TCSP will follow the Work Plan developed between the State of Minnesota and the Mille Lacs Band when dealing with referrals from the State of Minnesota.

NOTE: *There is a cooperative agreement between MLB and the MN CSED agency, that when MLB TCSP has a case for current support the MN IV-D agency will send any companion case (same CP and NCP) to collect public assistance arrears for the State of MN.*

Procedure:

1. Review the referral for completeness. If required information is missing, provide a Request for Additional Information indicating what information is required.
2. If a companion case is received from MN CSED agency, create a new file folder for the companion case. Both cases should be cross referenced with each other to ensure all information is available when taking an action on a case.
3. For MFIP referrals, follow the procedures in the Mille Lacs TCSP/MN CSED Work Plan.

E. ESTABLISHING A CASE RECORD

§309.85 (a) The Tribal IV-D Agency will maintain records necessary for the proper and efficient operation of the program, including:

- (1) Applications for child support services**

POLICY:

A file will be created for every MLB TCSP child support case that MLB TCSP provides child support services to. Files will be color coded and shall have a label with participant information. Folders will be filed in alphabetical order by CP last name with the exception of files for the Financial Specialist. All child support applications will remain in the clients file for the life of the case.

Procedure – Front Desk:

1. Determine if MLB TCSP already has an existing case record for the same CP, NCP and child(ren). If so, place the new application and documentation in the existing case file.
2. If there is not an existing case folder, create a new case folder for the application and documentation using the following color-code guide for the file folder label:
 - Enforcement cases – Use Green label
 - Paternity cases – Use Yellow label
 - Participant Protection (Family Violence) cases – Use Red label
 - Establishment cases – Use Blue label
 - TANF cases – Use Black label
3. Assign the new MLB TCSP case a MLB TCSP case number and Case Manager by District. Create a label for the file folder:
 - NCP last name, first name, middle initial in upper left corner of label.
 - Mille Lacs Case Number to the right of the NCP name
 - CP last name, first name, middle initial in lower left corner of label
 - Court Case Number to the right of the CP name
 - Place IRS sticker on the front of the file folder, indicating that there is IRS-related information contained in the file folder

EXAMPLE:

Smith, John Q.	Mille Lacs Case ID 99999999
Doe, Jane S.	#####

4. Print out the following PRISM screens and file in the appropriate section of the case file:
 - CAST

- CAFS
 - CPDD
 - CPDE
 - NCDD
 - NCDE
 - CHDE
 - ROPD
5. Complete the Administration Intake Checklist with date of completion
 6. Case Note sheet should be added to the file.
 7. Print the Welcome Letters for the CP and NCP and provide to the Case Manager for signature.
 8. Print "Welcome Letters" along with the "Financial Affidavit" to both the CP and the NCP, provide to the case manager for signature, and send to both parties.
 9. Update the Case Notes section and transfer the case file to the appropriate MLB TCSP Case Manager to begin working
 10. Organization of the File Folder
 - a. Section I: Application Information
 - Application for services
 - Requests for Review
 - Enrollment Verification
 - Current information sheet
 - Admin Intake Checklist
 - Copy of identification
 - Locate Information
 - b. Section II: Court Orders
 - Court Orders
 - c. Section III: Other Legal Documents
 - Motions
 - Summons and Petitions
 - Request for Personal Service/Affidavits
 - DNA Test Results
 - d. Section IV Financial Information
 - Income Verifications
 - Income Withholding Orders
 - Financial Disclosures
 - Account Statements

- e. Section VI: Case Correspondence
 - Correspondence received from Party
 - MLB TCSP Documents and Forms Sent

11. Financial Specialist Files

- a. Files will be entered into the MLB TCSP Financial Specialist's Foreign Judgment Information file on the Child Support Share Drive:
 - IWO – Tribal Court Cases
 - FIWO – These are intergovernmental referrals from other Minnesota counties, another state I-D or Tribal IV-D program only.

The file should contain:

- Child Support Transmittal Form(s)
- The Court Order
- Foreign Judgment Registration Form
- IWO
- COLA
- Statement of Arrears
- Case Notes

- b. Create a Financial File Folder Label (See Example below)

County Name, State	CP Name
NCP Name	
MLB TCSP Case Number	

- c. Place IRS sticker on the front of the file folder indicating that there is IRS-related information contained in the file folder

F. FAMILY VIOLENCE/DOMESTIC ABUSE

§309.80 (b) Procedures for safeguards that are applicable to all confidential information handled by the Tribal IV-D agency and that are designed to protect the privacy rights of the parties, including;

- (2) Prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered.**
- (3) Procedures against the release of information on the whereabouts of one party or the child to another person if the Tribe has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or child**

Tribal Code § 401 Domestic abuse is defined by tribal code as "Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members."

POLICY:

All MLB TCSP IV-D Child Support cases must be reviewed for the risk of family violence or domestic abuse. Any case at risk must be identified as family violence on both the hard copy physical case record and PRISM.

A case is considered Family Violence/Domestic Abuse when:

- *There is a Protective Court Order or*
- *The child was conceived as the result of incest, sexual abuse or sexual assault*
- *The Good Cause Committee deems the case such*

NOTE: File folder for Family Violence cases must be Red in color

A family violence case is still considered a IV-D Child Support case and must be worked as any other MLB TCSP case.

Procedure for Non-TANF Applicants:

1. If the CP provided a Domestic Violence Questionnaire with the application, review the information reported on the document.
2. If the CP later expresses the risk of family violence, ask the CP to complete a Domestic Violence Questionnaire.
3. Request documentation establishing the existence of domestic/family violence.
4. Upon receipt of the documentation, evaluate the documentation and make a determination whether domestic/family violence does exist.
5. If a determination is made that domestic/family violence does exist, take all appropriate steps to protect the information from the NCP (address information, SSNs of all family members, phone numbers, etc.).
6. Create a red file folder for the case documents. Ensure that NO information is released on a Participant Protection case.

Procedure for TANF Referrals:

1. All Domestic Violence Questionnaires completed by a TANF receiptant will be sent to the MLB committee for approval of family violence.
2. If the committee approves "Family Violence", then the TANF receiptant will not be referred to the MLB TCSP.
3. If the committee disapproves the family violence claim, then the TANF receiptant is referred to the MLB TCSP.

G. NEXT STEP DETERMINATION

Procedure:

1. Sign the Welcome Letter for the CP and NCP and mail the letters out.
2. Determine what the next appropriate action needs to be taken on the case:
 - Paternity – The child is born out of wedlock and a legal determination of parentage has not been made.
 - Establishment – The child was born of a marriage or a legal determination of parentage was made AND there is no existing court order for child support.
 - Locate – There is not a verified address or verified employer for the NCP.
 - Enforcement – There is an existing court order for child support AND the NCP's address or employer is verified.
2. If there is an existing court order for child support, review the date of court order to determine if the case is due for COLA review. Set a reminder for next review date as Identified in PRISM.
3. If the court order is not from the Mille Lacs Band tribunal, review if a request for Redirection of child support payments to MLB TCSP is appropriate. Ensure that a Change of Venue form has been signed by the participants. See Chapter XI Intergovernmental
4. Review date of birth for the oldest child and set reminder for forty-five (45) days prior to the child's 18th birthday
5. Depending on what the next appropriate step is, send out the Financial Affidavits to the parties, Enrollment Verification letters and any other appropriate forms.

CHAPTER II: SAFEGUARDING INFORMATION

§309.80 (a) Procedures under which the use or disclosure of personal information received or maintained by the Tribal IV-D agency is limited to purposes directly connected with the Tribal IV-D program or titles IV-A or XIX with the administration of other programs or purposes prescribed by the Secretary in regulations.

Tribal Code § 2005 (c) All judicial proceedings in an action to establish, modify, or enforce a child support obligation are confidential.

Tribal Code § 2005 (g) If the Court has knowledge that a protective order exists with respect to a party involved in a child support proceeding, the court shall not release any private data regarding the physical location of the party protected by the protective order to the party or his/her representatives against whom the protective order was established.

A. CONFIDENTIALITY AGREEMENT

Policy:

All MLB TCSP staff will be required to sign a Confidentiality Agreement. MLB TCSP staff must adhere to confidentiality policies when involved with processing child support cases as established by tribal, state and federal confidentiality policies. Personal information received by or maintained by the MLB TCSP must be strictly limited to purposes directly connected with the administration of TCSP. Unauthorized use or disclosure of information related to the establishment of paternity and/or a child support order, modification and/or enforcement of a child support order, may be grounds for disciplinary action or immediate termination pursuant to Mille Lacs Band of Ojibwe Personnel Policy.

Procedure:

1. The MLB TCSP Director must go over and explain the MLB TCSP Confidentiality Agreement with each employee.
2. Any employee of MLB TCSP must sign the MLB, State of Minnesota and Federal IRS Confidentiality Agreement annually as a condition of employment annually.
3. The original signed Confidentiality form is filed in the employee's personnel file. The employee should be provided with a copy of the form for their personal record.
4. The Safeguarding requirements are reviewed with the MLB TCSP staff quarterly by the MLB TCSP IV-D Director.

B. CONFLICT OF INTEREST

Tribal Code:

POLICY:

- 1) *The following relationships between a MLB TCSP employee and any of the following identified parties shall constitute a conflict of interest:*
 - *Parent or guardian (including adopted and step-parents)*
 - *Sibling (including half and step-siblings)*
 - *Grandparent*
 - *Members of the same household*
 - *Current and former business partners or associates, or*
 - *Colleagues within the MLB TCSP.*

The MLB TCSP will take all precaution to avoid the appearance of impropriety related to conflicts of interest. If any MLB TCSP has reason to believe that their relationship between themselves as an employee of the MLB TCSP and a party to a MLB TCSP case, they must inform the Director of the MLB TCSP immediately.

MLB TCSP employees have a duty to inform the Director of the MLB TCSP of any conflicts which may reasonably appear to call into questions the employee's ability to assist clients in an impartial manner.

If the MLB TCSP Director has a conflict of interest, he/she must notify the MLB TCSP attorney and the Commissioner of Administration.

Procedures:

The Director of the MLB TCSP will use the following procedures to "cure" all conflicts of interest

1. If a conflict exists between a Case Manager and a party to a case, assign the case to another Case Manager. The conflicted Case Manager shall not have access to the case file and should be stored in a secure location in the new Case Manager's office. Inform the conflicted Case Manager that they must refrain from discussing the case with the parties.
2. If a conflict exists between an Administrative Assistant and a party, the Case Manager in the case must carry out all administrative duties associated with that case. The conflicted Administrative Assistant shall not have any access to the case file and should be stored in a secure location in the Case Manager's office. All MLB TCSP employees must refrain from discussing the case with the conflicted Administrative Assistant. The Administrative Assistant must refrain from discussing the case with the parties.
3. If a conflict exists between the MLB TCSP attorney and the party, instruct the Office of the Solicitor General to assign the case to a new attorney. The

conflicted attorney shall not have access to the case. The MLB TCSP employees and the new attorney shall refrain from discussing the case with the conflicted attorney.

4. If a conflict exists between the Director of the MLB TCSP and a party, report the conflict to the Commissioner of Administration who shall supervise the case. The Director shall have no access to the parties' file and the file must be stored securely in the Case Manager's office. All MLB TCSP employees must refrain from discussing the case with the Director.
5. The MLB TCSP must disclose any conflicts of interest to all parties and to the Tribal Court, if applicable. The MLB TCSP must inform all parties and the court (if applicable) how the conflict will be cured.

C. RELEASE OF INFORMATION

When asked for information on a child support case by anyone who is not the applicant, use the following procedures:

- If a phone call is received, confirm the identity of the caller by asking for two pieces of information only that person reasonably has access to such as a SSN and Date of Birth.
- If someone other than the applicant in the case is requesting information (example: spouse of participant, relative, caregiver, etc.), do not release any information without a signed Release of Information form by the participant in the case file.
- A signed Release of Information must be obtained prior to the release of any information on a MLB TCSP case. The individual requesting the information must be specifically named on the Release of Information form. The Release of Information may be revoked in writing by the participant at any time.
- A Release of Information is usually valid for a specific period of time (example: 30 days, 60 days, 6 months, etc.) from the date the form is signed. MLB TCSP staff must always check the Expiration Date on the form prior to releasing any information.

1. General Request for Information from CP or NCP

The CP and NCP are entitled to receive the following information:

- Information contained in the court order
- Dates of their own appointments or court Hearing Date
- Date and amount of payments - If a payment made by the NCP is split with any other case, the CP may only receive information about the amount of payment applied to that CP's case. The NCP may receive information regarding payment information for all cases the payment split with.

2. Request for information from Spouses, relatives etc.

Information that may be released about a CP or NCP can only be released to another party if a signed "Release of Information" form is in the case file.

- Verify identify of the person requesting information.
 - Review the case file for a signed “Release of Information” form. If there is not a signed form **NO** information may be released.
 - Only the information as listed above in #1 of this section may be released. Even with a release of information form no personal information may be released (i.e. SSN, address, employer etc.)
3. Request for information from another source. Information may be released to:
- MLB TCSP staff
 - MLB Tribal Court
 - State of Minnesota through a cooperative agreement;
 - A court having jurisdiction in parentage, support or abandonment proceedings or actions;
 - Any federal, state or tribal IV-D or IV-A agency (this includes the Tribal TANF program). MLB TCSP staff may share any child support case information that is available with any other state or tribal IV-D or IV-A agency
4. Request for information from any other agency (i.e, ICW, housing authority, LIHEAP, etc.). The participant for whom they are requesting information on must sign a “Release of Information” form with their agency. The agency requesting information must provide a copy of the signed form prior to any release of information.

D. MLB TCSP GENERAL OFFICE POLICY

Policy:

MLB TCSP staff will have individual passwords that are to be kept confidential. Passwords will be changed every forty-five (45) days.

Procedures:

Several safeguards are enforced by the MLB TCSP to assist in the protection of case/participant information.

1. Passwords
 - Individual passwords will be assigned to each MLB staff person
 - Passwords will be kept confidential and never displayed on-line or publicly or given out to anyone
 - Passwords written on a piece of paper cannot be left in open view or in an unsecured place
 - If you believe your password has been compromised, change it immediately and notify your supervisor
2. PC Workstation

- PC's should be placed on the employees desk to avoid the information from being seen by anyone other than MLB TCSP staff person
- No computer desktop or laptop should be left "open" with a MLB TCSP case displayed on the screen. All employees must utilize a logon password and employee standard computer privacy settings for putting the computer to "sleep" and shutting down. Log off your computer when leaving your desk for the restroom, break, lunch, meeting, appointment or for any other reason which requires you to be away from your desk

3. Case Files

- No MLB TCSP case files should be left open on any employee's desk when the employee is out of the office on break, lunch or away for an appointment. All case files should be filed in the appropriate file space.
- When interviewing a client or carrying on a discussion with a client about their case or actions being taken on their case, these discussions should occur in a private area when other clients or visitors to the office cannot hear what is being discussed.
- Do not throw paperwork containing personal information away in the waste basket. All documents containing case information must be shredded.
- All office doors and lockable desk and filing cabinet drawers must be locked at the close of business each day.

E. EMPLOYEE VIOLATION OF CONFIDENTIALITY

Tribal Code § 2005 (e)(3) Any person, including but not limited to any employee or official of the Band (including any employee or official of the Court or the Band Authority), who willfully discloses otherwise confidential information related to an action to establish, modify, or enforce a child support obligation, except as expressly authorized and provided for by Court order or otherwise pursuant to this chapter and who is found guilty of an unauthorized disclosure of information, may be subject to a civil fine not to exceed Five Hundred dollars (\$500.00).

Policy:

Violation of the confidentiality agreement may result in disciplinary action, civil fine and/or immediate termination.

Procedures:

1. Whenever an employee becomes aware of a possible violation of confidentiality, it should be reported to the MLB TCSP IV-D Director immediately.
2. Any staff person witnessing unauthorized release of information or inappropriate use of personal case information should report the action to a supervisor immediately.
3. It is the responsibility of the MLB TCSP IV-D Director to investigate and handle all potential incidents of possible violation of confidentiality by a MLB TCSP employee

and to work with the appropriate Human Resources staff in following proper HR procedures.

CHAPTER III – ESTABLISHING JURISDICTION

45 CFR 309.65(a)(1) A description of the population subject to the jurisdiction of the Tribal court or administrative agency for child support purposes as specified under §309.70.

Mille Lacs Band Statutes Annotate (MLBSA) Title 2, Chapter 1, §10 – Geographical Jurisdiction for Services

- (a) Enrolled members of the Non-Removable Mille Lacs Band of Chippewa Indians who reside on trust and/or allotted lands under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians or who reside within a thirty mile radius of such trust and/or allotted lands shall be entitled to participate in the Cultural, Natural Resources, Economic, Social, Educational, Health and General Welfare Resources of the tribal government as authorized by Article XIII of the Constitution of the Minnesota Chippewa Tribe.
- (b) The Geographical Service Area for administering Temporary Assistance to Needy Families (TANF) shall be the Minneapolis/St. Paul urban areas of Hennepin, Anoka, and Ramsey Counties in addition to the geographical jurisdiction in subsection (a) of this section and shall be in accordance with a plan submitted by the Commissioner of Education and approved by the Band Assembly.

§ 2001(e) It is a purpose of this chapter and in the best interest of the Band to utilize the civil justice system of the Court of Central Jurisdiction and the Mille Lacs Band Child Support Enforcement Program to implement and enforce the child support obligations established.

§ 2001(f) this chapter reaffirms Band sovereignty and self-determination by providing for the exercise of Band jurisdiction over child support and paternity cases involving Band children and families.

Tribal Code § 2004 (b) the Band Authority is authorized to provide child support enforcement services to all parents and children subject to the jurisdiction of the Band.

Chapter 12 Child Support, Subchapter I General Provisions, §2005

- (a) The Court shall have jurisdiction under this chapter over all parents and children subject to the jurisdiction of the Band. Except as otherwise provided by Federal law, such jurisdiction shall include but not be limited to all persons who are members of or are eligible for membership in the Band, all persons who are members of or are eligible for membership in another tribe and who reside within the Band's geographic limits, all persons who are alleged to be the parent of a child (including an unborn child) and whose parenting partner is a member of or is eligible for membership in the

Band or is a member of or eligible for membership in another tribe and resides within the Band's geographic limits, and all persons who knowingly consent to the jurisdiction of the Band under this chapter. Except as otherwise provided by Federal law, if another federal, state or tribal court has jurisdiction over any matter provided for in this chapter, the Band Court shall have concurrent jurisdiction over the same matter.

