

15.3 CHILD SUPPORT REQUIREMENTS AND PROCEDURES (WV WORKS, AFDC MEDICAID AND AFDC-RELATED MEDICAID)

Federal law mandates that efforts be made to locate absent parents, establish paternity and/or obtain support for the children. The specified relative receiving WV WORKS, or the specified relative included in an AFDC Medicaid or AFDC-Related Medicaid AG, must cooperate with child support activities and redirect to the Bureau for Child Support Enforcement (BCSE) any child support payments received.

The major responsibility for this effort rests with the BCSE through its staff of Legal Assistants.

In addition, the Worker has the following responsibilities:

- To explain the requirements and benefits of BCSE services, including the right of the specified relative to claim good cause for refusal to cooperate
- To refer appropriate cases to the Legal Assistant. Referral is accomplished by data system exchange or DHS-1.
- To evaluate evidence presented if the client claims good cause
- To determine if good cause for failure to cooperate with BCSE exists
- For WV WORKS to apply the penalty for refusal without good cause to cooperate or redirect child support payments

The following information provides details about the responsibilities of the Worker, the Legal Assistant, and the client in the child support process.

A. **DFA-AP-1**, ACKNOWLEDGEMENT OF AUTOMATIC ASSIGNMENT OF SUPPORT RIGHTS AND OF COOPERATION REQUIREMENTS

The purpose of the **DFA-AP-1** is to assure that affected clients know of the automatic assignment of support rights to the State and understand the benefits, requirements and rights associated with BCSE.

NOTE: While there is no penalty for Medicaid recipients who refuse to redirect support payments, they must be instructed that being referred to BCSE automatically triggers income withholding, whenever there is an existing court order for support and an identifiable source of income.

**Specific WV WORKS, AFDC and
AFDC – Related Medicaid Requirements**1. Who Is Required To Complete The **DFA-AP-1**

The **DFA-AP-1** must be completed for:

NOTE: When a major parent, minor parent and the minor's child are included in the AG, the major parent is required to sign the DFA-AP-1 to assign support rights of the minor's child to the State.

a. Applicants

(1) AFDC Medicaid and AFDC-Related Medicaid

The **DFA-AP-1** must be completed when a child has an absent parent(s) and the specified relative is included in the AG. This applies regardless of the Medicaid coverage group in which the child(ren) is included.

(2) WV WORKS

The **DFA-AP-1** must be completed when there is at least one child included in the AG who has an absent parent(s). This includes children who receive SSI and are included in the WV WORKS AG.

b. Recipients

The **DFA-AP-1** must be completed for active cases as follows:

(1) AFDC Medicaid and AFDC-Related Medicaid

- When the specified relative is in the AG; and
- At least one child in the AG has a parent(s) who is absent due to death, desertion, divorce or paternity not established; or
- A child who has a parent(s) absent for the above reasons is added to the AG. This applies regardless of the Medicaid coverage group in which the child(ren) is included.

(2) WV WORKS

- When a child is in an AG with no parent and a parent is then added, that parent must sign.
- When a child who has an absent parent, including a child who receives SSI, is added to the AG.

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2. Instructions For Completion:

- Complete in triplicate.
- Worker and client must sign all copies.
- Enter the case name and case number in the indicated spaces on the form.
- Enter a check mark in the block beside each paragraph number to indicate that the client understands the information.
- The specified relative must sign the form. If the parent is also in the home, he must sign the form.
- Distribute copies to the client and Legal Assistant, and file one in the case record. If no referral is made, the extra copy is filed in the case record.

3. Procedure When The Client Refuses To Sign

When the client refuses to sign the **DFA-AP-1**, the action taken depends upon the reason for the refusal. When the client indicates that he will not sign the **DFA-AP-1** and, in doing so, indicates that he will not cooperate with BCSE, the Worker must determine if good cause exists for the refusal. If good cause does exist, no BCSE action is required or taken and no penalty is applied to the client. If good cause does not exist, the Medicaid or WV WORKS case is referred to BCSE and the penalty described in item H below is applied. The Worker must record in RAPIDS the circumstances involved in the determination of good cause.

When the client indicates that he will not sign the **DFA-AP-1**, but indicates that he will cooperate with BCSE after referral, the Medicaid or WV WORKS case is referred to BCSE and no penalty is applied. The Worker must record in RAPIDS that the content and purpose of the form were explained to the client, that he refused to sign, the reason given for the refusal, that the client has indicated that he will cooperate with BCSE after the referral. The Worker must provide the client with an unsigned copy of the **DFA-AP-1** and this must also be recorded in RAPIDS.

NOTE: There are some circumstances under which a letter is automatically generated to the absent parent(s) from the BCSE data system (OSCAR) as soon as the case is referred through RAPIDS. Therefore, it is important that the client be given the opportunity to establish good cause for not cooperating prior to the data exchange

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between RAPIDS and OSCAR. If the case is approved, or benefits added to an existing case, prior to verification of the good cause claim, the claim of having good cause that is pending verification, as entered into RAPIDS, will prevent the automatic production of a notice to the absent parent by the OSCAR system.

NOTE: For WV WORKS cases, refusal or other failure to sign the **DFA-AP-1** does not constitute failure to cooperate with BCSE requirements as shown on the PRC. The above instructions are followed and no sanction is applied.

