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Title 22@ Social Security

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Division 13@ Department of Child Support Services

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Chapter 9@ Collection and Distribution of Child Support

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Article 6@ Compromise of Assigned Arrearages - Family Reunification

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Section 119191@ Compromise of Assigned Arrearages - Family Reunification

119191 Compromise of Assigned Arrearages - Family Reunification

(a)

The local child support agency shall provide a Compromise Application Packet to a person on the day it is requested in person, or mail the Compromise Application Packet within 5 business days of receipt of a telephone or written request, or whenever the local child support agency becomes aware that an obligor has been reunited with his/her child(ren). The Compromise Application Packet shall consist of: (1) Application for Compromise -- Family Reunification, form DCSS 0027, dated (09/03), incorporated by reference herein, (2) Relevant court form(s) providing information on the applicant's income, expenses, and assets, and (3) Application for Compromise -- Family Reunification Information Sheet, form DCSS 0026, dated (09/03), incorporated by reference herein.

(1)

Application for Compromise -- Family Reunification, form DCSS 0027, dated (09/03), incorporated by reference herein,

(2)

Relevant court form(s) providing information on the applicant's income, expenses, and assets, and

(3)

Application for Compromise -- Family Reunification Information Sheet, form DCSS 0026,

dated (09/03), incorporated by reference herein.

(b)

When the local child support agency receives a Compromise Application Packet, the local child support agency shall review the Compromise Application Packet for completeness. For purposes of completeness, applicants are not required to submit the Compromise of Arrearages Information Sheet -- Family Reunification, form DCSS 0026. The local child support agency shall verify that the applicant returned the required documents and that the documents are complete, or that the local child support agency otherwise has the information required available.

(1) Within 10 business days of the date of receipt of an incomplete Compromise Application Packet, the local child support agency shall mail to the applicant a Notice of Incomplete Application for Compromise -- Family Reunification, form DCSS 0031, dated (09/03), incorporated by reference herein. (2) Within 10 business days of the date of receipt of the completed Compromise Application Packet, the local child support agency shall take the following actions: (A) Make a determination of an applicant's eligibility for temporary suspension of enforcement and collection actions pending a final determination of eligibility for compromise as specified in Subsection (d). (B) If the applicant meets the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Temporary Suspension Of Child Support Collection and Enforcement -- Family Reunification, form DCSS 0030, dated (09/03), incorporated by reference herein. The applicant shall be advised that his/her application for compromise is complete and that he/she does qualify for temporary suspension of collection and enforcement actions on the assigned arrearages which accrued during the time that his/her child was in out-of-home care, as defined in Subsection (d)(2) below. (C) If the applicant does not meet the

requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Denial of Application for Compromise -- Family Reunification, form DCSS 0029, dated (09/03), incorporated by reference herein.

(1)

Within 10 business days of the date of receipt of an incomplete Compromise Application Packet, the local child support agency shall mail to the applicant a Notice of Incomplete Application for Compromise -- Family Reunification, form DCSS 0031, dated (09/03), incorporated by reference herein.

(2)

Within 10 business days of the date of receipt of the completed Compromise Application Packet, the local child support agency shall take the following actions: (A) Make a determination of an applicant's eligibility for temporary suspension of enforcement and collection actions pending a final determination of eligibility for compromise as specified in Subsection (d). (B) If the applicant meets the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Temporary Suspension Of Child Support Collection and Enforcement -- Family Reunification, form DCSS 0030, dated (09/03), incorporated by reference herein. The applicant shall be advised that his/her application for compromise is complete and that he/she does qualify for temporary suspension of collection and enforcement actions on the assigned arrearages which accrued during the time that his/her child was in out-of-home care, as defined in Subsection (d)(2) below. (C) If the applicant does not meet the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Denial of Application for Compromise -- Family Reunification, form DCSS 0029, dated (09/03), incorporated by reference herein.

(A)

Make a determination of an applicant's eligibility for temporary suspension of enforcement and collection actions pending a final determination of eligibility for compromise as specified in Subsection (d).

(B)

If the applicant meets the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Temporary Suspension Of Child Support Collection and Enforcement -- Family Reunification, form DCSS 0030, dated (09/03), incorporated by reference herein. The applicant shall be advised that his/her application for compromise is complete and that he/she does qualify for temporary suspension of collection and enforcement actions on the assigned arrearages which accrued during the time that his/her child was in out-of-home care, as defined in Subsection (d)(2) below.