Policy – Provision of Child Support Services:

MLB TCSP provides child support services only in those cases where the MLB has jurisdiction. If the criteria for provision of child support services are not met based on the information provided on an application and/or in discussion with the applicant, the MLS TCSP will determine which state or tribal child support agency is better positioned to provide child support services to the applicant.

The MLB TCSP Case Manager must make a determination whether the MLB TCSP Program should retain the application and accept responsibility for providing child support services to the applicant or whether another state or tribal child support program should have that responsibility, based on the above cited Tribal Code. When it is determined that another state or tribal child support agency can better provide the child support services, the application is transferred to that jurisdiction through an intergovernmental process.

Policy – Mille Lacs Band of Ojibwe Tribal Court Jurisdiction:

Jurisdiction means the power of a court to hear and render a decision. If another federal, state or tribal court has jurisdiction over any child support matter, the MLB Court shall have concurrent jurisdiction over the same matter.

The following represent the different categories of jurisdiction.

A. PERSONAL/GEOGRAPHICAL JURISDICTION

This is jurisdiction over the individual. A court has such jurisdiction when the person can reasonably foresee being sued in that court, by maintaining a residence. The MLB tribal court has personal jurisdiction over:

1. All persons who are members of or are eligible for membership in the Band
2. All persons who are members of or are eligible for membership in another tribe and who reside within the Band's geographic limits
3. All persons who are alleged to be the parent of a child and whose parenting partner is a member of or is eligible for membership in the Band
4. All persons who knowingly consent to the jurisdiction of the Band

B. SUBJECT MATTER JURISDICTION

This refers to the nature of the claim or controversy. For purposes of child support the court must have the authority to hear family matters i.e. divorce, custody, child support, or guardianship. The MLB tribal court has Subject Matter Jurisdiction for all family issues.

C. EXCLUSIVE ORIGINAL JURISDICTION

This means that the court that entered the original court order has Continuing Exclusive Jurisdiction (CEJ) and no other court may change or modify the original court order without the original court of jurisdictions consent. The MLB tribal court maintains CEJ for all court orders entered in the tribal court if:

1. the tribal court maintains personal jurisdiction over at least one (1) party to the case, or;
2. unless the tribal court allows another court to modify the original court order. CEJ is used for Intergovernmental cases see Chapter XI Intergovernmental.

D. CONCURRENT JURISDICTION

This is the ability to exercise judicial review by different courts at the same time. Example: The MLB tribal court has Exclusive Original Jurisdiction, but another court hears the case for enforcement purposes. The other court does not have jurisdiction to modify the original court order.

CHAPTER IV – LOCATE

§309.85(a) The Tribal IV-D Agency will maintain records necessary for the proper and efficient operation of the program, including records regarding:

§ 2004 (b) The Band Authority is authorized to provide child support enforcement services to all parents and children subject to the jurisdiction of the Band. The Band Authority is authorized, among other things, to:

(1) locate obligors and/or their assets and debts.

POLICY:

- *The MLB CSE must attempt to locate a custodial parent (CP) or non-custodial parent (NCP) or sources of income and/or assets of either parent when location is required prior to taking necessary action in a case.*
- *Location of a CP is deemed necessary when:*
 - *forms are mailed to the last known address of the custodial parent are repeatedly returned “undeliverable” with no forwarding address, or*
 - *when child support collections disbursed to the custodial parent are returned undeliverable from the last known address.*
- *Location of a non-custodial parent is deemed necessary whenever the NCP’s address or employer is unverified, or mail is returned from the last known address for the NCP.*
- *All available sources of locate available to the MLB TCSP should be used to perform locate actions and activities.*
- *Locate actions should be initiated within **three (3) business days** from the day the need for locate is determined.*

Procedures:

Having a verified address for a NCP is important for delivery of documents and forms and to help ensure proper service of process to afford the NCP due process for all legal proceedings. Having a verified employer for the NCP is important for the implementation of income withholding for enforcement of the child support court order.

1. Available Location Resources

The following are the location resources available to the MLB TCSP:

- Tribal Housing Authority
- Tribal Police Department

- Tribal Census Bureau
- Tribal Accounting
- Tribal Utilities
- Relative or friend of the parent
- State or local jail facility
- Employer
- Postmaster

Information may be requested from any of these location resources either written or verbally.

2. Location Methodology

- Telephone – This is the easiest and quickest location method. Use the telephone first prior to using any other method. If a phone number is not available the Case Manager should proceed with other resources.
- PRISM –This is the State of Minnesota’s automated child support system. MLB CSE has view only access to this system. View the appropriate screens to obtain information.
- Letters – There are a variety of location letters maintained in the MLB TCSP’s document file on the Shared Drive. These letters include:
 - a. Postmaster address verification
 - b. Employment verification
 - c. Enrollment verification
 - d. CP or NCP information request

3. Quick Locate

For the difficult to locate individuals, once the MLB TCSP Case Manager has exhausted all local location resources available, a request for location assistance may be submitted to a State Parent Locator (SPLS) for assistance.

A Quick Locate request is submitted by completion of the federal Quick Locate form and sending the form to the Central Registry of the appropriate state of the participant’s last known address.

The return of the Quick Locate form from the other state normally takes up to thirty (30) days. The MLB TCSP Case Manager should set a task in Outlook for thirty (30) days to follow up on receipt of a response. If no response is received within 30 days, submit a second request to the state’s Central Registry.

4. All attempts and actions taken to locate an NCP or CP must be thoroughly documented in the case file. A hard copy of any location forms mailed out should be filed in the case file. The documentation should include the following information:

- Date/time of the location attempt
 - Name of the source accessed for information
 - Result of the request – type of information obtained
5. If the NCP cannot be located, set a task on Outlook to attempt to locate the participant again at least once every six months for the next year. If the location of the individual is still unsuccessful, the MLB TCSP may proceed with case closure. Refer to Chapter IX Case Management for Case Closure policy and procedures.

CHAPTER V – ESTABLISHMENT OF PATERNITY/ SUPPORT ORDER

A. **PATERNITY ESTABLISHMENT**

45 CFR §309.90(a) A Tribe or Tribal organization must include in its Tribal IV-D plan Tribal law, code, regulations, and/or other evidence that provides for:

(1) Establishment of paternity for any child up to and including at least 18 years of age;

§2001(f) This chapter reaffirms Band sovereignty and self-determination by providing for the exercise of Band jurisdiction over child support and paternity cases involving Band children and families.

Chapter 12 Child Support, Subchapter II Paternity

§2031 Purpose

§2032 Paternity proceedings generally

§2034 Establishing paternity through court order

§2035 Establishing paternity by acknowledgment

PATERNITY ESTABLISHMENT POLICY

- 1) *The MLB TCSP will pursue the establishment of paternity for any child for whom paternity is an issue, based on an Application for Child Support Services filed with the MLB TCSP or upon receipt of a referral from another IV-D entity requesting establishment of paternity up until the child attains age of twenty-one (21).*
- 2) *The party (CP or AF) alleging paternity must provide the MLB TCSP with a notarized Filiation Affidavit alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties.*
- 3) *There is a presumption of paternity established if the father and the child's biological mother were married to each other at the time the child was born, or within three hundred (300) days after the marriage was terminated.
The presumption can only be overcome by genetic testing proving another man is the father by a statistical probability of ninety-two (92%) percent.*
- 4) *When the CP names more than one potential father the MLB TCSP must obtain a Filiation Affidavit for each potential father named by the Custodial Parent.*
- 5) *Completion of a Filiation Affidavit and notarization of said Filiation Affidavit constitutes a sworn statement by that party, alleging paternity, stating forth the facts establishing a reasonable possibility of the requisite sexual contact between the parties.*
- 6) *The establishment of paternity for a child shall have no effect on MLB tribal enrollment or tribal membership.*

- 7) *If genetic testing is required, the MLB TCSP will pay the costs of the genetic testing. If the results of the genetic test result in the establishment of paternity for the AF, the MLB TCSP should proceed to recover the costs of the genetic testing from the NCP.*
- 8) *If the results of genetic tests presented by either expert testimony or a written report accompanied by an affidavit, returned to the MLB TCSP by LABCORP indicate that the likelihood of the alleged father's paternity yield a statistical probability of at least ninety-two percent (92%) that the alleged father is the biological father., then a presumption of paternity for the child is established and the MLB TCSP should proceed with the establishment of an order for child support for the child. If the results of the genetic tests returned indicate that the likelihood of the alleged father's paternity is a probability of less than 92 percent, than no presumption of paternity for the child is established.*
- 9) *The results of the genetic test will always be provided to both the CP and AF in person and not through the mail or telephone call. The results of the genetic test will be treated as confidential information and all MLB TCSP confidentiality and safeguarding policies and procedures will apply to all genetic test information.*
- 10) *Either party may request additional genetic testing once they have contested the results of the original test. If this request is made, the party must pay for the additional genetic test in advance.*
- 11) *The MLB TCSP will not attempt to establish paternity in any case involving incest, forcible rape or if an adoption is currently pending.*
- 12) *Any petition to establish paternity should also include an award for a child support obligation if the AF is determined to be the father of the child.*

1) WHEN NOT TO PURSUE PATERNITY ESTABLISHMENT

Chapter 12 Child Support Subchapter II Paternity §2034(i) Best Interest of the Child
Not to Establish Paternity

There are certain circumstances under which the MLB TCSP will not pursue the establishment of paternity for a child if it is in the opinion of the MLB TCSP that paternity establishment would not be in the best interest of the child. These circumstances are:

- Cases involving incest,
- Cases involving forcible rape,
- Cases in which legal proceedings for adoption of the child are pending, or
- If in the opinion of the MLB TCSP the establishment of paternity would not be in the best interests of the child.

Procedures:

- 1) The MLB TCSP Case Manager should determine if good cause exists to not pursue the establishment of paternity for a child.
- 2) Reasonable verification must be obtained, if at all possible, to substantiate any good cause claimed by the mother of the child. Examples are:
 - Police report

- Statement from a family member or friend,
 - Verification from the adoption agency that a legal adoption of the child is in progress.
- 3) If verification is not available, the MLB TCSP Case Manager should clearly document in the MLB TCSP case record the mother's claim of good cause and the reasons for good cause determination made by the MLB TCSP Case Manager.
 - 4) When good cause is established, take no further actions to establish paternity for the child and the MLB TCSP case should be closed.

2) FILIATION AFFIDAVIT

Procedures:

1. When the determination has been made that the establishment of paternity is the next appropriate step, require the CP to complete a Filiation Affidavit which provides specific information regarding the alleged father of the child if a completed form is not already in the case file. Send the Filiation Affidavit along with a Request for Additional Information form, requesting that the form be completed and returned within **ten (10) business days**. The Filiation Affidavit must be notarized.

If the applicant is the AF, require him to complete a notarized Filiation Affidavit.

2. Upon receipt of the complete, notarized Filiation Affidavit, review the document to make sure that it is complete and has been notarized. Provide notification to the other party of the claimed paternity.
3. There will be instances where the AF denies the alleged paternity. When this occurs:
 - The AF must provide a notarized, sworn statement denying the paternity and setting forth the facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.
 - The AF may request genetic testing at that time to disprove the paternity of the child.

3) MULTIPLE NAMED ALLEGED FATHERS

In those cases where more than one alleged father is named by the Custodial Parent, the MLB TCSP should attempt to establish which possible father is the most likely father of the child during a Paternity Interview.

- 1) During the Paternity Interview with the CP, discuss with her the circumstances surrounding her becoming pregnant based on her responses to the questions on the Filiation Affidavit.
- 2) Attempt to establish, during the interview process, which alleged father is the most likely father of the child.

- 3) Based on the facts and information the CP provides, begin paternity establishment procedures against the most likely alleged father first.

4) VOLUNTARY PATERNITY ACKNOWLEDGMENT

45 CFR §309.100(a)(2) Provide an alleged father the opportunity to voluntarily acknowledge paternity

Chapter 12 Child Support Subchapter II §2035 Establishing paternity by acknowledgment

POLICY:

When paternity for a child is an issue the parents must have the opportunity to voluntarily admit paternity. To establish paternity voluntarily both parents must sign and have notarized a "Recognition of Paternity" (ROP) form that will be filed with the tribal court.

A "Recognition of Paternity" may be revoked by either the mother or father of the child. The request for revocation must be in writing, signed, notarized and filed with the tribal court within one (1) year of the ROP court filing or six (6) months of results from genetic testing where the person is determined to not be the father of the child. A request for revocation can only be made when there has been:

- *A basis of fraud or duress*
- *A material mistake of fact*

Procedures:

Paternity is an issue when the child was conceived outside of marriage. Paternity is not an issue if the child was born during the marriage or within 300 days of the divorce or the NCP's name is on the child's birth certificate.

1. The Case Manager should explain the ROP to the parents of the child to include:
 - The entire process of the Recognition of Paternity
 - The parent's rights and responsibilities and the legal ramifications of completing the form
 - The option of requesting genetic testing. If there is a doubt as to the paternity of the child regardless of how slight the Case Manager should strongly recommend the mother and alleged father have genetic testing. Genetic testing may also be conducted for custodial parents and non-custodial parents under the age of eighteen (18) years of age.

2. If the child was not born in Minnesota, the Case Manager will assist the parents in obtaining information and/or voluntary acknowledgment of paternity forms from the state in which the child was born.
3. The ROP must be signed and notarized by the mother and the alleged father of the child.
4. The ROP is filed with the State of Minnesota Registrar to have the NCP added to the birth record. This is the responsibility of either the Custodial Parent.

5) GENETIC TESTING

45 CFR §309.100(a)(3) In a contested paternity case (unless otherwise barred by tribal law) require the child and all other parties to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party:

- (i) alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties
- (ii) denying paternity and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties

§309.100(c) When genetic testing is used, the IV-D agency must identify and use accredited laboratories which perform at a reasonable cost, legally and medically acceptable genetic tests which intend to identify the father or exclude the alleged father.

Subchapter II Paternity, §2034 Establishing paternity through court order

POLICY:

1. *The MLB TCSP will provide genetic testing upon request by the child's mother, alleged father, Tribal Court or other agency. If paternity is not an issue, genetic testing will only be completed upon order of the court. Genetic testing initiated by the MLB TCSP will be conducted only for participants associated with a MLB TCSP case.*
2. *If the alleged father refuses to voluntarily submit to genetic testing or does not request the genetic testing himself, the MLB TCSP will pursue an order for genetic testing.*
3. *The costs for genetic testing will be paid for by the MLB TCSP unless the Alleged Father requests genetic testing in which case he will pay the costs of the genetic testing. Testing is done by appointment only.*

4. *Testing will be done by a certified technician and the chain of custody procedures established by LABCORP must be followed. DNA samples will be sent Federal Express to LABCORP the same day of testing.*
5. *The results of any genetic testing will be disclosed to the individual upon proof of identify in person only. Test results will never be disclosed over the phone but may be mailed to the party at their current address.*

Procedures for Obtaining a Court Order for Genetic Testing:

1. Inquire with the Alleged Father (AF) to see if he is willing to voluntarily submit to genetic testing. If he is, require the AF to sign the Stipulation to Genetic Testing.
2. If the AF is not willing to stipulate to genetic testing, prepare a petition to establish paternity and have it notarized. If a child support obligation does not exist, request in the petition that child support obligation be established if the AF is found to be the father of the child.
3. Submit all documents to the Staff Attorney for review, approval and signature
4. File the documents with the Tribal Court Clerk. The Tribal Court Clerk is responsible for notifying all parties of the court date
5. Prepare the case for court, ensure that all related documentation is filed properly and that everything is thoroughly documented in the Case Notes.
6. Provide the file to the Staff Attorney at least **three (3) business days** prior to the court date
7. Attend court hearing and provide any requested testimony.
8. Upon receipt of the final order from the court, proceed with scheduling the genetic testing for all parties.

Procedures for Scheduling the Genetic Testing:

1. Schedule the date and time of genetic testing for both parties and the child.
1. Send both the child's mother and AF the "Genetic Testing Appointment Letter" with the date, location and time of the testing.
2. On the day of testing, verify the identification of the mother, alleged father and child to be tested. The mother and alleged father will need to provide a state or Tribal issued photo ID. The child must also have some form of ID usually a Social Security Card or birth certificate.
3. Testing is to be completed by a certified buccal swab tester with a witness present.

4. Following the chain of custody established by LABCORP DNA samples are to be sealed and sent to LABCORP by Federal Express the **same day** the test is completed.
5. Test results will be available to the MLB TCSP online as well as mailed by Labcorp to the MLB TCSP office, usually within five (5) business days.
6. Update the case file with the results of the tests should be updated in the case file.
7. Send both the CP and the alleged father the "Genetic Test Results Letter" with a scheduled date and time for an appointment to provide the test results. Ensure that the appointment dates and times are not on the same date and time when the parents (CP and AF) are not on good terms.

Procedures for Scheduling the Genetic Testing:

Upon receipt of the results of the genetic testing from LABCORP, review the results to determine the next appropriate step.

1. If the NCP is found to be the father of the child:
 - Submit the official LABCORP results to the Tribal Court
 - Prepare a petition to establish child support along with the Child Support Guideline Calculation worksheet to be submitted to the Tribal Court (if not previously requested through the original Petition for Paternity)
 - Provide the petition, the genetic test results, the Child Support Guideline Calculation worksheet and all associated documentation to the Staff Attorney for review and signature.
2. If the Alleged Father is found not to be the father of the child:
 - The case for this AF is closed.
 - Discuss with the CP other possible AFs and require the CP to complete a new application for child support services naming the next most likely AF.

B. ESTABLISHING A CHILD SUPPORT OBLIGATION

45 CFR §309.65(a)(10) Guidelines for the establishment and modification of child support obligations as specified under §309.105.