B. BCSE REFERRALS

Except when court-ordered public service and other are the specific reasons for AFDC Medicaid and AFDC-Related Medicaid continued absence, a referral to BCSE must be made. The referral is automated in RAPIDS. See the RAPIDS User Guide. All WV WORKS recipients who are children with at least one absent parent, must be referred. In addition, a currently unmarried minor parent who is unable to live with her parent(s) must be referred. (See Section 9.21,A,3)

Clients who claim and establish good cause are not required to cooperate with BCSE, but a referral is automatically made by the data system. APNC in RAPIDS indicates good cause.

C. GOOD CAUSE

The client is required to cooperate unless good cause is established.

If the client who refuses to cooperate asserts that one or more of the factors listed below is the reason for non-cooperation, a good cause claim has been made. A client who refuses to cooperate and who gives as the reason some factor other than one of those listed below is considered to have refused to cooperate without claiming good cause.

1. Definition Of Good Cause

The client has good cause for refusal to cooperate with BCSE if one of the following conditions exists:

- The child was conceived as the result of incest or forcible rape.
- Legal proceedings for the adoption of the child are pending.

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- The client is currently being assisted by the Department or by a licensed private social agency to resolve the issue of whether to keep the child or to relinquish him for adoption and the discussions have not gone on for more than three months.
- The client's cooperation in establishing paternity or securing support is reasonably anticipated to result in:
 - Physical or emotional harm to the child for whom support is being sought; or
 - Physical or emotional harm to the parent or other specified relative with whom the child lives, which would reduce such person's capacity to care for the child adequately. A finding of good cause for emotional harm may only be based upon evidence of an emotional impairment that substantially affects the parent or other relative's functioning.

In determining good cause based in whole or in part upon the anticipation of emotional harm to the child, the parent or the other specified relative, the Worker must consider the following:

- The present emotional state of the individual;
- The emotional health history of the individual;
- The intensity and probable duration of the emotional impairment; and
- The extent of involvement of the child in the paternity establishment of support enforcement activity to be undertaken.

2. When The Client Refuses To Cooperate Prior To BCSE Referral

If the client indicates to the Worker, prior to BCSE referral, that he does not intend to cooperate in BCSE activities, the Worker must determine if good cause exists for the refusal.

If good cause does exist, no BCSE action is required or taken and no penalty is applied to the client. If good cause does not exist, the WV WORKS case is referred to BCSE and the penalty described in Item H below is applied. The Worker must record in RAPIDS the circumstances involved in the determination of good cause.

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NOTE: There are some circumstances under which a letter is automatically generated to the absent parent(s) from the BCSE data system (OSCAR) as soon as the case is referred through RAPIDS. Therefore, it is important that the client be given the opportunity to establish good cause for not cooperating prior to the data exchange between RAPIDS and OSCAR. If the case is approved, or benefits added to an existing case, prior to verification of the good cause claim, the claim of having good cause that is pending verification, as entered into RAPIDS, will prevent the automatic production of a notice to the absent parent by the OSCAR system.

For WV WORKS cases, a sanction is applied when the client fails to comply with the child support requirements in Part 1 of the PRC.

3. When The Client Claims Good Cause For Refusal To Cooperate Prior To BCSE Referral

When a client claims good cause prior to referral, the Worker makes a determination according to the procedure in item 4 below.

If there is evidence to immediately establish good cause, the Worker notifies BCSE at the time of referral that good cause has been established.

NOTE: There are some circumstances under which a letter is automatically generated to the absent parent(s) from the BCSE data system (OSCAR) as soon as the case is referred through RAPIDS. Therefore, it is important that the client be given the opportunity to establish good cause for not cooperating prior to the data exchange between RAPIDS and OSCAR. If the case is approved, or benefits added to an existing case, prior to verification of the good cause claim, the claim of having good cause that is pending verification, as entered into RAPIDS, will prevent the automatic production of a notice to the absent parent by the OSCAR system.

If good cause is not established, the Worker notifies BCSE at the time of referral that good cause was claimed but not established. If BCSE then notifies the Worker that the client has failed to cooperate, the Worker sends the notification of sanction.

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When the client claims good cause after the referral, the Legal Assistant refers the case back to the Worker for a determination of good cause. The Worker enforces the cooperation requirement; however, the Legal Assistant must participate in the good cause determination in an advisory capacity. The Worker must give the Legal Assistant an opportunity to review and comment on the good cause investigation and the decision. The Worker must consider the recommendation of the Legal Assistant in making the final decision.

The procedure to determine good cause is as follows:

- Form **DFA-AP-1A**, Notice to Individual Who Has Claimed Good Cause for Refusal to Cooperate in Child Support Activities, must be completed by the Worker during a face-to-face contact with the client who signed or was interviewed about the **DFA-AP-1A**.

The Worker must be sure the client understands the information on Form **DFA-AP-1A**. Two original forms must be completed and signed by the Worker and the client. One original is given to the client and the other filed in the case record.

- The client has the primary responsibility for obtaining the verification needed to establish good cause. Refer to Chapter 4. The client must provide the verifications within 20 days of the date good cause is claimed.

In certain situations, it is acceptable to make a determination of good cause without verification. These situations are:

- The claim of good cause is based on the anticipation that cooperation will result in physical harm to the specified relative or the child; and
- The Worker believes, from the information provided by the client, that:
 - The claim is credible without corroborative evidence; or
 - Corroborative evidence is not available; and
 - The Worker and Supervisor agree that good cause exists.