

PIQ-TRIBAL-05-01

DATE: January 14, 2005

TO: State and Tribal IV-D Directors

FROM: David H. Siegel
Acting Commissioner
Office of Child Support Enforcement

SUBJECT: Transfer of Cases to Tribal IV-D Agencies and Case Closure Criteria

BACKGROUND: When case-closure regulations for state IV-D programs were written, there was no direct Federal funding for tribal IV-D programs. This PIQ is to clarify when it is appropriate for a state IV-D program to *refer* a case to a tribal IV-D program for services that the state cannot provide directly, when it is appropriate for a state to *transfer* a case to a tribal IV-D program, and to clarify case closure criteria under which a state IV-D program may close the transferred case. Application of these case closure and transfer principles may also be appropriate when a tribe no longer has any involvement in a case or the parent requests transfer.

In 2002 and 2003 OCSE convened a Tribal/State Cooperation Workgroup made up of existing tribal IV-D grantees and their state counterparts. The Workgroup identified two processes that may apply to cases in which the noncustodial parent/putative father is subject to the jurisdiction of a tribe and not a state.

Case Referral

A state and tribe may have a shared interest in a single case. For example, this may occur when the state has a case but has no jurisdiction over the NCP. In these circumstances the state may *refer* the case to the tribe for assistance in securing support owed to the state and/or the family. Both the state and tribal IV-D programs would maintain an open IV-D case and work cooperatively to ensure that necessary IV-D services are provided.

States and tribes are required to work cooperatively. 45 CFR 302.36—*Provision of services in interstate and intergovernmental IV-D cases*, sets forth the requirements for states:

§302.36(a)(2) The state will extend the full range of services available under its IV-D plan to all Tribal IV-D programs, including promptly opening a case where appropriate.

45 CFR 309.120—*What intergovernmental procedures must a Tribe or Tribal organization include in a Tribal IV-D plan?*, sets forth the requirement for Tribes:

§309.120 A Tribe or Tribal organization must specify in its Tribal IV-D plan:

(a) That the Tribal IV-D agency will extend the full range of services available under its IV-D plan to respond to all requests from, and cooperate with, state and other Tribal IV-D agencies; and

(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, 28 U.S.C. 1738B.

Case Transfer

A tribe or state may have a current case but the individual (custodial parent) may want to receive services from another IV-D agency, and requests that the case be transferred. For example, the tribe may not have had a IV-D program at the time the state began to provide child support services, but the custodial parent now prefers to have the tribe work the case. If there are no assigned arrearages owed to the state requiring the state to maintain an open IV-D case, the state may *transfer* these types of cases to the tribe. Similarly, if a tribe has a current case but the parent has requested that it be transferred to a state IV-D program and the tribe has no on-going interest in the action, *transfer* may be appropriate.

We have received a number of inquiries asking whether the IV-D agency may close a case that has been *transferred* to a tribal IV-D program and under what circumstances.

Case Closure

QUESTION 1: May a state close a case that has been transferred to a tribal IV-D program under §303.11(b)(8), when the non-TANF recipient of services from the state requests closure of the case and there is no assignment of support to the state?

RESPONSE 1: Yes. If the custodial parent is not currently receiving state TANF, or has received state TANF in the past but there is no longer assigned support owed to the state, the recipient of state IV-D services may request that the state close his or her state IV-D case. Some tribes and states have made arrangements under which a current recipient of state IV-D services who applies for services to the tribal IV-D program can request that the state IV-D program close his or her case by checking a box on the tribal IV-D application. A copy of the application must then be forwarded to the state IV-D agency for case closure in accordance with the requirements of the regulation.

QUESTION 2: If a state has referred a case to a tribal IV-D program, but the state cannot close the case under any state IV-D case closure criteria, what IV-D services must the state continue to provide?

RESPONSE 2: State IV-D programs must continue to provide any possible IV-D services available under Federal law and regulation. The state may be unable to provide the full range of IV-D services due to jurisdictional or other constraints. Although the state continues to have a duty to provide IV-D services, they may also report these cases on Line 3 of OCSE form 157, as cases for which the state has no jurisdiction.

Inquiries should be directed to the appropriate Regional Office.

CC: State and Tribal IV-D Programs
Regional Offices