45 CFR §309.105

Chapter 12 Child Support, Subchapter I, §2006 Support Order through §2023
Deviation from Presumptive Child Support Obligation

ESTABLISHMENT POLICY:

- 1) *The MLB TCSP will proceed with the establishment with a child support obligation for all cases where an existing child support obligation has not been established previously by court order in any of the following circumstances:*
 - *in conjunction with the establishment of paternity where paternity is an issue for a child named in a MLB TCSP application,*
 - *upon receipt of a MLB TCSP application for child support services,*
 - *upon receipt of an intergovernmental referral received from another state or tribal Child Support agency requesting assistance with the establishment of a child support obligation or*
 - *upon receipt of a TANF referral for the establishment of a child support obligation.*
- 2) *MLB TCSP uses a uniform set of Child Support Guidelines passed by Tribal Council to set and modify child support obligation amounts. The Child Support Guidelines are based on the Income Shares Model in which the income of both the CP and NCP are considered in computing the child support obligation.*
- 3) *Either or both parents may be compelled to provide for the support of their children.*
- 4) *In those instances where the legal custody of the child is with a non-parent (Ex: grandparent, aunt, sister, etc.) who has applied for child support services, then that individual's financial circumstances will not be considered in the guideline calculation process.*
- 5) *A form of non-cash payment may be allowed at the discretion of the Tribal Court and with the consensus of both the CP and NCP. When a non-cash payment is ordered, a dollar value will be assigned to the non-cash payment.*
- 6) *Non-cash payments will not be permitted to satisfy assigned support obligations or arrearage amounts.*
- 7) *There will be a rebuttable presumption in any proceeding for the award of child support that would result from the application of the guidelines established is the correct amount of child support to be awarded.*
- 8) *The MLB TCSP Guidelines will be used unless there is a written finding or a specific finding on the record of the Tribal Court that the application of the guidelines would be unjust or inappropriate in a particular case. The Findings that rebut the guidelines must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.*
- 9) *The MLB TCSP Guidelines will be based on specific descriptive and numeric criteria and will result in a computation of the support obligation.*
- 10) *The MLB Tribal Court shall provide in its order that the child support payments be paid to the MLB TCSP Payment Center for remittance to the obligee.*

- 11) *The MLB TCSP Guidelines will be reviewed at least once every four (4) years and revised if appropriate.*

1) FINANCIAL AFFIDAVIT

45 CFR 309.65(a)(10) Guidelines for the establishment and modification of child support obligations as specified under §309.105.

§ 2007. Providing income information: the parties shall serve and file with their initial pleadings or motion documents a financial affidavit disclosing all sources of income for purposes of calculating gross income under section 2008 of this Title. The financial affidavit shall include relevant supporting documentation necessary to calculate gross income and parental income for determining child support including, but not limited to, pay stubs for the previous three months and employer statements or statements of receipts and expenses if self-employed.

POLICY:

Both the NCP and the CP will be required to provide a 'Financial Affidavit' as well as any other documentation necessary for the purposes of determining the parent's income and the ability to provide financial support for their child(ren). The Financial Affidavit must be notarized. If either the NCP or the CP fail to provide financial documentation, potential income will be imputed to determine the child support obligation.

Procedures:

1. Review the Financial Affidavit submitted by both the CP and NCP for completeness. If either one of the individual's has failed to complete or submit a Financial Affidavit, send the individual a Request for Additional Information letter along with a Financial Affidavit. Request that the completed Financial Affidavit be returned within **fifteen (15) calendar days**.
2. Check to make sure that acceptable proof and verification of income has been provided along with the completed Financial Affidavit.

Acceptable forms for documentation or proof of income are:

- Pay stubs for the previous three (3) months
- Self-employed, receipts and verification of business expenses as well as documentation of income, employer statements
- Copies of the individual's most recent tax returns including W-2 forms, 1099 forms
- Unemployment benefit award letters

- Workers Compensation statement
 - Verification of Per Capita income, if applicable
 - Other documentation that provides evidence of earnings or income
3. If acceptable proof and verification of income was not provided, send the individual a Request for Additional Information letter, requesting that acceptable verification and/or proof of income be provided within **fifteen (15) calendar days**.

2) DEFINITION OF INCOME

Income is any form of any **regular, on-going periodic payment** to an individual including but not limited to salaries, wages, commissions, self-employment income, worker's compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, spousal maintenance received under a previous order or the current proceeding, Social Security or Veteran's benefits provided for a dependent child, gaming winnings, and any form of federal or tribal trust benefits derived from a person's status as an enrolled member of any federally recognized Tribe, including but not limited to Per Capita payments that are received on a regular and consistent basis.

Any lump sum payment, education incentive payment, or any other form of non-reoccurring payment is not considered income for the calculation of child support purposes.

Self-Employment Income includes any income derived from self-employment or operation of a business, including joint ownership of a partnership or closely held corporation, is defined as gross receipts minus cost of goods sold minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits or any other business expenses determined by the Court to be inappropriate or excessive for determining gross income for purposes of calculating child support. The person seeking to deduct an expenses, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary.

Social Security or apportioned Veteran's Benefit provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based.

Income that is **excluded** for the purposes of a Child Support Guideline calculation is:

- Any child support, foster care subsidy guardianship assistance and/or adoption assistance payments received by a party,
- The income of the Obligor's or Obligee's spouse, and/or
- State or Tribal TANF or any other need-based Program payments received.
- Income of the child (Social Security benefits, Veterans benefits, etc.)

3) NON-CASH SUPPORT

45 CFR §309.105(a)(3) Indicate whether non-cash support payments will be permitted to satisfy the support obligation, and if so:

- i) Require that Tribal support orders allowing non-cash payments also state the specific dollar amount of the obligation; and**
- ii) Describe the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the support order; and**

§2015 Non-Cash Support – This section identifies the circumstances non-cash support may satisfy up to 50% of the child support obligation.

POLICY:

- 1) The CP and NCP must agree on the type and percentage of non-cash support. Non-cash support may never satisfy any portion of a child support obligation unless ordered by the court. No more than 50% of a child support obligation may be satisfied by non-cash support. Non cash support may never satisfy any portion of child support arrears that may be owed to any state or tribal IV-D agency.*
- 2) Non-Cash Support means support provided in the nature of goods and/or services rather than in cash, which contributes directly to meeting the needs of a child. Non-cash support may include services such as making repairs to an automobile or a home, the clearing or upkeep of property, providing a means for travel, providing needed resources for a child's participation in tribal customs and practices, or other goods or services that contribute to the needs of a child, and can be reasonably assigned a cash value.*
- 3) Non-Cash support must have a value and the ability to satisfy at a minimum six (6) months of the child support obligation, based on the resulting calculation using the child support guidelines.*

Procedures:

The MLB TCSP Case Manager must:

1. Identify the type of non-cash support the obligor would like to provide.
2. Discuss with the CP and determine whether the CP is willing to accept the non-cash support for a percentage of the child support obligation.

3. Provide a detailed description of the non-cash support to the Staff Attorney. Discuss with the Staff Attorney what a reasonable cash value should be assigned to the non-cash support.
4. Provide a detailed description in the child support order along with the percentage of the child support obligation it is intended to satisfy and the cash value for the non-cash support.
5. Both parties (CP and NCP) must agree to and sign an agreement to the non-cash support and the determined value.

4) DETERMINING A CHILD SUPPORT OBLIGATION

45 CFR 309.65(a)(10) Guidelines for the establishment and modification of child support obligations as specified under §309.105.

§309.105(a)(1) Establish one set of child support guidelines by law or action of the tribunal for setting and modifying child support obligation amounts.

§2014 Guidelines used in child support determinations

POLICY:

Each parent has the obligation to provide support for their child(ren). The MLB TCSP will use the MLB Tribal Guidelines to determine a child support obligation. If a parent is receiving TANF no potential income will be imputed for that parent.

Procedures:

1. Carefully review the financial information and documentation for each participant. In those instances where a participant has failed to provide the required Financial Affidavit and/or the required verification, impute the income for that party. The information included in the Guideline Calculation includes the following:
 - Each parent's gross monthly income (from all sources)
 - How many children live in each parent's home (do not count children who the parent has a court order to pay child support for)
 - Any spousal maintenance orders for either parent
 - The amount of benefits from Social Security or the U.S. Department of Veterans Affairs paid to a joint child due to a parent's disability or retirement
 - The monthly cost for both medical and dental coverage
 - The amount of child care costs
 - The percentage, or amount of time the child is with each parent

- If the parent is incarcerated, the ability to pay/minimum basic support calculation does not apply. Minimum wage or potential income is not imputed.
2. Gather data on each parent's child support obligations from other marriages. Check on PRISM for any other child support orders for the party. If a family health insurance plan is being subscribed to, find out the amount that each parent is contributing to that health insurance plan and the amount of the premium paid to have that child(ren) included in the plan.
 3. Use the Minnesota Support Guideline Calculator, entering all of the required information for both parents in order to obtain the "Parental Income for Determining Child Support (PICS)". Click on "Calculate" after all information has been entered. The Calculator will then determine the child support obligation for each parent and display the completed Child Support Worksheet.
 4. Print two (2) copies of each page of the "Support Guidelines", including the Parenting Expense Adjustment, Child Care Obligation and the Summary Worksheets

Below is an example of how the MN Support Guideline Calculator computes the obligation.

- Adding both parent's monthly income for a total combined income
 - Subtract any deductions for any non-joint children
 - Calculating the percentage of income for each parent – divide the each parent's income by the combined income. EXAMPLE: Parent A has \$2,000, Parent B has \$3,000 Total combined income \$5,000.
 $\$2,000 \div \$5,000 = .40\%$ & $\$3,000 \div \$5,000 = .60\%$
 - Using the guideline chart find the basic support amount for the total combined income for the number of children.
 - Determine each parent's pro rata share of the basic support amount by multiplying the parent's percentage share of combined support. EXAMPLE: The basic support for \$5,000 for 1 child is \$831. Parent A's responsible for 40%. $\$831 \times .40 = \332 . Parent B $\$831 \times .60 = \499 . Parent B's child support obligation would be \$499 per month minus any adjustments for the time period the child(ren) is with the other parent.
5. Generate a Summons and Petition for Child Support. The date the child support obligation should be the month the petition is filed with the court. The petition allows the NCP to waive his/her twenty (20) day due process for Income Withholding in lieu of a court appearance .
 6. If appropriate, the petition may also include provisions for medical, dental, vision and child/day care. Have the petition notarized.
 7. Prepare the packet for review by the MLB Staff Attorney. The packet should include the following:
 - Financial Affidavits for both parties and all accompanying verification
 - Copy of all of the Child Support Guideline Worksheets

- Petition to Establish Child Support
8. Upon receipt of approval of the packet from the MLB Staff Attorney, file the Petition with the MLB Tribal Court for service.
 9. Prepare the file for the court hearing. Give the file to the MLB Staff Attorney at least **two (2) business days** prior to the hearing. You may be required to also attend the hearing at the request of the MLB Staff Attorney.

5) STIPULATION

§2006(d) Stipulations for child support. The Court shall approve a child support stipulation of the parties if each party is represented by independent counsel and the stipulation provides for child support in an amount that is equal to or greater than the presumptive child support obligation calculated under section 2013 of this Title. In other cases the Court shall determine and order child support in a specific dollar amount in accordance with section 2013 and the other factors set forth in sections 2022 and 2023 of this Title.

A Stipulation is an agreement between both the NCP and the CP on the terms and conditions of the child support order. Both parties must have independent council and agree to the stipulation or a court hearing will be required.

1. Determine the "Parental Income for Determining Child Support (PICS) and calculate the child support obligation for each parent using the PICS calculated.
2. After completion of the Guideline calculation, write a letter to both parties providing them with information regarding the child support obligation and an explanation of how the child support obligation amount was determined. Provide the parties with an opportunity to respond within fifteen (15) business days if they are not in agreement.
3. Explain all terms and conditions of the stipulation to both the CP and NCP. Explain that any deviation from the proposed guideline calculation or a request for non-cash support will require a court hearing. If both parties do not agree a court hearing will need to be scheduled.
4. If both parties agree on the terms and conditions, or neither party responds within the fifteen (15) calendar day time period, send the file with all documentation (i.e. financial affidavits, guideline calculations and any notes) and the Motion to the MLB TCSP Staff Attorney.
5. The MLB TCSP Staff Attorney will take the necessary steps and action(s) to file the Motion with the court for the Judge's signature and filing with the Tribal Court Clerk.
6. Send certified copies of the signed Stipulation to both the NCP and the CP.
7. Forward the file to the Financial Worker for creation of the financial record for the case.

6) COURT ORDER

1. The MLB TCSP Case Manager may be requested to attend the court hearing by the MLB TCSP Staff Attorney. If so, review the case file in advance so that you are prepared to respond or provide information during the hearing at the request of either the Staff Attorney and/or the Chief Judge.
2. After the completion of the hearing and the signing of the order by the Judge, the court will send copies of the court order to the CP, NCP and the MLB TCSP. If the case is marked as "Family Violence" and is a Participant Protection case, the court will send the Protected Party's copy to the MLB TCSP for distribution to the party.
3. File the MLB TCSP copy in the case file.
4. Create an order for Garnishment or Per Capita Withholding, depending on the source of the child support payments, and complete an Income Withholding form. Provide the Financial Worker with a copy of the order and the IWO form so that income withholding can be initiated.
5. The Financial Worker will provide the Case Manager with two copies of the IWO. Refer to Chapter VIII Income Withholding for detailed information on the policy and procedures for income withholding.

7) DEFAULT ORDERS

If at any time throughout the establishment process the NCP fails to appear for any scheduled hearing and there is proof the defendant was properly served, the Court may enter a default order. The NCP has **twenty-one (21) calendar days** to file a dispute with the Tribal Court.

C. MEDICAL SUPPORT

§ 2013. Presumptive child support obligation (d) The Court shall determine each parent's medical support obligation as provided in section 2021 of this Title. Unreimbursed and uninsured medical expenses are not included in the presumptive amount of support owed by a parent and are calculated and collected as described in section 2021 of this Title.

§2021 Medical Support – this section details language that every order addressing child support must include.

POLICY:

"Medical Support" means providing medical, dental or other health care benefits for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, or uninsured medical expenses of the joint child.

The MLB TCSP will enforce medical support upon the request of another state or tribal child support agency in the same manner as any other enforcement activity.

Refer to Chapter VII Enforcement for the procedures to be used.

CHAPTER VI – DUE PROCESS

45 CFR §309.65 (a)(3) Assurance that Due Process Rights of the Individuals Involved will be protected in all activities of the Tribal IV-D Program including establishment of paternity, and establishment, modification and enforcement of support orders.

A. Definition of Due Process

Due Process is the fundamental principle of fairness in all legal matters civil and criminal. All legal procedures set by statute and court practice, including notice of rights, must be followed for each individual so that no prejudicial or unequal treatment will result.

Due Process is best defined in one word ‘fairness’. The Due Process law enables defendants the ability to present a defense prior to a judgment or legal action.

B. Provision of Due Process

§ 2005. Judicial Proceedings

§ 2034. Establishing paternity through court order

§ 3236. Notice

(a) Notice shall be provided in accordance with the notice procedures set forth in paragraph (b) of this section except that the court may determine that it is unnecessary to give notice to specific individuals, including a parent whose rights have been terminated.

(b) Notice shall be given by personal service. If service cannot be made personally, the court may authorize service by certified mail at the last known address of the person to be served. If notice cannot be served by registered mail, the court may authorize service by publication in either the tribal newspaper of the reservation, or a newspaper of general circulation in the county where the court is located, once a week for three consecutive weeks. All notices served whether personally or by certified mail shall be received by the person named therein no less than ten (10) days prior to the date set for the hearing. No hearing can be held sooner than ten (10) days after the last publication where service is made.

Rules for the District Court, Section IV, Rule 34

Upon entering and filing the decision with the Court Clerk, it shall be the duty of the Court Administrator to see that copies of the order or judgment setting out such decision are delivered or mailed by the Court Clerk to counsel in the case and to any party appearing pro se. The time to appeal from a decision rendered in absentia runs from the day its copy is mailed or personally delivered to the parties.

Rules for the Court of Appeals, Section II, Rule 7

In civil and criminal cases, a party seeking an appeal must file a notice of appeal no later than thirty (30) days after the entry of the judgment, final order, or sentence, as appropriate, of the District Court. Mille Lacs Band Statutes do not have any provisions for the late filing of a notice of appeal.

POLICY:

The Due Process rights of all individuals involved with a MLB TCSP case or action will be protected. This includes all actions related to the establishment of paternity, the establishment of a child support order, modification of a child support order and enforcement of a child support order. The Mille Lacs Band District Court Rules and Appellate Court Rules as well as the federal Rules of Civil Procedure outline the due process rights of all individuals and serve as the underlying guide.

Procedures:

1. Make sure that there is a verified address and/or employer for the NCP.
2. Prepare the Service Packet for service of process. Included in the packet are:
 - a. Cover Letter to the Process Server (if personal service is required)
 - b. Affidavit of Service
 - c. Appropriate number of copies required based on the type of legal action
3. Refer the Service Packet to the Staff Attorney for review and signature.
4. Initiate service of the complaint/petition/summons on the NCP using the appropriate method of service. If personal service is required, file all of the appropriate documents with the MLB Tribal Court Clerk for service.
5. Set a reminder on the case for **thirty (30) calendar days** prior to the hearing to follow-up to see whether successful service has occurred. If it has, document the case record and file all proof of service documentation in the appropriate section of the case file.
6. Upon receipt of the Affidavit of Service or the signed green card for certified mail return receipt, notify the tribal Clerk of Court that service has been successful and provide required documentation.
7. If service is unsuccessful, conduct additional locate activities in an attempt to obtain new verified information to attempt service again. Once the address and/or employer has been verified, initiate another attempt at service.

C. ACCEPTABLE METHODS OF SERVICE

Rules for the District Court, Section XVI, Rule 130(c)

For service of a summons, notice of ninety (90) day trial, or subpoena in a civil matter involving a Family Matter or the Indian Child Welfare Act where the Mille Lacs Band is the plaintiff, there shall be no fee for service, travel, or copying. A request for a subpoena must be accompanied with an affidavit stating the reason(s) for the subpoena and a request that the Court's process server serve the subpoena.

Rules for the Court of Appeal, Section III, Rule 23

- (a) Only the notice, subpoenas, and show cause orders, and orders of the Court requiring a party to meet a deadline of less than fourteen (14) days from the date of the order will be served personally by the Court. Other pleadings and documents issued by the Court will be served by U.S. First-Class Mail. Except for the Notice of Appeal, it is the responsibility of the party filing a document or pleading to serve the document or pleading on all other parties. The verified return by the individual so serving the pleading or document, setting forth the manner of such service, shall be proof of service. Certified mail, restricted delivery, shall be considered personal service if accomplished. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service.
- (b) Whenever these rules require or permit the service of pleadings or other papers upon a party, a copy shall also be served on any attorney or other representative of the party who has entered a written appearance in the proceeding on behalf of the party. If a party is represented by more than one attorney or representative, service upon any of such persons in addition to the party shall satisfy this requirement.
- (c) Failure to comply with the requirements of this rule shall be a basis for either
 - (1) rejection of the document, or
 - (2) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond.