(C)

If the applicant does not meet the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Denial of Application for Compromise -- Family Reunification, form DCSS 0029, dated (09/03), incorporated by reference herein.

(c)

Within two business days of the completion of the actions specified in Subparagraph (b)(2)(B) above, the local child support agency shall take administrative action to suspend enforcement of the obligation, and collection activities on the assigned arrearages that accrued during the time the child was in placement until a final determination is made on the application.

(d)

The applicant shall qualify for temporary suspension of enforcement and collection actions, pending a final determination of eligibility for compromise, if all of the following requirements are satisfied: (1) The applicant has provided a

completed Compromise Application Packet. (2) Either of the following criteria are met: (A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or (B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver. (3) The applicant for whom the debt compromise is being considered has a gross income less than 300 percent of the federal poverty level guidelines for that family size.

(1)

The applicant has provided a completed Compromise Application Packet.

(2)

Either of the following criteria are met: (A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or (B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(A)

The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or

(B)

The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(3)

The applicant for whom the debt compromise is being considered has a gross income less than 300 percent of the federal poverty level guidelines for that family size.

(e)

Within 20 business days from determining the applicant's qualification for a temporary suspension as specified in Subsection (b)(2)(B), the local child support agency shall take the following actions to determine the applicant's eligibility for compromise: (1) Verify that one of the following conditions are satisfied: (A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or (B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver. (2) Verify

the following information from local child support or county welfare department case information or the Application for Compromise -- Family Reunification, form DCSS 0027, dated (09/03), and the relevant court form(s) providing information on the applicant's income, expenses, and assets: (A) Local child support agency's case identification number. (B) Address of the applicant. (C) Social Security number of the applicant, if any. (D) Address of the child(ren) for whom arrearages are being considered for compromise. (E) Social Security number(s) of the child(ren) for whom arrearages are being considered for compromise. (F) Applicant's relationship to the child(ren). (G) Time period when the child(ren) was out of the home. (H) Child(ren) received assistance payments during placement as required by Subparagraph (e)(1). (I) Child(ren) is currently living with the applicant. (J) Child(ren) lived with the applicant prior to the child(ren)'s placement in out-of-home care. (K) Applicant's gross monthly income as defined by Family Code Section 4058. (L) Applicant's net monthly income as defined by Family Code Section 4059. (M) All reported extraordinary expenses, such as day care, medical and dental expenses. (N) Justification for other uses of income as outlined in a reunification plan. (3) Determine if the applicant has a net disposable income less than 250 percent of the current federal poverty level guidelines. (A) The 250 percent shall be applied to the family group, which includes the applicant and any other child(ren) the applicant is legally obligated to support and who resides with the applicant. (B) The 250 percent shall be calculated by comparing the applicant's net disposable income to 250 percent of the federal poverty level for that family size. Income will be computed based on the current month's income at the time of application. Net disposable income shall be computed in accordance with Family Code Section 4059 and by deducting other expenses as justified in Subparagraph (2)(M) and (N) above, from the applicant's gross income. (4) It shall

be presumed that compromise is necessary for a child's support, if the applicant meets the requirements in Subparagraphs (1) and (3) above. The presumption may be rebutted by a finding that the applicant owns assets as verified in Subparagraph (e)(2) valued in excess of \$10,000 dollars, excluding the applicant's primary residence and one vehicle used for transportation, that could be applied to satisfy the arrearages being considered for this compromise. (5) After the local child support agency has determined that the applicant has met the requirements in Subparagraphs (e)(1) above, the local child support agency shall confer with the county welfare worker assigned to develop and/or assess compliance with the reunification plan prior to making a final determination on the ability of the applicant to support the child. In the event that the county welfare worker provides written justification within the time frame specified in Subsection (e) that supports a finding that a compromise is not in the best interest of the child, the local child support agency shall deny the request for compromise.

