

-Preface-

Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule's effectiveness, clarity, conciseness and understandability. The reports also describe the agency's proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor's Regulatory Review Council.

A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on agency's website.

**Department of Economic Security
Title 6, Chapter 7
Five-Year Review Report**

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. §§ 41-1954 (A)(3) and 46-134 (10)

Specific Statutory Authority: A.R.S. §§ 8-243, 25-319, 25-320, 25-500, 25-503, 25-504, 25-505, 25-510, 25-522, 25-528, 25-809, 46-407, 46-408, 46-441, and 46-292.

2. The objective of each rule:

Rule	Objective
R6-7-101	The objective of this rule is to define terms used in Chapter 7.
R6-7-102	The objective of this rule is to explain that the support and related payments retained by the Clearinghouse for disbursement will not accrue interest.
R6-7-103	The objective of this rule is to specify the monthly payment handling fee.
R6-7-401	The objective of this rule is to define terms used in the sections of this Article.
R6-7-402	The objective of this rule is to specify the criteria for submission and certification of arrearages for a case subject to passport denial.
R6-7-403	The objective of this rule is to explain how the Title IV-D Agency provides written notice to an obligor that the obligor has a support arrearage.
R6-7-404	The objective of this rule is to explain the administrative review process for passport denial by the Title IV-D Agency.
R6-7-405	The objective of this rule is to explain the circumstances when the Title IV-D Agency notifies the Office of Child Support Enforcement (OCSE) in the United States Department of Health and Human Services to withdraw certification for passport denial for an obligor.
R6-7-406	The objective of this rule is to provide that a Title IV-D Agency determination made under this Article is subject to judicial review.

Rule	Objective
R6-7-601	The objective of this rule is to outline the procedure for the distribution of monies collected in a Title IV-D case.
R6-7-602	The objective of this rule is to outline the procedure for the Title IV-D Agency if it receives payments from an obligor or payor in a foreign currency.
R6-7-603	The objective of this rule is to provide that if monies received from a federal income tax refund offset do not satisfy the total arrearages for all cases submitted by the Title IV-D Agency to OCSE for payment owed by an obligor to multiple obligees, the Title IV-D Agency makes a proportionate allocation to each obligee whose case was submitted for federal income tax refund offset.
R6-7-604	The objective of this rule is to explain the procedure to determine the amount of support allocated to each obligee if the Title IV-D Agency receives a support payment not paid by an income withholding order that is undesignated as to case or obligee, and it does not satisfy the total current support owed by one obligor to multiple obligees.
R6-7-605	The objective of this rule is to provide that if the federal income tax refund offset received from the Internal Revenue Service on behalf of an obligor is greater than the total arrearages owed for all cases submitted for federal income tax refund offset, the Title IV-D Agency refunds any excess monies to the obligor.
R6-7-606	The objective of this rule is to explain the Title IV-D Agency applies futures, which are amounts in excess of the total current obligations due while support is still accruing, as provided in 45 CFR 302.51(b).
R6-7-607	The objective of this rule is to explain the Title IV-D Agency treats payments as prepaid support only if there is no alternative that would allow for prompt payment of support owed to an obligee in a future month, and that the Title IV-D Agency releases any prepaid support in the applicable future month for distribution.
R6-7-608	The objective of this rule is to explain how the Department distributes the monies when a Title IV-E foster care child support case is open or closed with arrearages owed to the state.
R6-7-609	The objective of this rule is to explain the procedure for the Title IV-D Agency to distribute current support in a current assistance case, when a child is determined to be a Child Not on Grant and ineligible for cash assistance due to the receipt of Social

Rule	Objective
	Security income and whose support is exempt from assignment under A.R.S. § 46-407.
R6-7-610	The objective of this rule is to outline the procedure for the distribution of cash medical support in Title XIX, Arizona Health Care Cost Containment System (AHCCCS), cases where medical support is assigned to the state.
R6-7-701	The objective of this rule is to outline the procedure for the disbursement, which is the issuance of support, and related payments that the Title IV-D Agency receives in a Title IV-D case.
R6-7-702	The objective of this rule is to specify the order in which the Title IV-D Agency disburses support in never assistance cases that never received cash assistance under Title IV-A through December 31, 2002.
R6-7-703	The objective of this rule is to outline the procedure for the disbursement of support and related payments collected for an Arizona never assistance case to a recipient of services under Title IV-D or Title XIX of the Social Security Act.
R6-7-704	The objective of this rule is to specify the order in which the Title IV-D Agency disburses support and related payments for federal income tax refund offsets collected for an Arizona Title IV-D current assistance cases through December 31, 2002.
R6-7-705	The objective of this rule is to specify the order in which the Title IV-D Agency disburses support and related payments for federal income tax refund offsets collected for an Arizona Title IV-D current assistance case on or after January 1, 2003.
R6-7-706	The objective of this rule is to outline the procedure for the disbursement of support when a child on the court order is not on grant and the support for that child is not assigned to the state.
R6-7-707	The objective of this rule is to solidify the disbursement process for federal income tax refund offsets from October 1, 1997 through September 30, 2000 when a child support recipient has formerly received assistance.
R6-7-708	The objective of this rule is to specify the order in which the Title IV-D Agency disburses support in former assistance cases from October 1, 2000 through December 31, 2002.
R6-7-709	The objective of this rule is to specify the order in which the Title IV-D Agency disburses support in former assistance cases on and after January 1, 2003.