Rules for the Court of Appeal, Section III, Rule 24

- (a) The date of service shall be the day when the matter served is deposited in the United States mail or is delivered in person, as the case may be.
- (b) The person, party, or Court Clerk or Deputy Court Clerk serving the papers or process on other parties shall submit a written statement of service thereof to the Court of Appeals, stating the names of the parties served and the date and manner of service. Proof of service shall be required by the Court of Appeals only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

1. **Personal Service.** If the parties to be served with a summons can be found within the personal jurisdiction of the Mille Lacs Band, the summons, a copy of the child / family protection petition and the notice of rights shall be served personally upon them at least **twenty (20) court days** before the formal trial on the issues.
2. **Mail Service.** If the parties are within the exterior boundaries of the reservation but cannot be personally served, and if their address is known, the summons, petition and notice of rights may be served by certified mail with a return receipt requested, at least **twenty (20) days** before the formal trial.

3. **Service of Summons.** Service of summons may be made by any person eighteen (18) years of age or older who is not a party to the proceedings under the direction of the court.
4. **Publication.** In a child / family protection case where it appears within the body of the petition or within an accompanying statement that the parent, guardian or custodian does not reside within the territorial jurisdiction of the Mille Lacs Band, or that their name, place of residence or whereabouts is unknown, as well as in all cases where after due personal service or service by certified mail has been unable to be effected, the court shall direct the clerk to publish legal notice in a newspaper, printed in the county or on the reservation, qualified to publish summons once a week for three consecutive weeks with the first publication of the notice to be at least **twenty-one (21) days** prior to the date fixed for the hearing. Such notice shall be directed to the parent, guardian or custodian if their names are known, or if unknown a phrase to whom it may concern, be used and applied to and be binding upon any such person whose names are unknown. The name of the court, the date of the filing of the petition, the date of the hearing, and the object of the proceeding in general terms, shall be set forth. There shall be filed with the clerk an affidavit showing publication of the notice. The publication of the notice shall be paid by the Mille Lacs Band. The publication of the notice shall be deemed equivalent to personal service upon The publication of the notice shall be paid by the Mille Lacs Band. The publication of the notice shall be deemed equivalent to personal service upon all persons known or unknown.

CHAPTER VII – ENFORCEMENT

A. MONITORING FOR DELINQUENCY AND PROVIDING A DELINQUENCY NOTICE

Tribal Code:

POLICY:

- 1) *It is the responsibility of the MLB TCSP to ensure that the NCP complies with the terms of the order for child support as part of the ongoing services provided to a MLB TCSP case.*
- 2) *The MLB TCSP Financial Specialist has primary responsibility for the monitoring of all child support cases on an ongoing, monthly basis to ensure that regular ongoing child support payments are being made by the NCP, based on the terms of the child support order.*
- 3) *Any failure on the part of the NCP to make the child support payments as addressed in his/her child support order will result in the initiation of all appropriate enforcement actions available to the MLB TCSP.*
- 4) *An NCP who fails to meet his/her monthly obligation, and the amount of the arrearage is equal to one month's support, will be provided with a Notice of Delinquency, affording him/her an opportunity to make the delinquent child support payment(s) prior to the initiation of enforcement actions.*
- 5) *The MLB TCSP may seize any lump sum payments such as a bonus, stimulus payment, minor trust proceedings, or any similar type of lump sum payment to be applied towards any child support arrears that have occurred*
- 6) *The MLB Tribal Court may, at its' discretion, order a specific number of Community Service hours through the Department of Labor for an NCP who is delinquent.*
- 7) *The MLB Tribal Court may, at its' discretion, find a delinquent NCP in contempt and order a fine up to \$500 payable to the MLB TCSP towards satisfaction of a child support arrears.*

Procedures:

- 1) Whenever an NCP fails to meet his or her monthly obligation and the amount of arrearage is equal to one month's support obligation, the MLB TCSP Financial Specialist will notify the MLB TCSP Case Manager of the NCP delinquency via individual email.
- 2) Upon receipt of notification of the NCP's failure to meet his/her monthly obligation, the MLB TCSP Case Manager reviews the case and determines whether the NCP is :
 - a. employed but not currently under immediate income withholding,
 - b. employed and the delinquency is due to the failure of the NCP's employer to comply with the Income Withholding Notice, or

- c. The NCP is unemployed but receiving unemployment benefits
- 3) Provide the NCP with a Notice of Delinquency, informing the NCP of the delinquency and providing him/her with the opportunity to make the delinquent payment(s). Set a reminder to follow-up for receipt of payment in **ten (10) business days**. Document the Case Notes with the date the Notice of Delinquency was mailed.
- 4) If contacted by the NCP regarding the delinquent payment(s),
 - a. Discuss with the NCP the reason(s) for the delinquency,
 - b. Identify whether any portion of the child support obligation is currently non-cash
 - c. Request documentation of any change in the NCP's circumstances,
 - d. Create a three (3) month Payment Arrangement, and
 - e. Consult with the MLB TCSP Staff Attorney for determination of the next appropriate action(s).
 - f. Create Case Notes to document all actions, activities, etc.
- 5) If no response is received from the NCP as a result of the Notice of Delinquency, and the NCP is either employed or receives unemployment compensation benefits and there is no income withholding already in place, initiate income withholding.

NOTE: Refer to Chapter VIII Income Withholding for applicable policy and procedures regarding the initiation of income withholding and Employer Non-compliance.
- 6) If the NCP is employed and the employer has failed to comply with the income withholding order, refer to Chapter VIII Income Withholding for detailed policy and procedures regarding Employer Contempt.
- 7) If the NCP is not employed or does not receive unemployment compensation benefits, discuss with the CP whether the court order should be modified based on the percentage of the court-ordered child support that is to be met by a non-cash payment.
- 8) Consult with the MLB TCSP IV-D Director for a determination of the next appropriate step.
- 9) Proceed with the enforcement actions deemed appropriate for the case.
- 10) Even after the enforcement actions have been initiated and are on-going, the MLB TCSP Financial Specialist is responsible for continuing to monitor payments on the MLB TCSP case, based on the child support court order, and maintain the ongoing financial record and balances for the MLB TCSP case and associated child support court order.

B. COMMUNITY SERVICE

- 1) Review the circumstances in the case and for the delinquent NCP.
- 2) Review the case to determine the following:
 - The amount of the delinquency

- Whether the NCP is currently employed
 - Whether community service has been ordered previously by the Tribal Court and whether it was successful
- 3) Discuss with the MLB TCSP Staff Attorney whether a court order for community service is an appropriate enforcement remedy at this time and what the appropriate number of community service hours are recommended based on the amount of the delinquency and whether community service has been used before.
 - 4) If the Tribal Court Judge orders a specific number of hours for community service, monitor the NCP's compliance with community service with the Department of Labor.
 - 5) If the NCP fails to comply with the number of community service hours, discuss with the MLB TCSP Staff Attorney alternative enforcement remedies.

C. LUMP SUM PAYMENTS

- 1) If the MLB TCSP Case Worker becomes aware of a pending lump sum payment to be received by a delinquent NCP, and the arrears owed are to the CP and/or the Tribal TANF program, attempt to determine the amount of the lump sum payment, the source, the date of payment and whether or not it is a reoccurring lump sum payment.
- 2) Discuss the potential seizure of all or a portion of the lump sum payment with the MLB TCSP Staff Attorney.
- 3) Based upon the receipt of a court order for seizure of all or a portion of the lump sum payment, provide appropriate notice to the payor of the lump sum payment that any portion of the lump sum payment seized should be directed to the MLB TCSP Payment Center.

D. CONTEMPT

§ 149. Contempt of court

All willful disobedience or interference with any order of the Court constitutes contempt of court. The Court may punish an adult for contempt of court in accordance with Band Statute 1143-MLC-4, Title IX [repealed].

§ 2019. Modification of orders or decrees

A parent, or a public authority may also bring a motion for contempt of court if the obligor is in arrears in support payments.

POLICY:

Contempt is an enforcement action that is used when all other enforcement actions have failed. The MLB TCSP Staff Attorney will determine if a contempt action should be filed with the tribal court.

Procedure:

1. Review the case to determine what other enforcement remedies have been initiated on the case unsuccessfully.
2. Determine whether:

- The NCP is employed and whether the failure to pay is a result of the Employer's failure to properly withhold income based on the income withholding order.
 - The NCP has been provided with a Notice of Delinquency in the past.
 - This is a shared case with the State of Minnesota CSED
 - There is a valid address and/or employer for the NCP
3. Discuss with the MLB TCSP Staff Attorney whether contempt action against the NCP is appropriate and should be initiated.
 4. If the delinquent NCP is taken to court and found in contempt of the child support order, review the court order carefully and monitor for compliance with the Contempt Order.
 5. Create Case Notes for any actions taken.

E. INTERGOVERNMENTAL CASES

If the case being monitored and the NCP found to be delinquent is an intergovernmental case, refer to Chapter XI Intergovernmental for detailed information on the policy and procedures for the handling of intergovernmental cases.

CHAPTER VIII – INCOME WITHHOLDING and EMPLOYER RESPONSIBILITIES

45 CFR 309.65(a)(11) Procedures for income withholding as specified under §309.110.

§ 2051. Withholding

Income withholding must be carried out in compliance with procedural due process requirements established by the Tribe or Tribal Organization.

NOTE: Revision to the Tribal Code should include definition of lump sum payments and how they will be treated, liens, etc. and address employer contempt and fines

POLICY:

- 1) *In the case of each NCP against whom a support order is or has been issued or modified, or is being enforced, so much of his or her income must be withheld as is necessary to comply with the order.*
- 2) *In addition to the amount to be withheld to pay the current month's support obligation, the amount withheld must also include an amount to be applied toward arrears, if applicable.*
- 3) *Income withholding must be carried out in compliance with the procedural due process requirements established by the MLB Tribal Court.*
- 4) *The only basis for contesting a withholding is a mistake of fact, which means an error in the amount of current or overdue support or in the identity of the NCP.*
- 5) *Income Withholding may be used as an enforcement remedy to seize a lump sum payment when the NCP is in arrears.*
- 6) *The MLB TCSP must provide both the NCP and the NCP's employer with Notice of the Intent to Withhold a portion of the NCP's income using the standard Federal Income Withholding form.*
- 7) *If the NCP has more than one income withholding order in place, the MLB TCSP must allocate withheld amounts across the multiple withholding orders to ensure that in no case shall allocation result in a withholding for one of the support obligations not being implemented.*
- 8) *Income shall not be subject to withholding in any case where:*
 - *Either the CP or NCP demonstrates, and the Tribal Court enters a Finding, that there is good cause not to require income withholding, or*
 - *A signed written agreement is reached between the NCP and CP, which provides for an alternative arrangement, and is reviewed, approved and entered into the record by the Tribal Court.*
- 9) *Where immediate income withholding is **not** in place, the income of the NCP shall become subject to withholding, at the earliest, on the date on which the payments which the NCP has failed to make under a Tribal support order are at least equal to the support payable for one month.*
- 10) *The MLB TCSP will promptly refund amounts which have been improperly withheld and remains within the possession of the MLB TCSP. In those instances where the improperly withheld monies have already been sent to the State or*

- other jurisdiction, the MLB TCSP will work closely with the other state/tribe in obtaining a refund to the payor/employer.*
- 11) *The MLB TCSP will promptly terminate income withholding under certain circumstances, including but not limited to:*
- a. All current payments and all arrearages have been satisfied,*
 - b. NCP is deceased,*
 - c. The only child or all children in the order have emancipated, reached the age or majority or are deceased and all arrearages have been satisfied,*
 - d. NCP no longer works for the employer named in the "Income Withholding for Support" and no other employer for the NCP is known*
 - e. NCP is unemployed and no longer receiving unemployment compensation benefits, or*
 - f. Any other reasons determined by the Issuing Court for termination of the Income Withholding.*
- 12) *The total amount of income that may be withheld shall not exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).*

Consumer Credit Protection Act (15 U.S.C. 1673)

Income shall not be subject to withholding in any case where the total amount to be withheld exceeds the maximum amount permitted under the above-mentioned act.

1. *"The maximum part of the aggregate disposable earnings of any person for any workweek which is subject to garnishment or income assignment for the support of a minor child shall not exceed:*
- a. Fifty percent (50%) of such person's disposable earning of any person's disposable earnings for that week, if such person is supporting his spouse or a dependent child other than the child with respect to whose support such order is used; and*
- b. Sixty percent (60%) of such person's disposable earnings for that week if such person is not supporting a spouse or dependent child. The fifty percent (50%) specified in paragraph 1 of this subsection shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in paragraph 2 of this subsection shall be deemed to be sixty-five (65%), if and to the extent that such earnings are subject to garnishment or income assignment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek."*

A. INITIATING AN INCOME WITHHOLDING

45 CFR §309.110 (h) Income shall not be subject to withholding in any case where:

1. Either the CP or NCP demonstrates, and the tribunal enters a finding, that there is good cause not to require income withholding; or
2. A signed written agreement is reached between the NCP and the CP, which provides for an alternative arrangement, and is reviewed and entered into the record by the tribunal.

45 CFR §309.110(i) Where immediate income withholding is not in place, the income of the NCP shall become subject to withholding, at the earliest, on the date on which the payments the NCP has failed to make are at least equal to the amount payable for one month's support.

45 CFR §309.110 (l) To initiate income withholding, the Tribal IV-D Agency must send the NCP's employer a notice using the standard Federal income withholding form.

§ 2052. Withholding upon notice from obligee or public authority
§ 2053. Withholding hearing; service of withholding order

POLICY:

- 1) *An employer or other payer of funds must withhold income or other payments from an obligor upon notice from the MLB TCSP when the following conditions are met:*
 - *The obligor is at least thirty (30) days in arrears in making court-ordered child support payments to the MLB TCSP*
 - *To comply with due process, the NCP must be provided with a notice showing the current child support obligation and the amount of the arrearage at least **twenty (20) calendar days** prior to the MLB TCSP serving written Notice of Income Withholding and a copy of the court order establishing the child support obligation on the employer or other payer of funds, and*
- 2) *IWO's must be generated using the Federal Income Withholding Form. The Income Withholding Notice to the NCP and the Income Withholding Order to the employer must be sent by regular US Mail.*

Immediate Income Withholding Procedures:

1. Upon receipt of a newly established child support order, review the order to determine whether immediate income withholding has been ordered by the court.
2. Review the MLB TCSP file to determine if immediate income withholding is already in place based on either an IWO or the court order in the case file.

- a. If automatic/immediate language is in the court order proceed with step #8 of this section.
 - b. If automatic/immediate language is not in the court order proceed with next step of this section.
3. Generate an IWO Notice to the NCP with the amount of current support, the amount of arrears and the total amount to be withheld.
4. Mail the IWO Notice to the NCP by regular US mail. Retain a copy of the Notice in the MLB TCSP file. See Chapter VI Due Process for additional information.
5. Set a reminder on the case for **twenty (20) calendar days** to check for service of the notice.
6. Verify service of the notice to the NCP. *(If the notice is returned from the post office as undeliverable, begin locate activities for the NCP's address and start over at Step #4)*
7. Verify there has not been a dispute to the IWO by the NCP. *(If the IWO is in dispute see Section B of this Chapter)*
8. Generate the Federal IWO form.
9. Mail the IWO to the employer by regular US mail. Retain a copy of the IWO in the MLB TCSP case file.
10. Set a reminder on the case for **thirty (30) calendar days** to check for payment from the employer. If there has been no payment from the employer, see *Section E of this Chapter*.
11. Create a Case Note updating all actions/activities taken, recording the date, type of notice sent, telephone conversations, etc. related to income withholding.

B. DISPUTE OF INCOME WITHHOLDING

45 CFR §309.110(j) The only basis for contesting a withholding is a mistake of fact, which for purposes of this paragraph, means an error in the amount of current or overdue support or in the identity of the alleged NCP.

§ 2052 (a)(3) within the 20 day period, the obligor fails to move the Court for an order denying or changing the amount of withholding on the grounds that an arrearage of at least 30 days did not exist as of the date of the notice of income withholding, or that the notice contains a mistake or fact with respect to the amount of the current child support obligation or the amount of the arrearage;

POLICY:

Court-ordered child support shall be withheld from the obligor's income, regardless of the source. The only valid reasons for dispute are:

- *Mistake in fact – the NCP disputes the balance of arrears*
- *Mistake in fact - Identity of the NCP*

The NCP is allowed to contest the proposed income withholding during the tribal court hearing, or present a written agreement for an alternative arrangement, signed by both the CP and the NCP, to the MLB Tribal Court.

Procedure – Mistake in Fact on Balance of Arrears:

1. Send the MLB TCSP file to the MLB TCSP Financial Specialist to verify the balance of the obligation
2. Provide a copy of the financial history to the NCP.
3. If the obligation is **not** thirty (30) days in arrears, do not proceed with the IWO.
4. If the balance was incorrect, but there is a remaining arrears balance continue with Step #8 in Section A of this Chapter.

Procedure - Mistake in Fact on Identity of NCP:

1. If it is determined that the IWO was initiated for the wrong NCP, update any incorrect information on the NCP in the case record.
2. If the IWO has already been sent to the NCP's employer, generate a "Termination of Income Withholding Order" the same day. Send the Termination of Income Withholding Order to the Tribal Court for signature the same day or no later than the next working day. Once the signed order is received back, send it to the NCP's employer the **same day or no later than the next working day**.
3. Immediately make a determination of who the correct NCP is in order to either begin locate activities for that NCP or initiate income withholding procedures against the correct NCP. *See Chapter IV Location for information on procedures.*
4. Document the case file of both the incorrect NCP and the correct NCP, noting all pertinent and appropriate information on each case.

C. INCOME WITHHOLDING AS AN ENFORCEMENT TOOL

1. Upon notification that an NCP has become delinquent in meeting his/her child support obligation and the NCP has verified employment and immediate income withholding is not in place, proceed immediately with the initiation of income withholding for the NCP.
2. Also evaluate the case for potential receipt of a lump sum payment (for example, a bonus, stimulus payment, a minor Trust Account payment, Education Incentive payment or similar payment) by the NCP in the future. If the potential receipt of a lump sum payment is identified, create a tickler/reminder to follow up no later forty-five days (45) prior to the estimated payment date to obtain a court order for seizure of the lump sum payment through the creation of an income withholding notice to the Payor of the lump sum payment. The MLB TCSP may intercept no more than what is equal to the total amount of arrears.
3. Prepare the appropriate number of copies of the federal "Income Withholding for Support" to be sent to the NCP's employer or payor of the lump sum payment.
4. Send the original notice to the NCP's employer or payor of the lump sum payment within **ten (10) calendar days** of signature, a copy of the notice should be sent to the NCP and a copy placed in the case file.
5. If the NCP is under an IWO and the NCP's employer is/has failed to withhold the NCP's income based on the "Income Withholding for Support", refer the case to the Staff Attorney for possible employer contempt proceedings.

