

37th Circuit Court Directive

RE: ADOPTION OF THE FAMILY DIVISION COLLECTION PROGRAM PROCEDURE MANUAL

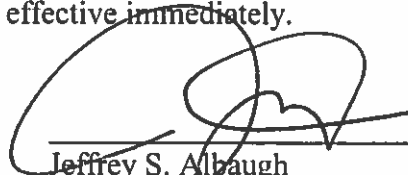
The Family Division Collection Program Procedure Manual was compiled to provide a reference manual for both court staff and the public. This manual generally considers statutes, court rules, court directives, SCAO recommendations and best practices used by local counties. Any deviation from the manual must be pre-approved by Court Administration.

The adoption of this procedure manual is effective immediately.

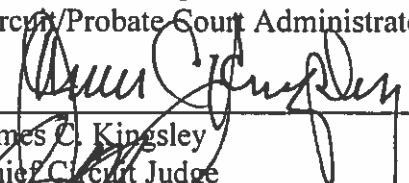
6/22/14
Date

6/25/14
Date

6/30/14
Date



Jeffrey S. Albaugh
Circuit/Probate Court Administrator



James C. Kingsley
Chief Circuit Judge



Stephen B. Miller
Presiding Family Court Judge

37TH JUDICIAL CIRCUIT COURT

FAMILY DIVISION

COLLECTION PROGRAM

JUNE 2014

FUNCTION OF THE COLLECTION DEPARTMENT

Pursuant to MCR 1.110, fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment, except when the court allows otherwise, for good cause shown.

- ▶ The Family Division Collection Department is responsible for making recommendations to judicial officers regarding parent reimbursement for costs of care and services for their children and determining parents' ability to reimburse for these costs.
- ▶ For parents, costs and fees may include placement and program services, attorney, tether, and probation fees.
- ▶ For juveniles, costs and fees include crime victim rights assessments, minimum state costs, and restitution.
- ▶ Once a court order has been entered, the Family Division Collection Department is responsible for collection of court ordered reimbursement.
- ▶ Pursuant to MCR 2.002, the collection department reviews all applications for waiver/suspension of fees and costs prior to submission to the court.

FINANCIAL STATEMENT

- ▶ Parents, guardians and custodians are referred to the collection department to schedule a financial appointment to disclose their household financial information after initial court involvement.
- ▶ If making appointments at the collection department window, a worksheet is given to parents to be completed prior to the appointment. If a financial statement is not available, an order for the full amount of costs may entered.

STATE OF MICHIGAN	FINANCIAL STATEMENT	CASE NO.
--------------------------	----------------------------	-----------------

Court address _____ Court telephone no. _____

PERSONAL INFORMATION					
Name (last, first, middle)			Date of birth		SSN (last 4 digits)
Address <input type="checkbox"/> house <input type="checkbox"/> apartment <input type="checkbox"/> lot no.		City		Zip	
Home phone no.	Work phone no.	Cellular phone no.	Driver's license no.	State	E-mail address
Mailing address (if different than above)			Marital status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced If divorced, date final _____		
Name and address of nearest living relative			Relationship		Phone no.
Names of dependents		Dates of birth	Student (Yes/No)	College/University	
Employer 1 (Company name and address)			Length of employment		
Employer 2 (Company name and address)			Length of employment		
If self-employed, type of business/trade		If unemployed, source of support <input type="checkbox"/> General assistance <input type="checkbox"/> SSI <input type="checkbox"/> Food stamps <input type="checkbox"/> AFDC			
Have you ever filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, date filed		Date completed	
ASSETS					
Vehicle #1		Year / Make		Present value \$	
Vehicle #2		Year / Make		Present value \$	
Bank/Financial account no.		Name and address of financial institution		Present balance \$	
Investment/Brokerage account no.		Name and address of financial institution		Present balance \$	
Other property such as real estate, boats, snowmobiles (describe)				Value \$	
				TOTAL ASSETS \$	

MONTHLY INCOME	
Gross monthly income (self)	\$
Gross monthly income (spouse)	\$
Unemployment benefits	\$
Social security	\$
Retirement/Pension benefits	\$
Child support	\$
Alimony/Maintenance	\$
Disability	\$
Veteran's benefits	\$
Interest/Dividends	\$
Other (cash):	\$
TOTAL INCOME	\$

MONTHLY EXPENSES	
Mortgage or rent	\$
Utilities	\$
Vehicle payments	\$
Insurance (vehicle/health/life)	\$
Other loan payments	\$
Child support/Alimony	\$
Medical payments	\$
Court payments	\$
Other:	\$
TOTAL EXPENSES	\$

Financial Report Authorization: I authorize the court, the court's funding unit, and their employees or agents to obtain a consumer credit report and other financial information about me from a consumer credit reporting agency or any other entity.