Rule	Objective
R6-7-710	The objective of this rule is to specify the order in which the Title IV-D Agency disburses federal income tax refund offsets from October 1, 1997 through September 30, 2000.
R6-7-711	The objective of this rule is to specify the order in which the Title IV-D Agency disburses federal income tax refund offsets on and after October 1, 2000.
R6-7-712	The objective of this rule is to explain how the support and related payments are disbursed to a caretaker, who has physical custody of a child and is not the child's biological parent.
R6-7-713	The objective of this rule is to outline the procedure for the collection and disbursement of support when a court or an administrative entity orders past support that covers a period in which the obligee was on cash assistance.
R6-7-714	The objective of this rule is to describe how the Title IV-D Agency allocates the amount of interest on permanently assigned, temporarily assigned, never assigned, and unassigned arrearages.
R6-7-715	The objective of this rule is to specify the order in which the Title IV-D Agency unassigns the arrearages.
R6-7-716	The objective of this rule is to specify that if Arizona is the responding state in Uniform Interstate Child Support Act (UIFSA) Cases, the Title IV-D Agency sends payments received to the initiating or issuing state.

3. **Are the rules effective in achieving their objectives?** Yes
 No

If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.

Rule	Explanation
N/A	N/A

4. **Are the rules consistent with other rules and statutes?** Yes
 No

If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.

Rule	Explanation
N/A	N/A

5. **Are the rules enforced as written?** Yes
 No

If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency(s) proposal for resolving the issue.

Rule	Explanation
NA	NA

6. **Are the rules clear, concise, and understandable?** Yes
 No

If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.

Rule	Explanation
R6-7-101(54)	The rules in Chapter 7 are generally clear, concise and understandable. However, the Department is implementing the name change from the Division of Child Support Enforcement to the Division of Child Support Services and plans to amend the Chapter heading and R6-7-101(54) to reflect the name change.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes
 No

If yes, please fill out the table below:

Commenter	Comment	Agency's Response
NA	NA	NA

8. **Economic, small business, and consumer impact comparison:**

All states are required under Title IV-D of the Social Security Act to operate a Title IV-D child support program which serves the entire state. In Arizona, the Title IV-D program is administered by the Department of Economic Security in Maricopa, Pima, Pinal, Apache, Cochise, Coconino, Mohave, Graham, Greenlee, Navajo, La Paz, Santa Cruz, Yavapai and Yuma Counties. In Gila, the County Attorney's Office operates the Title IV-D child

support program. In addition, the Navajo Nation also operates its own Title IV-D program on the Navajo Nation Reservation.

The child support offices assist an obligee or caretaker to establish paternity for a child, establish a support order for a Title IV-D child support case, locate the obligor, and enforce a child support order. These offices assist parents who are divorced, separated or not married to establish paternity, or establish or enforce a support obligation, and locate an obligor. Parents that receive cash assistance under the Temporary Assistance for Needy Families (TANF) program, the Title IV-E foster care program, or medical assistance under the Title XIX program, automatically receive child support services. As a result of state legislation enacted in 1997, a statewide, centralized clearinghouse was created to receive and disburse all child support payments in the Arizona. The State Disbursement Unit receives and posts child support and related payments in Title IV-D ATLAS (Arizona Tracking and Location Automated System) cases and non-Title IV-D ATLAS cases. Non-Title IV-D cases are those child support cases enforced through the Superior Court. ATLAS disbursed \$300,500,066.00 in Federal Fiscal Year 2019 to obligees in Title IV-D cases. At the present time, there are 161,390 open Title IV-D cases in the state, of which 146,136 cases have court orders. These cases involve almost 322,780 obligees and obligors.

Parties in Title IV-D cases and the public benefit from clear, concise rules that delineate how child support and related payments are distributed and disbursed. Former recipients of public assistance benefit from the rules because they receive payment of support arrearages before the state of Arizona retains assigned arrearages to reimburse public assistance. The state also benefits from the rules because in some cases the state retains assigned arrearages. In addition, the state receives federal funding for the Arizona Title IV-D program as a result of its compliance with federal Title IV-D program distribution requirements.