D. MODIFYING AN INCOME WITHHOLDING

POLICY:

- 1) *Whenever a child support order is modified and the child support amount is either increased or decreased as a result of the modification, the corresponding Income Withholding Order must also be modified.*
- 2) *If an arrearage has been created as a result of either the NCP or the NCP's employer failure to comply with the child support order, the Income Withholding Order should be modified to include the arrears.*
- 3) *Once the arrears have been satisfied and only the current obligation is due, the Income Withholding Order must be modified.*
- 4) *The Federal Income Withholding Order is used for modification of any existing Income Withholding Order.*

Procedure:

When it becomes known to the MLB TCSP Case Manager that an existing IWO should be modified, take the following actions:

1. Generate the federal IWO form and check the box for 'Amended IWO'.
2. The amended IWO must be registered in court. The MLB TCSP Case Manager should provide the following to the Tribal Court Clerk:

- Statement of Arrears
 - IWO
 - New, modified IWO
3. Mail the modified IWO to the NCP and the employer by regular US mail. Retain a copy of the modified IWO in the MLB TCSP file.
 4. Forward the Amended IWO to the MLB TCSP Financial Specialist for review to determine whether a refund should be issued to the NCP, if appropriate, and for future monitoring.

E. TERMINATION OF AN INCOME WITHHOLDING

45 CFR §309.110(f) Tribal IV-D agency will promptly terminate income withholding in cases where there is no longer an order for current support and all arrearages have been satisfied.

§ 2059. Order terminating income withholding
Whenever an obligation for child support terminates under the terms of the order or this chapter, and where the obligation is enforced by income withholding from the obligor, the Court shall enter an order directed to the obligor's employer or other payer of funds, which terminates the income withholding. The order terminating income withholding must specify the effective date of the order, referencing the initial order or decree establishing the support obligation.

POLICY:

- 1) *An Income Withholding Order will be terminated where there is no longer a current child support obligation owed and where all arrearages have been paid in full unless a specific request has been made by the State/County/Tribe to keep the Income Withholding Order open and in place should the NCP return to employment with that employer.*
- 2) *Income Withholding will be terminated using the federal Income Withholding form and sent to the employer by regular US Mail. Any overpayment must be refunded to the NCP promptly.*

Procedure:

- 1) Whenever income withholding is in place and a child support order is no longer in effect (for example, NCP is deceased, or the only child in the order emancipates), and there are no outstanding child support arrearages still owed, promptly (no later than the next business day) send a "Termination of Income Withholding" to the NCP's employer .
- 2) If there are still child support arrearages to be satisfied, modify the Income Withholding in place by issuing an Amended Income Withholding Notice to the NCP's employer to indicating the dollar amount to be withheld for past-due child support only.

- 3) If the child in the court order for whom the child support is owed emancipates or becomes deceased, the MLB TCSP Case Manager must evaluate the case to see whether there is any unpaid child support arrears still owed. If yes, then the income withholding will stay in effect until all the arrearages have been satisfied.
- 4) Once all child support arrearages have been satisfied, issue a Notice of Termination of Income Withholding to the NCP's employer.
- 5) For all intergovernmental cases, when the MLB TCSP Case Manager becomes aware that the NCP no longer works for the employer where the current Income Withholding Order is in effect, contact the Initiating State/County/Tribe for instructions on whether the IWO should be terminated or kept open.

F. REFUND OF IMPROPERLY WITHHELD INCOME

45 CFR §309.110(e) Tribal IV-D agency must promptly refund amounts that have been improperly withheld.

Procedures:

1. When either the MLB TCSP Financial Specialist or the MLB TCSP Case Manager becomes aware that there was income improperly withheld from the NCP's income, a refund of the improperly withheld amount should be authorized by the MLB TCSP Financial Specialist no later than **the next business day** after the discovery. The request for a refund would be made through the Check Request process.
2. In those cases where the child support collection made through income withholding has already been forwarded on to the MN CSED or other state/tribal IV-D program, the MLB TCSP Financial Specialist will work closely with the other IV-D program to have the improperly withheld funds refunded as quickly as possible.
3. Follow the procedures in Chapter XII Financial Processes for the processing of a refund.
4. The MLB TCSP develops a letter to be sent to the NCP, along with the refund check, explaining that the enclosed amount was improperly withheld from the NCP's wages and is being refunded to him/her.
5. Thoroughly document the Case Notes in the appropriate case file concerning the date of the discovery of the improperly withheld amount, the total dollar amount that was improperly withheld, the reason, and the date the refund was authorized.

G. EMPLOYER COMPLIANCE WITH INCOME WITHHOLDING

45 CFR §309.110 (g) If the employer fails to withhold income in accordance with the provision of the income withholding order, the employer will be liable for the accumulated amount the employer should have withheld from the non-custodial parent's income.

45 CFR §309.110 (k) The employer must be subject to a fine to be determined under Tribal law for discharging an NCP from employment, refusing to employ, or taking disciplinary action against any NCP because of the withholding.

§ 2054 (e) If an employer or other payer of funds fails to withhold income or other payments in accordance with this subchapter, the employer or other payer of funds will be liable for the accumulated amount the employer or other payer of funds should have withheld from the obligor.

POLICY:

- 1) *If the employer fails to withhold income in accordance with the provision of the income withholding order, the employer will be liable for the accumulated amount the employer should have withheld from the NCP's income. Legal action will be taken against any employer that fails to comply with an Income Withholding Order.*
- 2) *The employer is responsible for ensuring that the total amount withheld is in compliance with section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)).*
- 3) *An employer may not discharge an NCP, refuse to employ or take disciplinary action against any NCP because of an income withholding order.*
- 4) The MLB TCSP is only responsible for pursuing collection of the civil fine from the employer, but not for collection of any damages incurred by the NCP resulting from the employer's actions.

Procedures:

- 1) The MLB TCSP Financial Specialist monitors all MLB TCSP cases with an income withholding order on a monthly basis.
- 2) It is the responsibility of the employer to follow the instructions on the federal "Income Withholding for Support".
- 3) If an employer fails to withhold or forward to the MLB TCSP the amount ordered for current child support and arrearages, the MLB TCSP Financial Specialist must first make an attempt to contact the employer to find out the reason(s) for the employer's failure to comply with the income withholding order. The MLB TCSP Financial Specialist must explain to the employer the employer's responsibility to comply with the income withholding order and the potential consequences to the employer for failure to do so.
- 4) Create a reminder for **ten (10) business days** for receipt of the income withheld from the employee's earnings or no later than the next pay period if the employer failed to withhold any income based on the income withholding order.

- 5) If the employer still fails to submit previously withheld income or comply with the income withholding order, the MLB TCSP Financial Specialist must report the failure to withhold by the employer to the MLB TCSP Staff Attorney no later than ***the next business day***.
- 6) The MLB TCSP Staff Attorney must review the circumstances surrounding the income withholding and determine the next appropriate action.
- 7) When it is learned by the MLB TCSP Financial Specialist that the employer of an NCP who has been ordered to comply with an Income Withholding Order has:
 - Discharged the NCP,
 - Taken disciplinary action against any NCP because of the income withholding, or
 - Refused to employ an NCP as a result of the income withholding, the MLB TCSP Financial Specialist must immediately notify the MLB TCSP Staff Attorney of the employer's actions. Any employer who is in violation of tribal law related to discrimination against the NCP as a result of the income withholding, is subject to a civil fine pursuant to tribal code.

CHAPTER IX – CASE MANAGEMENT

A. CASE RECORD RETENTION/ARCHIVING

45 CFR §309.85 (b) The Tribal agency will comply with the retention and access requirements of 45 CFR 74.53; including retaining records for at least three years

RECORD MAINTENANCE POLICY:

- 1) *The MLB TCSP will maintain all records necessary for the proper and efficient operation of the Child Support Program. This includes the following records:*
 - *Applications for child support services;*
 - *Documents related to location actions;*
 - *Documents related to the establishment of paternity and/or a child support order;*
 - *Documents related to the enforcement of court ordered child support;*
 - *Financial records related to the child support collections (amount owed, amount collected, date of collection, source of the collection), and the distribution of child support collections;*
 - *MLB TCSP Program expenditures;*
 - *Any fees charged and collected; and*
 - *Statistical, fiscal and other records necessary for reporting and accountability purposes.*
- 2) *All **closed** case records maintained by the MLB TCSP will be retained for at least three years.*

Procedures:

- 1) Active Cases
 - a. All Applications for child support services as well as all documents and documentation associated with a MLB TCSP case (locate documents, documents related to paternity establishment, establishment of a child support order and enforcement of a child support order, case correspondence, etc.) will be filed and maintained in a case record. (Refer to Chapter I Application Processing for details.)
 - b. **All** case records will be kept in a designated location for use by the MLB TCSP Case Manager. Access to the case records will be limited solely to individuals employed by the MLB TCSP.

2) Closed Cases

- a. Closed case records will be maintained separately from active case files in a centralized location, filed in chronologically based on case closure date in order to monitor the three year timeframe.
- b. Cases that have been **closed** for at least three years, and not involved in an audit of any kind, will be destroyed by shredding all documents, forms and documentation filed in the case file.

FINANCIAL RECORD MAINTENANCE

- 1) All financial records pertaining to MLB TCSP program operations and program expenditures will be kept in a secure filing location, separate and apart from any other tribal financial or court records. These records will be accessible solely by authorized personnel including the Tribal IV-D Director, the MLB TCSP Financial Specialist, and any staff involved with the MLB Tribal Finance Department who have responsibility for maintenance of these financial records.
- 2) All MLB TCSP Expenditure Logs will be kept in a secure filing location in the IV-D Director's office area. These logs will be accessible solely by authorized personnel including the Tribal IV-D Director and primarily the MLB TCSP Financial Specialist.
- 3) All case-specific financial records associated with a **closed** MLB TCSP case should be kept for at least three years. After three years, these financial records may be destroyed, unless the case is involved in an audit or litigation.
- 4) All MLB TCSP program financial records will be maintained in a secure location for at least **three (3) fiscal years**. If any audit findings, litigation, or claims involving financial records are still unresolved at the end of the three years, the financial record(s) must be maintained until all issues are resolved.

B. CHILD IN CASE EMANCIPATES OR TURNS 18 YEARS OLD

§2006(i) Duration of support payments.

§2019(d)(1) Unless a support order provides otherwise, a child support obligation that specifies a specific amount for a specific child terminates with respect to that child automatically and without any action by the obligor to reduce, modify, or terminate the order when the child becomes 18 years old.

- 1) When a child in a MLB TCSP case will be turning 18 years of age within the **next 45 days**, or when the Case Manager becomes aware that a child in a case has emancipated, obtain verification of the current circumstances.
- 2) If the child has already emancipated, request or obtain a copy of the court documents as verification.
- 3) Evaluate the existing child support court order for language that orders the continuation of child support in the best interest of the child until:
 - the child reaches the age of 18 years old or

- if the child is disabled, or
 - the child is between the ages of 18 and 20 years old and enrolled in high school on a full-time basis. An alternative school arrangement does not apply in this instance.
- 4) If the court order specifies that child support payments continue until the child reaches the age of 20 years old, set a tickler/reminder to follow-up at least **thirty (30) calendar days** prior to the child's 19th birthday.
 - 5) If the court order specifies that child support payments continue when the child is between the ages of 18 and 20 years old and enrolled in an accredited high school on a full-time basis, send to the child's school a 'Verification of School Enrollment' form, requesting that the school complete and return the form **within 10 business days**.
 - 6) Set a tickler reminder to follow up on receipt of appropriate documentation.
 - 7) If it is verified that the child is still enrolled in school on a full-time basis, set a tickler/reminder to follow-up based on the Estimated Date of Graduation for the child.
 - 8) If the child support court order does not contain language for the continuation of child support beyond the age of 18 in the best interest of the child, evaluate the MLB TCSP case to determine the next appropriate action.
 - a. If this child is the only child in the case and no longer in school or has emancipated, evaluate the case for Case Closure criteria.
 - b. If there is another child included in the child support order, review the court order for potential modification, based on the court order and case circumstances.

C. CLOSING A MLB TCSP CASE

- 1) A MLB TCSP case may be closed under certain circumstances:
 - The only or last child in the case has become emancipated and the current support order has been ended and there are no arrearages,
 - The CP requests closure and there are no assigned TANF arrears still owed to the State TANF Program (The CP must sign a Case Closure Request),
 - In certain circumstances when a party has filed an application with the State of Minnesota and the original applicant (or other State IV-D agency) requests that the case be closed (Refer to the MLB TCSP-State of MN Workplan),
 - The NCP is unknown and all required efforts have been exhausted to identify the NCP and the case has been in pending status or inactive for two (2) full calendar years,
 - Paternity cannot be established because:
 - a. The Alleged Father has been excluded by genetic test and there are no other alleged fathers identified
 - b. The Alleged Father is an illegal immigrant
 - c. It is determined that it is not in the best interest of the child in a case involving incest or forcible rape, or in any case where legal proceedings for adoption are pending

- Inability to locate the NCP and all locate attempts have been exhausted for over a two year period,
- The NCP is in prison for life or permanently disabled,
- Good cause exists (domestic violence is involved and there is a threat to the mother and/or children) preventing any actions to be taken on the MLB TCSP case,
- The CP in the case is deceased,
- The NCP is deceased and no further avenues of enforcement are available, or
- The MN CSED State Liaison requests that a Companion case be closed, or
- Loss of contact with the CP within a **thirty (30) calendar day** time period and all attempts to contact the CP have been exhausted, or
- There was a mistake in opening the case made by either the MN CSED or the MLB TCSP.

2) Verification Required:

- Whenever closure of a case has been initiated, all further actions on the case cease.
- If the case is being closed due to loss of contact with the Custodial Parent, all attempts to contact the Custodial Parent must be documented in the Case Notes. (Refer to Chapter IV Location for procedures for location of the CP).
- If the case is being closed due to the death of the Custodial Parent, verification that the Custodial Parent is deceased must be verified through either an obituary or some other form of death announcement or Death Certificate.
- If the case is being closed because the children in the case no longer live with the Custodial Parent, this must be verified either through a written statement from the Custodial Parent or through at least two collateral contacts who are familiar with the Custodial Parent. The case may also be closed upon receipt of notification from a child has gone into foster care and no longer resides with the CP.
- If the case is being closed at the written request of the applicant/Custodial Parent, make sure that the written request is filed in the case file. Potentially, the MLB TCSP may receive a request that a MLB TCSP case be closed from another state or Tribal IV-D agency. The MLB TCSP Case Manager will review the MLB TCSP case and make a determination whether the case may be closed. If the case cannot be closed, the MLB TCSP Case Manager is responsible for contacting the other state or Tribal agency no later than **two (2) business days** after receipt of the request.
- The MLB TCSP Case Manager must document the MLB TCSP Case Notes regarding any potential or actual case closure, the reason and the date an action was taken.

- 3) Review the case circumstances to determine whether any other actions need to be taken in the case. For example, if the NCP was under income withholding and the court order is no longer in effect or has been terminated, review the case to see whether there are any arrears. If there are, modify the income withholding order to include only the amount to be withheld to satisfy the arrears. If there are no arrears left to be satisfied, issue a Notice of Termination of Income Withholding to the employer.
 - 4) Provide the CP with a "Notice of Case Closure" citing the reason for the proposed action to close the MLB TCSP Case. Allow the CP **thirty (30) calendar days** to respond to the Notice. Create a "tickler" for follow-up and create a Case Note to document the action.
 - 5) If there is no response from the CP by the end of the **30 calendar days**, proceed to close the case. If the CP does contact the MLB TCSP, evaluate the case to make a determination of what the next appropriate step in the case process should be.
- 6) CP Deceased

If the MLB TCSP case is closed due to the death of the CP and guardianship has been transferred to a responsible relative, Foster Care, or the child(ren) now reside with the NCP, the following actions should be taken:

- If the child(ren) now reside with a responsible relative, a new MLB TCSP CSE application should be filed by the responsible relative
- .
- If the child(ren) are placed in Foster Care, the MLB TCSP will take appropriate action whenever the child is referred to the MLB TCSP for child support services by Foster Care.
- If the child(ren) reside with the NCP, it is the responsibility of the NCP to return to court to seek termination of the child support order. The termination of the child support order does not necessarily forgive any arrearages that have been accumulated.
- The MLB TCSP Case Manager should notify the MLB TCSP Staff Attorney whenever these circumstances arise.

7) Contact After the Case Has Been Closed

If the CP in a Closed Case contacts the MLB TCSP after his/her case has been closed for **more than thirty (30) calendar days**, require the CP to complete a new application. If it has been **less than thirty (30) calendar days**, follow the normal intake procedures, re-opening the closed case. The MLB TCSP case number remains the same as long as the same party is re-applying. If it is a new party, then a new case is created.

If the CP contacts the MLB TCSP within the thirty (30) day timeframe, and the case was closed due to loss of contact with the CP, re-verify the CP's address information prior to re-opening the closed case.

D. PROVISION OF CUSTOMER SERVICE

Customer service is more than what you say or do for your customers. It also means giving customers a chance to make their feelings known. Customer service is also providing the services requested to the fullest extent possible. In Child Support matters it is not always possible to complete a request from the NCP or the CP.

POLICY:

Whenever a requested action cannot be completed and the reason why is asked by the customer, provide the customer with an explanation of the reason why. Allow customers to voice concerns without interruption, to ensure you understand the entire issue. MLB CSE staff will always use professionalism when dealing with both customers and colleagues. The Front Desk must have a staff person at all times during office hours.