(1)

Verify that one of the following conditions are satisfied: (A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or (B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(A)

The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children-Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or

(B)

The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(2)

Verify the following information from local child support or county welfare department case information or the Application for Compromise -- Family Reunification, form DCSS 0027, dated (09/03), and the relevant court form(s) providing information on the applicant's income, expenses, and assets: (A) Local child support agency's case identification number. (B) Address of the applicant. (C) Social Security number of the applicant, if any. (D) Address of the child(ren) for whom arrearages are being considered for compromise. (E) Social Security number(s) of the child(ren) for whom arrearages are being considered for compromise. (F) Applicant's relationship to the child(ren). (G) Time period when the child(ren) was out of the home. (H) Child(ren) received assistance payments during placement as required by Subparagraph (e)(1). (I) Child(ren) is currently living with the applicant. (J) Child(ren) lived with the applicant prior to the child(ren)'s placement in out-of-home care. (K) Applicant's gross monthly income as defined by Family Code Section 4058. (L) Applicant's net monthly income as defined by Family Code Section 4059. (M) All reported extraordinary expenses, such as day care, medical and dental expenses. (N) Justification for other uses of income as outlined in a reunification plan.

(A)

Local child support agency's case identification number.

(B)

Address of the applicant.

(C)

Social Security number of the applicant, if any.

(D)

Address of the child(ren) for whom arrearages are being considered for compromise.

(E)

Social Security number(s) of the child(ren) for whom arrearages are being considered for compromise.

(F)

Applicant's relationship to the child(ren).

(G)

Time period when the child(ren) was out of the home.

(H)

Child(ren) received assistance payments during placement as required by Subparagraph (e)(1).

(I)

Child(ren) is currently living with the applicant.

(J)

Child(ren) lived with the applicant prior to the child(ren)'s placement in out-of-home care.

(K)

Applicant's gross monthly income as defined by Family Code Section 4058.

(L)

Applicant's net monthly income as defined by Family Code Section 4059.

(M)

All reported extraordinary expenses, such as day care, medical and dental expenses.

(N)

Justification for other uses of income as outlined in a reunification plan.

(3)

Determine if the applicant has a net disposable income less than 250 percent of the current federal poverty level guidelines. (A) The 250 percent shall be applied to the family group, which includes the applicant and any other child(ren) the applicant is legally obligated to support and who resides with the applicant. (B) The 250 percent shall be calculated by comparing the applicant's net disposable income to 250 percent of the federal poverty level for that family size. Income will be computed based on the current month's income at the time of application. Net disposable income shall be computed in accordance with Family Code Section 4059 and by deducting other expenses as justified in Subparagraph (2)(M) and (N) above, from the applicant's gross income.

(A)

The 250 percent shall be applied to the family group, which includes the applicant and any other child(ren) the applicant is legally obligated to support and who resides with the applicant.

(B)

The 250 percent shall be calculated by comparing the applicant's net disposable income to 250 percent of the federal poverty level for that family size. Income will be computed based on the current month's income at the time of application. Net disposable income shall be computed in accordance with Family Code Section 4059 and by deducting other expenses as justified in Subparagraph (2)(M) and (N) above, from the applicant's gross income.

(4)

It shall be presumed that compromise is necessary for a child's support, if the applicant meets the requirements in Subparagraphs (1) and (3) above. The presumption may be rebutted by a finding that the applicant owns assets as verified in Subparagraph (e)(2) valued in excess of \$10,000 dollars, excluding the applicant's primary residence and one vehicle used for transportation, that could be applied to satisfy the arrearages being considered for this compromise.

(5)

After the local child support agency has determined that the applicant has met the requirements in Subparagraphs (e)(1) above, the local child support agency shall confer with the county welfare worker assigned to develop and/or assess compliance with the reunification plan prior to making a final determination on the ability of the applicant to support the child. In the event that the county welfare worker provides written justification within the time frame specified in Subsection (e) that supports a finding that a compromise is not in the best interest of the child, the local child support agency shall deny the request for compromise.

(f)

Once the local child support agency has completed the verification of all required elements of eligibility for compromise and determined that the applicant does not meet the requirements specified in Subparagraphs (e)(1), (3) or (4) above, or if the county welfare worker determines a compromise is not in the best interest of the child as specified in Subparagraph (e)(5) the local child support agency shall take the following actions: (1) Within 10 business days of the applicant's final determination of ineligibility for compromise, a Notice of Denial of Application for Compromise of Arrearages -- Family Reunification, form DCSS 0029, dated (09/03), shall be sent to the applicant. (2) Recompute the balance owing on arrearages. (3) Initiate any appropriate enforcement or other actions for the

repayment of any remaining arrearage balance.