Since the last Five-Year Review Report, the Department has submitted rulemaking for one rule, R6-7-103, impacting the monthly handling fee applied to child support cases. This proposed rule change was published in the Arizona Administrative Register in July 2019 and would increase the monthly handling fee from \$5.00 to \$8.00. The Department

prepared an Economic Impact Statement for this 2019 rulemaking. No updates are available at this time regarding that Economic Impact Statement, since it was so recently submitted.

Article 1:

Article 1 contains provisions for collection of a monthly handling fee as a processing fee for the collection of child support. The State share of this fee is as follows: \$215,432.00 in 2014; \$218,318.00 in 2015; \$224,063.00 in 2016, \$233,166.00 in 2017; and \$241,259.00 in 2018. In 2019, the Department has submitted rulemaking that increases this fee from \$5.00 to \$8.00 per month. It is anticipated the Department will see increased State Share of Retained Earnings (SSRE) revenue of approximately \$760,000.00 per year which in turn will allow the Department to draw down approximately \$1,475,000.00 of additional federal dollars with which to provide services. Revenue generated by this increase will be used to continue process improvement and system automation efforts.

The economic impact of increasing the handling fee will directly affect the obligor as they are responsible for paying the fee each month. Arizona families will receive continued support in the collection and disbursement of owed monies. This improves the well-being of children and families and reduces welfare costs to the taxpayer.

The Department continues to estimate the economic impact of the rules in Article 1 as described in the Economic Impact Statement filed with the rulemaking.

Article 4:

The cost related requirements in the rules in Article 4 are directed by federal law and have no additional economic impact on the Department, consumers, or small businesses.

Article 6:

The cost related requirements in the rules in Article 6 are directed by A.R.S. § 46-407 and 45 CFR 302.51, which allow the Department to collect and retain money for reimbursement of services provided under the Arizona Health Care Cost Containment System (AHCCCS), and have no additional economic impact on the Department, consumers, or small businesses. Revenue collected for medical

support is transferred to AHCCCS. The amount transferred to AHCCCS totaled \$344,250.00 in 2014; \$322,190.00 in 2015; \$292,913.00 in 2016; \$274,865.00 in 2017, and \$260,368.00 in 2018.

Article 7:

The cost-related requirements in the rules in Article 7 are directed by federal law and have no additional economic impact on consumers, or small businesses; however, these rules do create a lower priority for the payment of fees, as required by federal law, which results in a non-quantifiable loss of revenue for the Department.

9. **Has the agency received any business competitiveness analyses of the rules?**

Yes
No

10. **Has the agency completed the course of action indicated in the agency's previous five-year review report?**

Please state what the previous course of action was and if the agency did not complete the action, please explain why not.

The previous Five-Year Review Report indicated that the Department planned to amend the Chapter heading and R6-7-101 to change the name of the Division of Child Support Enforcement to the Division of Child Support Services. The Department received approval to a moratorium exception request from the Governor's Office on August 12, 2014. The Department filed a Notice of Proposed Rulemaking in November 2014; however, the Department did not receive support for this rule change. The Department plans to submit a new expedited request to the Governor's Office and other parties required by A.R.S. §41-1027(B) by March 30, 2020. Upon approval, the Department will submit a request to GRRC for final approval.

The Department also indicated plans to amend R6-7-101(4) to update the definition of an assistance unit to mirror the definition in A.R.S. § 46-101. Upon further review, it was determined that this change is not required and will not be submitted for rulemaking. Additionally, the Department outlined plans to amend R6-7-404 and R6-7-801 to allow electronic communication in the administrative review process. At this time, due to federal noticing requirements, the Department has not requested an exception to amend R6-7-101(4), R6-7-404, and R6-7-801.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Through analysis provided by the Department's program subject matter experts and Financial Services Administration, the Department believes that the rules impose the least burden and cost to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulator objectives. The amendment seeks to align the rule with statute and to make the rule more clear, concise, and understandable to the public. Program subject matter experts indicate that the amendment to the rule, as proposed in this report, is the most cost-effective way to bring the Department into compliance with state requirements and ensure that the rules reflect current program practice.

12. **Are the rules more stringent than corresponding federal laws?** Yes
No

Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of the federal law(s)?

The Department has determined that the rules contained in this Chapter are not more stringent than corresponding federal law.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Department has determined that A.R.S. § 41-1037 does not apply to these rules because they do not require a regulatory permit, license, or agency authorization.

14. **Proposed course of action**

If possible, identify a month and year by which the agency plans to complete the course of action.

The Department plans to submit a Moratorium Exception Request on Title 6 Chapter 7 to the Governor's Office by March 30, 2020, and a Notice of Final Expedited Rulemaking to GRRC upon approval.