Procedures:

1. The Front Desk must have a staff person at all times. The Administrative Assistance will coordinate all breaks and lunch times to ensure full coverage.
2. Treat all people with courtesy and respect at all times. If a customer is yelling, cursing or in any way threatening:
 - a. Over the phone – Ask the caller to calm down so you can understand their problem. If the caller continues with the same behavior, make a second attempt to remind the person you are trying to help them but they must calm down or you will terminate the call. If that fails terminate the call, make a note on the case file and update your supervisor.
 - b. In Person – Explain to the person that they must calm down or they will be asked to leave. If the person continues with the same behavior ask them to leave and return after they have calmed down. If the person refuses to leave and continues excuse yourself and get assistance from your supervisor.
3. Incoming phone calls
 - a. Providing information – Information should be provided to callers as policy allows. *See Chapter II Safeguarding Information for information that can or cannot be released.* If information cannot be released per policy, an explanation should be provided to the caller.
 - b. Transferring calls – When necessary calls should be transferred to the appropriate worker. If the worker is not available provide the caller with an option to leave a message for a return call.
 - c. Taking messages – Messages for return phone calls should contain the following information:

- The name of the caller
 - The telephone number for the returned call
 - The case number the call was regarding
 - A brief description of what the caller wanted
 - The date and time the call was taken
 - The name of the worker that received the initial call
 - The name of the worker that should return the call
4. Return messages – Phone messages should be returned promptly. All messages should be returned within twenty-four hours (24) of the initial call.
5. Correspondence
- a. Outgoing
 - All out-going mail should be taken to the mail room twice daily. At 10:15a.m. and again at 2:15p.m.
 - If out-going mail requires postage a MLB Mail form should be completed.
 - b. Incoming
 - Must be opened each day and date stamped with the current date.
 - Forwarded to the appropriate worker the same day it was opened
 - The mail box must be checked at least twice a day.
 - c. Child Support Payments
 - Date stamp the envelope and attach the check to the envelope. File in the Financial Case Record.
 - If the MLB TCSP Financial Specialist is not available, all checks must be kept in the safe.
 - Checks should never be left unattended on any desk or in an unlocked desk drawer. All checks must be placed in the locked safe. *See Chapter XII Financial Processes for additional information on Child Support Payments.*

CHAPTER X: REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS (45 CFR 309.65(a)(10))

45 CFR 309.65(a)(10) Guidelines for the establishment and modification of child support obligations as specified under §309.105.

§ 2019. Modification of orders or decrees

(a) Authority. After entry of a temporary or permanent support order under this subchapter, on motion of either of the parents, a copy of which must be served on a public authority if payments are made through it, or on motion of a public authority, the Court may, from time to time, modify any term or condition of the order or make a new order respecting any matter which it might have made in the original proceeding, to the extent and under the circumstances described in this section.

(b) Modification. (1) The terms of an existing support order may be modified or a new order may be made upon a showing that there has been a substantial change in circumstances from those prevailing when the existing order was entered and that one or more of the terms of the existing order is unreasonable and unfair under the new circumstances.

Policy:

All MLB TCSP cases that have an existing MLB child support order should be reviewed for modification when one of the following occurs:

- *It has been **three (3) years** from the date of the court order was established or since the last review was conducted,*
- *There is a written request for review and modification from either the CP or NCP, or*
- *When the MLB TCSP Case Manager or Financial Worker identifies a change in circumstances for either the CP or NCP.*

A. RECEIPT OF A REQUEST FOR A REVIEW

Policy:

A review for modification may be requested by the CP, NCP or another IV-D State or Tribal Agency (via an intergovernmental request). A request for review and modification must be made in writing to the MLB TCSP. When a request is received, the MLB TCSP Case Manager will make a determination if the case meets the criteria for a review for modification. If the case does not meet the criteria, a denial for review and modification must be sent to the requesting party. This is done prior to a review being conducted.

Procedure:

- 1) When a written request for review and modification is received, it will be date stamped with the date it was received and forwarded to the MLB TCSP Case Manager or MLB TCSP Foreign Jurisdiction Coordinator (FJC) if the request is an intergovernmental one.
- 2) The MLB TCSP Case Manager or FJC verifies that:
 - There is an existing child support order for the case
 - The MLB TCSP has jurisdiction to modify the child support order
 - The case meets the criteria for review and modification
- 3) If the case does not have an existing child support order or the case does not meet the criteria for review, the Case Manager will send the requesting party a "Modification Denial" letter with the reason for the denial.
- 4) If the MLB TCSP does not have jurisdiction over the existing child support order (the order was established in another state/county/tribal court other than MLB), the MLB TCSP Case Manager will request assistance from the Responding State/Tribe with a review and modification of their order. Provide the requesting party with a Denial of Review and Modification Notice. *Refer to Chapter XI Intergovernmental Section G*
- 5) Within **ten (10) business days** from the date the request was received:
 - a. Send both the CP and the NCP a Request for Review and Modification Notice with a Financial Affidavit.
 - b. Set a reminder on the case for **30 calendar days** for return of the financial affidavits. If the non-requesting party does not return the financial affidavit the MLB TCSP Case Manager will attempt to obtain wage information from any available employer through an Employer Verification letter. If there is no wage information available the MLB TCSP Case Manager will input the non-requesting party's income based on the following criteria:
 - The financial resources and earning ability of the party. This amount should not be less than minimum wage.
 - The typical occupation of the party, prior income information available in the case file
 - Any information from the requesting party
 - c. If the requesting party fails to return the financial affidavit, send a Denial of Review and Modification Notice to both the NCP and CP. Stop the review process.

B. CONDUCTING THE REVIEW

Policy:

1. *An existing child support order may be reviewed only once in a twelve (12) month period from the date of the last review or modification unless there is new or additional evidence that the results of the review will result in the criteria being met.*
2. *There must be a substantial change in circumstances from those that existed when the existing court order was entered and one or more of the terms of the existing*

- order is unreasonable and unfair under the new circumstances. Refer to §2019(b)(2) for examples of facts to be considered as representative of a substantial change in circumstances.*
3. *A recommended modification of an existing child support court order, based on a guideline calculation creates a rebuttable presumption that the terms of the existing court order are unreasonable and unfair under the new circumstances. Refer to §2019(b)(3).*
 4. **The review must result in a 20% increase or decrease of the existing child support obligation, or a \$75 increase or decrease of income to qualify for a modification.**
 5. *The review findings and determination should be sent to both the CP and NPC or other State IV-D agency requesting the review*

Procedures:

1. After the Financial Affidavit has been received, the MLB TCSP Case Manager reviews the Affidavit for completeness. The Financial Affidavit must be notarized and pay stubs or other proof of income must be attached.
2. If the MLB TCSP Case Manager is unable to obtain any financial information for the NCP, then the NCP's income is imputed based on 150% of the federal minimum wage times 40 hours/week times 4.33 weeks.
3. If the Affidavit is not notarized or documentation is not attached, send the party a "Request for Additional Information" letter identifying what action is required to be taken. The letter should inform the party, the date the information is required.

Allow the party **30 calendar days** from the date of the letter to provide the necessary information. Set a reminder on the case to review for receipt of information.

4. The MLB TCSP Case Manager will review all submitted or acquired information and complete a guideline calculation of monthly support using the Child Support Guidelines.
5. Review the results of the newly calculated child support obligation. If the new obligation does not result in a 20% and/or increase or decrease from the existing obligation, there is not a substantial change and the review does not meet the criteria for modification.
6. Review Results Are Less than 20% and/or \$75.00 Increase/Decrease
 - Send a "Modification Denial" letter with the reason for denial to both the CP and the NCP with a copy of the guideline calculation. Retain a copy of the letter in the case file.
 - Update the case file with the information.
7. Review Results Are More than 20% and/or \$75.00 Increase/Decrease
 - Send a letter explaining the new calculated child support monthly amount to both the CP and the NCP, along with a copy of the guideline calculation from the State of Minnesota Guideline Calculator.

- The MLB TCSP Case Manager contacts the Tribal Court Clerk to have a court hearing set for the Modification.
- Create Case Notes in the case documenting each step of the review process, actions taken, notices and letter sent and to who and when, etc.
- Any deviations to the recommended child support guideline will be reserved for and only under the authority of the Tribal Court Judge.

C. MODIFICATION OF THE COURT ORDER

Policy:

When the results of the review indicate that there is at least a 20% and/or increase/decrease to the existing obligation, the court order meets the criteria for substantial change and a modification to the Order is warranted. If the parties do not agree to stipulate to the modified amount, a court hearing is required.

A modification of support may be made retroactive only with respect to any period during which the petition.

The Tribal Court Judge has the authority to deviate from the recommended child support guideline amount. If the Judge does deviate from the recommended child support guideline amount, the reason for such deviation must be stated in the written findings of the court order. Refer to Tribal Code §2017(b).

Procedure:

1. The MLB TCSP Case Manager generates a Motion to Modify and submit to the Staff Attorney for review and signature.
2. The Motion, Financial Affidavits and Notice of Hearing shall be sent by the Clerk of Court, to the responding party.
 - The responding party has **twenty (20) calendar days** from the date of receipt to file a response with the Tribal Court.
 - If no response is filed within twenty (20) calendar days the court will proceed with a hearing.
3. If evidence is presented during the Tribal Court hearing that substantiates that a deviation from the recommended Child Support Guideline amount is presented, the Tribal Court Judge has the authority to deviate from the guidelines whenever he/she feels that it is warranted.
4. Once the existing court order has been modified and an order for modification has been issued, the Clerk of the Court will send the modified order to both parties by certified mail and provide a copy to the MLB TCSP.
5. Upon receipt of the modified order, the MLB TCSP Case Manager will update the case file with notes and forward to the MLB TCSP Financial Worker to have the child support obligation updated.

6. The MLB TCSP Case Manager then reviews the case to determine if an Income Withholding Order is in place and send the employer an "Amended Income Withholding Order" if necessary.

D. COST OF LIVING ADJUSTMENTS (COLA) BY MN-CSED

Policy:

- 1) *The MN-CSED conducts a cost-of-living adjustment **every two years** to basic support amounts because inflation diminishes the value of the payment. For "shared" cases with the MN CSED, the COLA changes are done automatically.*
- 2) *The COLA becomes effective on May 1st of the year in which it is made.*

Procedures:

Upon receipt of notification from MN CSED regarding a COLA change made to a "shared" case, file the COLA notice in the case file and provide a copy to the MLB TCSP Financial Worker to make any required changes to the child support obligation on file.

Refer to the MLB TCSP/MN CSED Work Plan for detailed information.

E. REVIEW OF THE CHILD SUPPORT GUIDELINES

Policy:

The MLB TCSP Child Support Guidelines will be reviewed at least once every four (4) years and revised if appropriate.

Procedures:

- 1) The Mille Lac Band TCSP IV-D Director along with the Staff Attorney conducts the review of the guidelines is necessary (at a minimum every four years).
- 2) Whenever the Tribal Child Support Guidelines are changed, it is the responsibility of the MLB TCSP IV-D Director to make the necessary changes to the MLB Policy and Procedures Manual and provide updated instructions to all MLB TCSP staff regarding the changes.

CHAPTER XI: INTERGOVERNMENTAL CASES (45 CFR 309.65(a)(13))

45 CFR 309.65(a)(13) Procedures for intergovernmental case processing as specified under §309.120.

A. DEFINITION OF AN INTERGOVERNMENTAL CASE

An intergovernmental case is any child support case requiring action to be taken between the MLB TCSP and another state or tribal CSE program at the request of either entity. During the processing of a MLB TCSP application/case the need may be identified to request assistance from either a state IV-D agency or another Tribal CSE program for assistance in case processing and/or case actions.

There are two types of Intergovernmental cases:

- *Initiating Cases – When the NCP is living and/or working outside the MLB jurisdiction and the MLB TCSP needs assistance from the jurisdiction where the NCP resides for establishment, modification or enforcement. The MLB TCSP is considered the Initiating State*
- *Responding Cases – The NCP lives within the MLB jurisdiction, and the CP lives outside the MLB jurisdiction and has requested services from a State or other Tribal IV-D agency. The other State or Tribal IV-D agency has requested the MLB TCSP for assistance with establishment, modification or enforcement. The MLB CSP is considered the Responding State.*

B. INTERGOVERNMENTAL POLICY

- 1) *The MLB TCSP will extend the full range of its' child support services available under the MLB TCSP Tribal Plan and cooperate with other tribal and state IV-D entities.*
- 2) *The MLB TCSP will recognize all child support orders issued by other tribal and state courts in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act (FFCCSOA).*
- 3) *The MLB TCSP will work closely with the State of Minnesota Child Support Enforcement Department (MN CSED) based on the Memorandum of Understanding and the Work Plan developed jointly.*

C. INITIATING A REFERRAL TO ANOTHER STATE/TRIBAL IV-D AGENCY

Procedure:

1. Determining When A Referral is Necessary

A referral may be necessary to another State or Tribal IV-D agency when the *MLB TCSP* does not have jurisdiction to: (See *Chapter III Jurisdiction*)

- Establish Paternity
- Establish an order for child support
- Modify another state or tribal child support order
- Enforce an existing child support order when the NCP is currently residing outside of the State of Minnesota and is delinquent with their child support obligation.

2. Documents Required

Paternity

- CSE Transmittal #1 (*indicate #1 Establishment of Paternity*)
- Paternity Affidavit, certified
- General Testimony, certified
- Certified copy of the child's birth certificate
- Recognition of Paternity (ROP)

Establishment

- CSE Transmittal #1 (*indicate #2 Establishment of Order*)
- General Testimony, certified
- A copy of any Acknowledgment of Paternity (as appropriate)

Modification

- CSE Transmittal #1 (*indicate #4 if the order to be modified is from the other state/tribe, indicate #7 b or c, if the order is a MLB Tribal Order.*)
Note: It is important to retain jurisdiction of MLB Tribal Orders. A case with an MLB order should not be referred to another state/tribe for modification unless approved by a Supervisor.
- A copy of the written request for modification if requested by the CP.
- One (1) certified copy of the MLB Tribal Order (Refer to the IRG for the Responding State to see how many certified copies may be required).

Enforcement

- CSE Transmittal #1 (*indicate #4 if the order to be modified is from the other state/tribe, indicate #7 b or c, if the order is a MLB Tribal Order.*)
- One (1) certified copy of the MLB Tribal Order (Refer to the IRG for the Responding State to see how many certified copies may be required).
- A certified copy of an Arrears affidavit.

Note: For other Tribal IV-D Agencies the *MLB TCSP* Case Manager should contact the other Tribal agency to determine what documents are necessary for that Tribal Court for the action needed.

3. Sending the Referral

- The MLB TCSP Case Manager should complete the federal transmittal form with all available information

- Attach the required documents
- Provide Transmittal Packet to MLB TCSP IV-D Director for review and approval
- Mail the packet by regular mail to the appropriate State Case Registry or Tribal Office
- Create Case Notes to indicate that a Transmittal Packet was sent, date and action requested

4. Next Steps

- Retain a copy of the transmittal in the case file
- Set a reminder on the case for **thirty (30) calendar days**, based on federal regulation, to check for acknowledgment from the other agency. If no response has been received within the thirty (30) calendar day timeframe, follow-up with the Responding IV-D agency by mail, phone, email, etc., with the Central Registry or Tribal IV-D program.
- Update the case file with all information
- Monitor the case for actions taken or information needed by the other agency.

D. FULL FAITH AND CREDIT

§309.120(b) That the Tribe or Tribal Organization will recognize child support orders issued by other tribes and Tribal organizations, and by States, in accordance with the requirements under the Full Faith and Credit for Child Support Orders Act (FFCCSOA), 28.U.S.C. 1738B

§ 2036. Paternity established by other jurisdiction

(a) The Court shall give full faith and credit to properly issued court and administrative orders, judgments, or decrees of other Indian tribes, states or federal agencies establishing paternity. Such orders will be considered properly issued when the issuing court or administrative agency had personal jurisdiction over the person claimed to be bound by the order and subject-matter jurisdiction over the matter, proper service of process under the law of the issuing jurisdiction was made on such person, and the order was issued pursuant to the laws of that jurisdiction and does not violate the laws of the Band.

§ 2006. Support order

(n) Determination of controlling order. In situations in which more than one support order involving the same obligor and child exists, the obligor, the obligee or the public authority responsible for collection of support money, if any, may request that the Court determine which order is the controlling order. The Court shall presume that the latest order that involves the same obligor and child is controlling in the absence of proof to the contrary.

POLICY:

*Under the Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA) the MLB TCSP will accept and enforce all requests from other State/Tribal IV-D agencies for enforcement. All request received will be processed within no more than **thirty (30) calendar days** of receipt, including the twenty (20) day due process.*

Procedure:

1. CSE Transmittal Referral Received from Another State/Tribal IV-D Agency

When A Referral is Received

- Referrals will be received on the federal CSE Transmittal Form #1
- Review the transmittal for the action being requested
- Review for appropriate and complete documentation
- If the Request is for any action other than Registration of a Foreign Order and enforcement, provide the CSE Transmittal Packet to the MLB TCSP Case Manager.

Documents Required

Establishment/Paternity

- For Paternity Only cases. A short notarized statement from the CP, alleging facts to establish a reasonable possibility of conception of the child. This is generally referred to as a Paternity Affidavit.
- Copies of any actions filed to determine paternity in any other court/tribunal
- A certified copy of the child's birth certificate

Enforcement/Modification

- A certified copy of the original court order
- The Transmittal #1 must indicate a Request for Registration of Foreign Support Order for Enforcement and Modification or Modification Only. If the request is for Enforcement only, the MLB will not be able to modify the Order, even if it has been registered.
- Registration of Foreign Judgment
- A notarized statement of arrears from the CP or other agency
- If a modification is being requested a notarized Financial Affidavit from the CP

If any documents are missing the *MLB TCSP* Case Manager should contact the other State or Tribal IV-D agency.

2. Next Steps

- Complete the acknowledgment section of the Transmittal and return it to the initiating agency.
- Create a new case file. (*See Chapter I Section E - Establishing a Case Record*)
- *Make copies of all documents, the originals will be sent to the Tribal Court.*
- *Make an additional copy of the Registration of Foreign Judgment for the NCP.*
*Create and print 3 copies of the appropriate letter for the NCP and attach a copy of the Registration of Foreign Judgment. The letter is a **twenty (20) day***

notice to the NCP that a foreign judgment has been received by MLB TCSP and we will be garnishing wages and/or Per Capita.

- *Provide one (1) copy to the NCP, provide one (1) copy with the Court Packet and one (1) copy in the case file.*

The Court Packet includes the following forms:

- a) Letter for Per Capita Garnishment and/or*
 - b) Letter for Wage Garnishment, whichever is applicable*
 - c) Notice of Registration of Foreign Judgment*
 - d) Registration of Foreign Judgment*
 - e) IWO*
 - f) Copy of court order*
 - g) Affidavit of Arrears*
 - h) CSE Transmittal #1*
- Mail the letter for Per Capita or Wage Garnishment, whichever applies, along with the attached Registration of Foreign Judgment to the NCP via regular mail.
 - Place the original documents in the **twenty (20) day** holding file
 - Note in the file the date the notice was sent and date (20 days) the file can be sent to the Tribal Court
 - Once the registered court orders are signed and returned from the Tribal Court the Financial Specialist will make four copies one each for the requesting agency, NCP, Per Capita/Employer, TCSP file).