(1)

Within 10 business days of the applicant's final determination of ineligibility for compromise, a Notice of Denial of Application for Compromise of Arrearages -- Family Reunification, form DCSS 0029, dated (09/03), shall be sent to the applicant.

(2)

Recompute the balance owing on arrearages.

(3)

Initiate any appropriate enforcement or other actions for the repayment of any remaining arrearage balance.

(g)

Once the local child support agency has completed the verification of all required elements of eligibility for compromise and determined that the applicant meets the requirements specified in Subparagraphs (e)(1), (3) and (4) above, the local child support agency shall take the following actions:(1) Within 10 business days after determining eligibility for compromise, send the applicant a Notice of Eligibility for Compromise of Arrearages -- Family Reunification, form DCSS 0028, dated (09/03), incorporated by reference herein. The Notice of Eligibility for Compromise of Arrearages -- Family Reunification shall advise the applicant that he/she does qualify for a compromise of 100 percent of the principal and interest on the assigned arrearages that accrued as a result of the placement. (2) The Notice of Eligibility for Compromise of Arrearages -- Family Reunification shall advise the applicant that without a signed stipulation the application for compromise shall be denied. If the applicant refuses to sign the stipulation or fails to return the stipulation within 20 business days, the local child support agency shall: (A) Send a Notice of Denial of Application for Compromise of Arrearages --

Family Reunification, form DCSS 0029, dated (09/03), to the applicant. (B) Recompute the balance owing on arrearages. (C) Initiate any necessary court actions and take appropriate enforcement actions for the repayment of any remaining arrearage balance. (3) Upon receipt of a signed stipulation, the local child support agency shall take the following actions: (A) Within 10 business days, file the stipulation to implement the compromise of assigned arrearages. (B) Within 10 business days initiate any other necessary court actions. (C) Within 10 business days after the receipt of an approved stipulation and order from the court, make any necessary adjustments to reduce the total arrearages based on the compromise amount. (D) Initiate the appropriate enforcement action(s) and set a monthly payment amount for the repayment of any remaining arrearage balance when appropriate.

(1)

Within 10 business days after determining eligibility for compromise, send the applicant a Notice of Eligibility for Compromise of Arrearages -- Family Reunification, form DCSS 0028, dated (09/03), incorporated by reference herein. The Notice of Eligibility for Compromise of Arrearages -- Family Reunification shall advise the applicant that he/she does qualify for a compromise of 100 percent of the principal and interest on the assigned arrearages that accrued as a result of the placement.

(2)

The Notice of Eligibility for Compromise of Arrearages -- Family Reunification shall advise the applicant that without a signed stipulation the application for compromise shall be denied. If the applicant refuses to sign the stipulation or fails to return the stipulation within 20 business days, the local child support agency shall: (A) Send a Notice of Denial of Application for Compromise of Arrearages -- Family Reunification, form DCSS 0029, dated (09/03), to the applicant. (B) Recompute the balance owing on

arrearages. (C) Initiate any necessary court actions and take appropriate enforcement actions for the repayment of any remaining arrearage balance.

(A)

Send a Notice of Denial of Application for Compromise of Arrearages -- Family Reunification, form DCSS 0029, dated (09/03), to the applicant.

(B)

Recompute the balance owing on arrearages.

(C)

Initiate any necessary court actions and take appropriate enforcement actions for the repayment of any remaining arrearage balance.

(3)

Upon receipt of a signed stipulation, the local child support agency shall take the following actions: (A) Within 10 business days, file the stipulation to implement the compromise of assigned arrearages. (B) Within 10 business days initiate any other necessary court actions. (C) Within 10 business days after the receipt of an approved stipulation and order from the court, make any necessary adjustments to reduce the total arrearages based on the compromise amount. (D) Initiate the appropriate enforcement action(s) and set a monthly payment amount for the repayment of any remaining arrearage balance when appropriate.

(A)

Within 10 business days, file the stipulation to implement the compromise of assigned arrearages.

(B)

Within 10 business days initiate any other necessary court actions.

(C)

Within 10 business days after the receipt of an approved stipulation and order from the court,

make any necessary adjustments to reduce the total arrearages based on the compromise amount.

(D)

Initiate the appropriate enforcement action(s) and set a monthly payment amount for the repayment of any remaining arrearage balance when appropriate.

(h)

An obligor parent shall not be approved for compromise more than three times in 36 consecutive months, except for those instances where the child is adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code.