E. REGISTRATION OF A FOREIGN SUPPORT ORDER

§ 2036. Paternity established by other jurisdiction

(b) An order described in paragraph (a) of this section must be authenticated by reasonable proof that the document tendered to the Clerk of the Court is a true copy of the order as it is recorded in the agency or court of the issuing jurisdiction. An authentication stamp issued by a clerk of court or custodian of records, or a court seal, is sufficient evidence of authenticity.

NOTE: Requests from foreign State or Tribal IV-D agencies may be received when there is an existing MLB Tribal Child Support case file. A Registration of a Foreign Judgment is not required if the existing order was issued from the Mille Lacs Band Tribal Court.

Procedure:

The Foreign Jurisdiction Coordinator (FJC) will:

1. Process the CSE Transmittal form received from the foreign jurisdiction and must include all appropriate documentation.
2. If the foreign State or Tribe has not provided the required documents, contact the foreign agency or send the CSE Transmittal Acknowledgment back to the Initiating IV-D agency along with the FJC contact information and any additional information and/or missing documents.

3. Draft the Order for Garnishment/ Income Withholding. If there is an existing Court Case with MLB Tribal Court for income withholding, a twenty (20) day notice is not required. If this is the first order Garnishment/ Income Withholding in MLB Tribal Court, provide the appropriate twenty (20) day notice, along with a Registration of Foreign Judgment Notice. These documents are sent to the NCP's last known address via regular US Mail.
4. The Obligor will have **twenty (20) calendar days** (not including the date of filing) to object to the filing. The objection must be in writing and received by the Clerk of the Court within the designated timeframe.
5. If the Obligor files a response objecting to the registration, the FJC will hold an informal discussion with the Obligor regarding the Registration and make all attempts to resolve the dispute before the objection results in a hearing.

A valid objection to Registration of a Foreign Order is either:

- A mistake in identity of the NCP or
 - Dispute over the amount of the arrears.
6. If a hearing is held, the MLB Tribal Court District Court Judge determines the disposition of the Obligor's objection. The disposition of the hearing will determine the next steps to be taken.
 7. If the Judge upholds the Registration or when the twenty (20) day notice has expired and the Obligor does not object to the Registration, the Order for Garnishment/Income Withholding is provided to the MLB Tribal Court District Court Judge for approval and signature. Once the Judge has signed the Order, file the Order for Garnishment/Wage Withholding received from the Tribal Court Clerk with all the documents received from the foreign State or Tribe in the case file.
 8. Once filed, the foreign order is considered registered and is enforceable in the same manner and is subject to the same procedures as a MLB Tribal Order. The FJC will receive one copy of the court order.
 9. Make four copies of the order for distribution:
 - Original certified copy is filed in the Financial Case File
 - One copy is sent to the Obligor
 - One copy is sent to the employer along with the Income Withholding (*See Chapter VII Income Withholding for additional information*).
 - One copy is sent to Initiating IV-D agency
 - One copy is filed in the Court Order binder
 10. Send a CSE Transmittal #2 Status Update to the Requesting IV-D agency notifying them of the Registration of the order along with a copy of the MLB Tribal Court Order.
 11. Create a Case Notes documenting all completed actions.

F. REFERRALS FOR OTHER ACTIONS/ACTIVITIES FROM ANOTHER IV-D PROGRAM

1. CSE Transmittal Referral Received from Another State/Tribal IV-D Agency

When A Referral is Received

- a. Referrals will be received on the federal CSE Transmittal Form #1
- b. Review the transmittal for the action being requested
- c. Review for appropriate and complete documentation
- d. If the Request is for any action other than Registration of a Foreign Order and enforcement, provide the CSE Transmittal Packet to the MLB TCSP Case Manager.

Documents Required:

Establishment/Paternity

- For Paternity Only cases. A short notarized statement from the CP, alleging facts to establish a reasonable possibility of conception of the child. This is generally referred to as a Filiation Affidavit.
- Copies of any actions filed to determine paternity in any other court/tribunal
- A certified copy of the child's birth certificate

Enforcement/Modification

- A certified copy of the original court order
- The Transmittal #1 must indicate a Request for Registration of Foreign Support Order for Enforcement and Modification or Modification Only. If the request is for Enforcement only, the MLB will not be able to modify the Order, even if it has been registered.
- A notarized statement of arrears from the CP or other agency
- If a modification is being requested a notarized Financial Affidavit from the CP

If any documents are missing the Case Manager should contact the other State or Tribal IV-D agency.

2. Next Steps

- a. Complete the acknowledgment section of the Transmittal and return it to the initiating agency.
- b. Create a new case file. *See Chapter I Section E Establishing a Case Record*

G. STATUS UPDATES

POLICY:

All status updates or status requests should be provided to the Initiating State/Tribal IV-D agency using the CSE Transmittal #3 form. The MLB TCSP

Case Manager should provide to and respond to all requests for status from other State/Tribes in a timely manner.

Procedure:

1. When the MLB TCSP is the Initiating IV-D agency, the MLB Case Manager should request status to the Responding state:
 - Every **ninety (90) calendar days** when a request has been made to another State/Tribe to establish paternity and/or a child support order until the order is received from the Responding state/tribe.
 - When an enforcement case is delinquent **thirty (30) days or more**.
2. The Case Manager should sent a CSE Transmittal #3 Status Update to the other State or Tribal IV-D agency when:
 - A new address or employer has been found for the NCP
 - When an enforcement action has been initiated on the case
 - When a hearing has been scheduled
 - When genetic testing has been scheduled
 - In response to a CSE Transmittal #2 Status Request received from another state or Tribal IV-D agency
3. The MLB TCSP Case Manager provide the Status Request within **five (5) business days** from the date the CSE Transmittal #2 was received.
4. Status updates should be sent via regular mail to the State or Tribal office that requested the status.

H. INTERGOVERNMENTAL MODIFICATION

POLICY:

The MLB has not adopted UIFSA and therefore does not honor any requests received from another state or tribal IV-D program for modification of another state or tribal court order.

- *If a request for review and modification of a MLB Tribal Court Order is received from either the NCP or CP and the NCP resides outside of the jurisdictional boundaries of the MLB, the MLB TCSP may initiate a request for Location, obtaining financial information from the NCP and/or service on the NCP to the Responding State or Tribal IV-D program.*
- *If a request for assistance in the review and modification of another state or tribal court order is receiving from an Initiating State/Tribe IV-D*

program, the MLB TCSP may only provide assistance in obtaining financial information from or about the NCP and in service of process within the MLB Reservation boundaries.

Procedure:

1. When the MLB TCSP receives a request for assistance with a review and modification of an existing court order of another State/Tribe, the MLB TCSP Case Manager should:
 - Return the CSE Transmittal to the Initiating State/Tribe with a notation that the MLB TCSP has not adopted UIFSA
 - Notate on the CSE Transmittal that the only assistance the MLB TCSP can provide is with the obtaining of financial information for the NCP and/or service of process on the NCP.
2. When the MLB TCSP Case Manager determines that it is appropriate to request assistance from another State/Tribal IV-D Program for review and modification of a MLB Tribal Court Order, a CSE Transmittal #3 should be provided requesting assistance with either gathering financial information for the NCP or service of process on the NCP, or both.

CHAPTER XII – FINANCIAL PROCESSES

A. MONITORING PAYMENTS AND ESTABLISHMENT OF A DELINQUENCY

§309.85 (a) The Tribal IV-D Agency will maintain records necessary for the proper and efficient operation of the program, including records regarding:

1. Amounts owed, arrearages, amounts and sources of support collections, and the distribution of such collections

POLICY:

1. *The MLB TCSP provides on-going services to all MLB TCSP cases that have a child support order established. It is the responsibility of the MLB TCSP Financial Specialist to monitor cases each month for payment compliance of the court order.*
2. *The Financial Specialist will maintain on a monthly basis an accurate financial record for each case with:*
 - *the current obligation (basic support, medical, child care)*
 - *the payment amount and source for each payment*
 - *the distribution of each payment*
 - *the balance (arrearage) for each obligation (basic support, medical, child care)*
3. *It is the responsibility of the MLB TCSP Financial Specialist to ensure that the NCP complies with the terms of the order for child support as part of the ongoing services provided to a MLB TCSP case. Any failure on the part of the NCP to make the child support payments as addressed in his/her child support order will result in the initiation of all appropriate enforcement actions available to the MLB TCSP (See Chapter VII Enforcement).*
4. *The MLB TCSP Financial Specialist has the responsibility for monitoring receipt of payments for all cases. All child support payments are received by and processed by the MLB TCSP Financial Specialist.*

Procedures:

1. The MLB TCSP Financial Specialist creates a financial record for each MLB TCSP case where there is an existing court ordered child support obligation.
2. Review the financial record every month for receipt of the monthly payment.
3. Update the financial record with the amount and source of any payment received, upon receipt of the payment

4. Identify and update the distribution of each payment received
5. Update the balance of the obligation
6. If balance of the obligation becomes delinquent equal to one month of the current obligation, refer the case to the MLB TCSP Case Manager for enforcement action.
7. Continue to monitor each month for payments

B. SEPARATION OF RESPONSIBILITIES

POLICY:

To assure the integrity of the Miles Lac Band Tribal Child Support Program for processing child support payments, a separation of duties prohibits the same worker from receiving a payment and receipting the same payment.

The MLB TCSP worker that receives the payment by mail or in person cannot be the same worker that records the payment to the case, makes the bank deposit or disburses the payment to the CP.

C. RECEIPTING A CHILD SUPPORT COLLECTION

§309.115(a) General Rule: The Tribal IV-D agency must, in a timely manner:

- (1) Apply collections first to satisfy current support obligations, except as provided in paragraph (e) of this section (for Federal Income Tax Offset Collections, which must be applied toward child support arrearages)**

POLICY:

- 1. All child support collections will be receipted and recorded by the MLB TCSP Financial Specialist on the same day the payment is received. In absence of the Financial Specialist, the MLB Foreign Jurisdiction Coordinator shall receipt payments.*
- 2. Child support payments will only be accepted by Cashier's Check or money order. No personal checks will be accepted. Payments from employers' may pay by company check only.*
- 3. The MLB TCSP Financial Specialist is the official record keeper of all MLB TCSP child support collections for MLB TCSP pure cases and shared cases with the MN CSED.*

4. *For any child support collected by the MLB TCSP on a “shared” child support case with the State of Minnesota, refer to the policy and procedures outlined in the MN-CSED/Mille Lacs Tribal Child Support Work Plan.*

Administrative Assistant Procedures:

1. Receipt all payments received via the US Mail or made in person at the MLB TCSP Office. All payment receipts are date stamped with the current date, logged and initialed by the Administrative Assistant.
2. Provide the payor with a receipt whenever payments are received in person in the office. A copy of the receipt must be retained with the payment. The receipt shall include the:
 - Amount of the payment
 - Name of the person making the payment
 - MLB TCSP Case Number the payment shall be applied to
 - CP’s name on the case and the NCP’s name on the case
 - Date of the payment
 - Name of the worker taking the payment
3. Make three (3) copies of all payments and envelopes (one for check request, one for the Financial case file and one to go with copy of deposit slip).
4. All payments should be given to the Financial Specialist with the envelope it was received on the same day it was received

Financial Specialist Procedures:

1. If a payment is received by personal check, the personal check must be returned to the payor via regular mail **the same day** the payment is received. The returned check should include a letter to the payor with an explanation that the MLB TCSP does not accept personal checks. Enter a case note indicating the check was returned to the payor and the date.
2. All payments must be identified with a MLB TCSP case number. The MLB TCSP Financial Specialist must make all attempts to identify an unidentified payment. Any unidentified payment must be returned immediately to the payor when all attempts at identification of the MLB TCSP Case Number are unsuccessful. The returned payment should include a letter indicating the reason the payment is being returned.
3. Create a case note in the Financial Case file to record the return of any unidentified payment to the payor. The case note should include:
 - The amount of the payment returned,
 - The type of payment that was received (money, order or Cashier’s check)

- Date the payment was returned and that a letter was sent notifying the payor of the reason for the return.

D. DEPOSIT OF CHILD SUPPORT COLLECTIONS

POLICY:

All child support collections will be deposited once a week by the MLB TCSP Financial Specialist. All payments received are kept in a locked, secure safe by the MLB TCSP Financial Specialist until they are ready to be deposited.

Procedure:

1. Preparation of Bank Deposit

- The MLB TCSP Financial Specialist will prepare the Deposit Slip on Wednesdays by noon for all collections received that week. The MLB TCSP Financial Specialist signs the Deposit Slip.
- Original payments (money orders or Cashiers Checks) are attached to the Deposit Slip.
- A Second Party Verification of the deposit is done by the MLB TCSP IV-D Director prior to signing the Deposit slip.
- The Deposit Slip along with accompanying documentation is taken to OMB that same day (Wednesdays).
- The MLB TCSP Financial Specialist prepares an individual Check Request for each MLB TCSP case, along with a copy of the money order, Cashier's check or Employer check, identifying how the money is to be distributed. Include on the Check Request:
 - Payable To Name
 - Payee Current Mailing Address
 - Amount of the Check
 - MLB TCSP Case Number
 - Payor's Name

These Check Requests are provided to OMB at the same time as the Deposit Slip.

- The OMB Finance Manager then deposits the child support collections into the MLB bank account and generates checks based on the Check Requests received.
- The MLB TCSP Financial Specialist is responsible for maintaining all financial records including copies of check stubs, receipts, deposit slips, the amount of the deposit and any other financial documentation.

E. DISTRIBUTION OF A CHILD SUPPORT COLLECTION

§309.115(b) *Current Receipt of Tribal TANF:* If the family is currently receiving assistance from the Tribal TANF program and has assigned support rights to the Tribe and:

- (2) There is no request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under 309.120 of this part, the Tribal IV-D agency may retain collections on behalf of the family, not to exceed the total amount of tribal TANF paid to the family. Any remaining collections must be paid to the family.

- (3) There is a request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency under 309.120 of this part, the Tribal IV-D agency may retain collections, not to exceed the total amount of Tribal TANF paid to the family. Except as provided in paragraph (f) of this section, the Tribal IV-D agency must send any remaining collections, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act and 45 CFR 302.51 or 302.52, or to the requesting Tribal IV-D agency for distribution in accordance with this section.

§309.115(c) *Former Recipient of Tribal TANF:* If the family formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe and

- (1) There is no request for assistance in collecting support from a State or Tribal IV-D agency under 309.120 of this part, the Tribal IV-D agency must pay current support and any arrearages owed to the family and may then retain any excess collections, not to exceed the total amount of Tribal TANF paid to the family. Any remaining collections must be paid to the family.
- (2) There is a request for assistance in collecting support from a State or Tribal IV-D agency under 309.120 of this part, the Tribal IV-D agency must send all support collected, as appropriate, to the requesting State IV-D agency for distribution under section 457 of the Act or 45 CFR 302.51 or 33.52, or to the requesting Tribal IV-D agency for distribution under this section, except as provided in paragraph (f) of this section.

POLICY:

It is the primary responsibility of the MLB TCSP Finance Specialist to provide direction to the MLB Tribal OMB regarding the proper distribution and disbursement of all child support collections received by the MLB TCSP. This includes any child support collections that must be directed to the MN CSED. This is accomplished through the completion and provision of a Check Request form

All child support collections received for the family should be applied first to satisfy the current child support obligation, across all MLB TCSP cases (including any related intergovernmental cases for the NCP), except if the payment was received via a state IRS refund offset.

Distribution Rules:

- *First, pay all current support to the CP.*
- *Second, pay all remaining support to the CP*
- *In those instances where the NCP has multiple cases, first pay the current support across all the cases*

For “shared” cases with the MN CSED, refer to the MN CSED / Mille Lacs TCSP Work Plan for specific Distribution Rules.

Procedure:

1. The Financial Specialist allocates all payments across all cases for the NCP.
 2. Any payments (except IRS tax offset) is applied to meet:
 - the basic current obligation first.
 - If the payment does not meet the full current support for all cases, a percentage of the payment should be proportional to each case.
- To determine the proportional amount for each case:
 - Total the current support of all cases involved
 - Divide the individual case current support by the total current support for all cases combined. This will provide the percentage each case should receive.
 - Multiple the individual case percentages by the total payment. This will provide the amount of the payment that should be applied to that case.

EXAMPLE:

There are three cases for the NCP. The current support for each case is Case #1 \$125.00, Case #2 \$100.00 and Case #3 \$150.00. Total current support for all cases is \$375.00. A \$300.00 payment is received.

- Case #1 divide \$125.00 by \$375.00 equals 33%.
- Case #2 divide \$100.00 by \$375.00 equals 27%.
- Case #3 divide \$150.00 by \$375.00 equals 40.0%.

The total percentage equals 99.9%.

Round the percentage on the lowest current support.

- Case #2 would get 27%
- Case #1 multiple \$300.00 by .33 equals \$99.00.
- Case #2 multiply \$300.00 by .27 equals \$81.00.
- Case #3 multiple \$300.00 by .40 equals \$120.00.

- Case #1 receives \$99.00, case #2 receives \$81.00 and case #3 receives \$120.00 of the total \$300.00 payment.
- 3. The current support (basic, medical, child care) must be satisfied first. Any remaining excess child support should then be paid to the family (CP arrears including basic and unpaid medical expenses). If there is any excess child support, then any unreimbursed arrears owed to a State agency is paid last. Arrears are prorated across cases in the same manner as current support.
- 4. If the MLB TCSP is providing direct IV-D services to the family and the request for assistance from another jurisdiction is for a prior period of assigned support (a Foreign Judgment Arrears Only case), pay the family the current child support first and send to other jurisdiction the remaining excess child support. In those cases where there are multiple Foreign Judgment Arrears Only cases, the excess child support should be split between the foreign jurisdictions.
- 5. If the MLB TCSP is not providing direct IV-D services to the family, all child support collected should be forwarded on to the requesting jurisdiction for distribution.

F. DISBURSMENT OF A CHILD SUPPORT COLLECTION

§309.115(a) cont. General Rule: The Tribal IV-D agency must, in a timely manner:

(2) Pay all support collections to the family unless the family is currently receiving or formerly received assistance from the Tribal TANF program and there is an assignment of support rights to the Tribe's TANF agency, or the Tribal IV-D agency has received a request for assistance in collecting support on behalf of the family from a State or Tribal IV-D agency

§309.115(d) Requests for Assistance from State or Tribal IV-D agency: If there is no assignment of support rights to the Tribe as a condition of receipt of Tribal TANF and the Tribal IV-D agency has received a request for assistance in collecting support on behalf of the family from a State or another Tribal IV-D agency under 309.120 of this part, the Tribal IV-D agency must send all support collected to either the State IV-D agency for distribution in accordance with Section 4577 of the Act and 45 CFR 302.51 and 302.52, or to the Tribal IV-D agency for distribution under this section, as appropriate, except as provided in paragraph (f) of this section.

§309.115(e) Federal Income Tax Offset Collections: Any collections received based on Federal income tax refund offset under Section 464 of the Act and distributed by the Tribal IV-D agency must be applied to satisfy child support arrearages.

All requests for payments to CP's or other State/Tribal IV-D agencies will be requested using the MLB TCSP Check Request form. The Check Request form must be approved by the MLB TCSP IV-D Director. Requests for payment must be completed in a timely manner, based on the type of payment (wages, per capita payments, etc.) by the MLB TCSP.

Procedures for Disbursement for “Pure” MLB TCSP Cases:

1. The MLB TCSP Financial Specialist authorizes the disbursement of the child support collection to the CP by the completion of the Check Request. This is provided to the OMB.
2. The CP is provided with disbursement information via the Check stub.
3. Document the disbursement by filing a copy of the Check stub in the Financial case file.

Procedures for Disbursement for “Shared” IV-D Cases:

Follow the procedures for disbursement on “shared” cases with the MN CSED / Mille Lacs TCSP Work Plan.

Procedures for Disbursement on Intergovernmental IV-D Cases:

§309.115(f) *Option to Contact Requesting Agency for Appropriate Distribution:* Rather than send collections to a State or another Tribal IV-D agency for distribution as required under 309.115 (b)(2), (c)(2), and (d), a Tribal IV-D agency may contact the requesting State IV-D agency to determine appropriate distribution under Section 457 of the Act, or the other Tribal IV-D agency to determine appropriate distribution under this section, and distribute collections as directed by the other agency.

1. For disbursement of a child support collection in those instances where the MLB TCSP already has a case established and the request from another state or Tribal IV-D program is for a prior period of assigned Public Assistance arrears, the MLB TCSP Financial Specialist will:
 - First authorize disbursement of all current child support collections to the CP and any arrears owed to the CP if there is any money remaining.
 - Second, authorize disbursement of any remaining funds on the intergovernmental IV-D case to the referring state or Tribal IV-D agency. The amount of funds that may be distributed to the foreign jurisdiction is limited based on the current Mille Lacs Band tribal statute, unless a signed a Voluntary Withholding form by the NCP is in the case file.
2. The MLB TCSP Financial Specialist must document the date and amount of disbursement, check number and who the check was issued to in the case, including intergovernmental cases.

G. PROCESSING OF PER CAPITA INCOME WITHHOLDING PAYMENTS

Procedures:

1. An income withholding and registered court order are required before Per Capita withholdings can be garnished.

The orders that will be calculated for the month must be provided to the MLB TCSP Financial Specialist from Tribal Court by the 15th of the month. The 15th deadline is for the following month's Per Capita. Example: March 15th is the deadline for April Per Capita.

2. All registered amended/new orders will be kept in the Per Cap (month that it occurred), Per Cap binder, and NCP's file as well.
3. With each order, the MLB TCSP Financial Specialist reviews the NCP's cases that are registered with the Mille Lacs Band Tribal Court. It is essential to have all the case information to properly calculate the percentages of payments.
4. Payments are calculated as such:

The percentages are based off the amount of the court ordered child support. For current support owed, if case 1 = \$500.00, case 2 = \$400.00, and case 3 = \$300.00 then the amount of total current support owed is \$1200.00, to get each case percentage I would take their ordered amount/total current support obligations owed monthly.

- i. Case 1 = 42% (500/1200)
- ii. Case 2 = 33% (400/1200)
- iii. Case 3 = 25% (300/1200)

Next, take the amount of the maximum w/h = 466.50 and divide it among the cases. (This is 50% of the current total Per Capita monthly payments)

- iv. Case 1 = 195.93
- v. Case 2 = 153.95
- vi. Case 3 = 116.62

If there is an Arrears Only case, current support is paid first.

5. The MLB TCSP Financial Specialist has five (5) separate reports that need to be balanced and reconciled on a monthly basis for Per Capita. The process for working these reports is:
 - a. **Change/New Order Spreadsheet** The MLB TCSP Financial Specialist will review each case that has had a change/new order registered since the 15th of the prior month. Each order must be calculated and broke down to case type. Case types need to be tracked and paid separately:
 - MLB PURE cases

- Shared Interest Cases
- MN Cases and
- All other States

The Change spreadsheet begins with last months' Per Capita total amount garnished, and all changes are tracked. These adjustments must equal the total amount to be withheld for the current month, on both the Take List and Check Request List.

- b. **Recap Report** which is broken down by each case type. This report is provided to the Director. This amount must also match the Take List Report and Check Requests Report to the exact dollar amount.
- c. **Take List Report** which reports all changes. This report must be provided to the Per Capita office by the 15th of month. Information needed is:
 - NCP name
 - SSN
 - Amount
 - Notes (new/term)

Highlight any individuals that had changes only to their dollar amounts.

This will need to be reconciled against the previous months report to make sure that all changes are highlighted.

- e. **Frequency Review Report** Each month, the frequency elected by an NCP must be reviewed, if they are not monthly payers they need to be adjusted according to the scheduled distribution.
- f. **Funds Held** Per Capita issues a report of funds held after Per Capita distribution. This amount must be matched to the penny with the MLB TCSP reports. If there are any changes made, the specific individuals must be changed and recalculated before issuing Check Requests.

IMPORTANT: The MLB TCSP Financial Specialist must have Check Requests back to OMB within 24 hours to ensure prompt payment.

6. Check Requests for each individual/state must be completed with all NCP information included. This is name, amount, case#, address, NCP. All check requests added together should equal the Total Withheld.

The Director reviews and signs the Check Requests. The following must be included:

- Calculator tape showing every check request was added and equaled the Per Capita withheld amount. This also will provide OMB with the number of check requests.
- Spreadsheet for each case type, matching all individually listed check request. Including MCI#, case#, name and SSN.

- Recap report verifying that last month's amount +/- changes equal current pay out.
- 7. Checks are issued by OMB and returned to MLB TCSP no later than 10AM on Thursday of the following week of Per Capita distribution.
- 8. Make 3 copies of all checks. Financial Specialist must verify that checks match the amounts/payable to as the requests stated.
- 9. Sort checks by caseworker, direct pay, mail out, etc. Put all checks in sealed envelopes and distribute. Must be turned around within two (2) hours to have available at 12pm pickup.
- 10. The Per Capita file for that month must include:
 - Take List, provided by Financial Specialist.
 - Final Per Capita Report spreadsheet by MLB TCSP Financial Specialist.
 - Recap Report of previous month and current month, by case type.
 - Change Report, noting all individuals that had an increase/decrease.
 - Withheld Take List received from the Per Capita office.
 - Check requests, with matching OMB issued copy of checks attached.

H. PROVIDING A FINANCIAL STATEMENT PAY HISTORY

§309.75 (c) Procedures under which notices of support collected, itemized by month of collection, are provided to families receiving services under the Tribal IV-D program at least once a year. In addition, a notice must be provided at any time, upon request by custodial or non-custodial parent.

POLICY:

The MLB TCSP must provide all families for whom they provide child support services with a notice of support collected, itemized by month of collection at least once each year. The MLB TCSP must also provide the same notice to a family any time a request is received by either the CP or NCP.

Procedure:

1. When a request for a Payment History is requested by the CP, NCP, or other State/Tribal IV-D agency it is the responsibility of the Financial Specialist to provide the notice to the requesting party within **five (5) business days** from the date of the request.
2. The Financial Specialist must document the case file with the date of request for a Payment History and the date the notice was provided.
3. Generate the Payment History and either give the Payment History to the requesting party (CP, NCP or other State/Tribal IV-D agency) if the request is made in person, or mail the Payment History no later than **five (5) business days**..

4. For the annual financial statement, the Financial Specialist, working with the Tribal Finance Office, is responsible for providing the financial statement on every MLB TCSP case where there is an existing child support order in January of each calendar year. The annual statement should include all child support collection information from January 1 of the Report Year through the end of December of the Report Year.

APPENDIX B - DEFINITIONS

-A-

Administrative Review

An administrative review is the process of addressing an obligor's contest to an administrative enforcement claim.

Alleged Father:

An alleged father is a man who claims or is claimed by another person to be the father of a child, but who has not been legally determined to be the father of that child.

Applicant:

An applicant is the person or entity who asks for child support services or was referred for child support services by one of the following programs: Minnesota Family Investment Program (MFIP), Diversionary Work Program (DWP), IV-E Foster Care, Medical Assistance (MA), MinnesotaCare, or Child Care Assistance (CCAP).

Arrears/Arrearage:

The terms arrears and arrearage mean the support obligation amounts that are owed for a prior period of time and are unpaid.

Assignment of Support:

An assignment of support is the legal process by which an obligee receiving public assistance agrees to turn over to the state any right to child support. This includes arrears that accrue while the person receives public assistance. To qualify for cash assistance or other benefits, obligees must assign their support rights to the state. The state may continue to collect arrears only up to the amount of public assistance received by the obligee.

Attorney of Record:

The attorney of record is one who filed a Certificate of Representation with the court. Once an attorney files a Certificate of Representation, that attorney remains the Attorney of Record for a person until a court order dismisses the attorney or until the attorney formally withdraws from the case.

-B-

Basic Support:

Basic support is for expenses relating to the child's care, housing, food, clothing, and transportation. The amount is determined by applying the parent's combined parental income for determining child support (PICS) and the number of joint children to the Basic Support Guidelines Table. The basic support obligation does not include payment towards arrears.

Bench Warrant:

A bench warrant is issued by a judge for the arrest of a person when that person does not appear in court or does not do something that was ordered by the court.

Biological Father:

A biological father is the man who provided the paternal genes for a child.

Birth Record:

Information collected at the time of birth of a child which includes the child's name, date of birth, place of birth and parent's names. The Minnesota Department of Health, Office of the State Registrar keeps the original record.

Buccal Swab:

Buccal swabbing is a type of genetic testing done by rubbing cotton swabs against the inside of a person's cheek for cell collection.

-C-

Case Number:

The case number is a unique number that identifies a case.

Case Status:

The case status shows whether a case is open or closed.

Child:

A child is an individual under 18 years of age, an individual under age 20 who is still attending secondary school full time, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Child Care Assistance:

Minnesota's Child Care Assistance Program (CCAP) helps families pay child care costs for children up to age 12, and for children with special needs up to age 14. Child care costs may be paid for qualifying families while they go to work, look for work or attend school.

Child Care Support:

Child care support is contributing to the cost of work or educational-related child care costs.

Child Support:

Child support is money paid by a parent for the care, support and education of their child. It may include a monthly court-ordered amount for basic support, child care support and medical support.

Child Support Agency:

The child support agency is the county/state/tribal office that provides child support services. The State Office supervises the county offices.

Child Support Case:

A child support case is a case where a party either:

- Assigned his or her rights to support to the state because of receipt of public assistance as defined in Minnesota Statutes §256.741 or
- Has applied for nonpublic assistance child support services under Title IV-D of the Social Security Act, §42 USC 654(4).

The party who has an open child support case receives services from the local child support agency such as:

- Establishment of parentage
- Establishment, modification and enforcement of an existing child support order and
- Collection, distribution and disbursement of child support payments.

Conflict of Interest:

Whenever the following relationship exists between a MLB TCSP employee and any one of the following, this constitutes a conflict of interest:

- Parent or guardian (including adopted and step-parents)
- Sibling (including half and step-siblings)
- Grandparent
- Members of the same household
- Current and former business partners or associates, or
- Colleagues within the MLB TCSP.

Current Support:

This is the amount of child support ordered by a state, county or tribal court, to be paid each month as ongoing support

Custodial Parent (CP):

This is the parent who has legal custody of the minor child(ren).

-D-

Disbursement:

This is the term used to describe the amount of child support sent to the payee. Disbursement is distinct from “distribution” in that disbursements are the amounts that are actually remitted to the

payee, where “distribution” describes how a payment is allocated to various obligations and debts owed by the paying parent.

Distribution:

This is the term used to describe how a child support payment is allocated to current support, to arrears, and to different debts owed to the family and/or a Tribe or other jurisdiction.

-E-

Emancipation:

A minor child may be considered emancipated when the child’s emancipation has been declared and established by a court of competent jurisdiction.

-F-

Financial Institution:

A Financial Institution means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

Full Faith and Credit for Child Support Orders Act (FFCCSOA) 28 U.S.C.§1738B:

This is a federal law that requires a Tribe or Tribal organization shall recognize child support orders issued by other Tribes and Tribal organizations, and by states.

-H-

Health Care Coverage:

Health care coverage means health care benefits that are provided by a health plan. Health care coverage does not include any form of public medical assistance or Indian Health Services.

-I-

Income:

Income is any form of a **regular, on-going periodic payment** to an individual including but not limited to salaries, wages, commissions, self-employment income, worker’s compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, spousal maintenance received under a previous order or the current proceeding, Social Security or Veteran’s benefits provided for a dependent child, gaming winnings, and any form of federal or tribal trust benefits derived from a person’s status as an enrolled member of any federally recognized Tribe, including but not limited to Per Capita payments that are received on a regular and consistent basis.

Initiating IV-D Office:

An “initiating” IV-D office is any state or Tribal IV-D office that makes a request for assistance with identifiable child support activities and actions to another state or Tribal IV-D office, that the initiating office is not able to take on its’ own.

Intergovernmental Case:

An intergovernmental case is any child support case requiring that action be taken between the MLB TCSP and another state or tribal CSE program at the request of either agency. The child support agency receiving the request/responding to a request received from another state/tribal CSE office must offer the full range of services available based on its State or Tribal Plan.

-J-

Joint Child:

A Joint Child is a dependent child who is the child of both parents in the support proceedings. In cases where support is sought from only one parent of a child, a joint child is the child for whom support is being sought.

-M-

Medical Support:

Medical Support is a means of providing health care coverage for a joint child by carrying health care coverage for a joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses and uninsured medical expenses of a joint child.

Minor Child:

A Minor Child is any child that is less than 18 years old and who has not been emancipated by an order of a court of competent jurisdiction.

-N-

Non-Cash Support:

The Mille Lacs Tribal Court may order “in kind” support when establishing a child support obligation. “In Kind” or non-cash support may satisfy a set child support obligation only where:

- The obligor and obligee agree to the non-cash support as a form of payment and the Court approves of the non-cash support in the written order;
- The Court states the specific dollar amount of the child support obligation in the written order;
- The Court describes in the written order the type(s) of non-cash support that will be permitted to satisfy the underlying specific dollar amount of the child support order and that only 50% of the underlying child support obligation may be met by non-cash support; and

- The Court provides in the written order that the non-cash support will not be permitted to satisfy child support obligations that have been assigned to any tribal or state public agency.

Non-Custodial Parent (NCP):

This is the parent who does not have legal custody of the minor child.

Non-Joint Child:

A Non-Joint Child is a legal child of one parent but not both of the parents in the support proceedings. Non-Joint child does not include stepchildren.

-O-

Obligee:

The Obligee is the person or tribe or state agency to which payments for maintenance or support are owed.

Obligor:

The Obligor is the person obligated to pay child support. A person who has primary physical custody of a child is presumed not to be an obligor for purposes of child support.

-P-

Primary Physical Custody:

Primary Physical Custody means the parent or caregiver who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.

-R-

Responding IV-D Office:

A “responding” IV-D office is any state or Tribal IV-D office that receives a request for assistance for identifiable child support activities and actions from another state or Tribal IV-D agency.

-S-

Seasonal Income:

Seasonal Income is income that is not received on a regular weekly, bi-weekly, semi-monthly or monthly basis. Typically seasonal income applies to the sale of crops, produce, hunting, fishing or other similar means.

Social Security Benefits:

Social Security Benefits are the monthly retirement, survivors or disability insurance benefits that the Social Security Administration provides to a parent for that parent's own benefit or for the benefit of a joint child. This DOES NOT include Supplemental Security Income benefits that the Social Security Administration provides to a parent for the parent's own benefit or to a parent due to the disability of a child.

Split Custody:

Split Custody is defined as each parent having physical custody of one or more of the children.

-T-

Temporary Assistance to Needy Families (TANF):

Temporary Assistance to Needy Families (TANF) is a needs-based program that provides funds to families using federal dollars. It is authorized through Title IV-A of the Social Security Act.

Title IV-D:

Title IV-D refers to Title IV-D of the Social Security Act under which the federal government provides funds to states and tribes to assist with the costs of operating a child support program.

Title IV-E:

Title IV-E refers to Title IV-E of the Social Security Act under which the federal government provides funds to tribes and states to assist with the costs of operating foster care programs.

Title XIX:

Title XIX refers to Title XIX of the Social Security Act under which the federal government provides funds to states to provide medical care assistance through a state-operated and administered program that provides medical benefits to children and families.

Tribal Child Support Program (TCSP)

This is the program operated by the Mille Lacs Band of Ojibwe, designed to provide a variety of services to the applicant, on behalf of the child. The purpose of the TCSP is to ensure that the needs of the child are met by both parents financially through the establishment of paternity and/or establishment of a court order for support for the child.

Tribal Court:

Tribal Court refers to the Tribal Court of the Mille Lacs Band of Ojibwe.

Work Plan:

This is a working document jointly developed by the MLB TCSP and the State of Minnesota Child Support (MN-CSED) Program

ACRONYMS

AF	Alleged Father in Paternity Establishment cases
CFR	Code of Federal Regulations
CP	Custodial Parent
CSE	Child Support Enforcement
CSED	State of Minnesota Department of Human Services Child Support Enforcement Division
CSPC	Child Support Payment Center
DOB	Date of Birth
FFCCSOA	Full Faith and Credit for Child Support Orders Act
IV-D	Refers to Title IV-D (Child Support Enforcement) of the Social Security Act that authorizes the Child Support Enforcement Program including the Tribal Child Support Enforcement Program
MFIP	Minnesota Family Investment Program
MLB	Mille Lacs Band of Ojibwe
NCP	Non-Custodial Parent
OCSE	Federal Office of Child Support Enforcement
OMB	Federal Office of Management and Budget
PICS	Parental Income for Determining Child Support
SDU	State Disbursement Unit
SPLS	State Parent Locator Service
SSN	Social Security Number
TANF	Temporary Assistance to Needy Families
TCSP	Tribal Child Support Program

TPLS **T**ribal **P**arent **L**ocator **S**ervice

The “ACT” Social Security Act