I certify under penalty of perjury that this financial statement is a complete and accurate statement of my income, assets, and expenses, and that I have no other additional income. I will provide supporting documentation of income and debts upon request.

Date _____

Signature _____

FINANCIAL INFORMATION

- ▶ The following list of items are required for the financial appointment:
 - ▶ Verification of all sources of household income and/or benefits for the household.
 - ▶ Verification of assets.
 - ▶ Pay stubs.
 - ▶ Monthly household expenses.
 - ▶ Installment payment information for any household debt.

In addition, W-2 forms and Federal tax returns and schedules maybe requested.

Information provided to determine financial liability is treated confidentially and used only by court staff involved in the application and collection process.

GUIDELINES FOR CHILD CARE ASSESSMENTS

- ▶ The appropriate guidelines for establishment of child support guidelines are used by the Family Division Collection Department to determine reimbursement for care and services.
- ▶ Generally, gross household income and the number of dependents are used to compute the annual ability and recommended payments. Assets may also be used in establishing an assessment (See Costs/Fee Schedule).

ASSESSMENT

- ▶ Assessment is the total amount charged and subsequent payments made for care and services. Payment is due as ordered while there is a balance owing the court.
- ▶ If the parent is not in agreement with the court-ordered assessment, the parent has the right to request a review and hearing before a judge in the Family Division. A motion must be filed with the Circuit Court Clerk's Office or a letter may be sent to the Court requesting a hearing.

OTHER BENEFITS

- ▶ If child support payments are being made for a court ward and the child is placed outside the family's home by the Circuit Court Family Division, upon notice from the Circuit Court, the Friend of the Court child support payments will be redirected to the appropriate agency for placement costs.
- ▶ In cases of hardship and/or indigence, the court has a policy in place for review of financial situations which could result in a reduction of the overall charges. (Refer to current poverty guidelines.)

**2014 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES
AND THE DISTRICT OF COLUMBIA**

Persons in family/household	Poverty guideline	125% of Poverty guideline
1	\$11,670	\$14,587
2	\$15,730	\$19,662
3	\$19,790	\$24,737
4	\$23,850	\$29,812
5	\$27,910	\$34,887
6	\$31,970	\$39,962
7	\$36,030	\$45,037
8	\$40,090	\$50,112

For families/households with more than 8 persons, add \$4,060 for each additional person.

FEES - DELINQUENCY CASES (DL)

- ▶ Juvenile Fees
 - ▶ Crime victim fees:
\$25 per dispositional order

 - ▶ Minimum state costs:
\$50 per misdemeanor
\$68 per felony

 - ▶ Restitution:
As ordered

- ▶ Parent Fees
 - ▶ Attorney fees: \$ 100
 - ▶ Court costs: \$ 100
 - ▶ Regular probation fees: \$ 500
 - ▶ Intensive probation fees: \$ 1,000
 - ▶ Tether fees: \$25 (plus any amount charged for destruction of tether equipment)
 - ▶ Payment for out-of-home costs is based on a per household income unless ordered otherwise.

If parents are not married to each other, the assessments may be split equally between parents.

Crime Victim Assessment (Revised 04/01/12)

Based upon the Most Serious Offense Convicted¹ or Adjudicated

MCL 780.811, 780.901, 780.905

Offense Type	Amount ²
Adults, Including Juvenile Waivers and Designated (DJ) Cases One Assessment Per Case	
Felony	\$130
Misdemeanor	\$75
Juvenile Delinquency (DL) Cases³ One Assessment Per Dispositional Order⁴	
Felony	\$25
Misdemeanor	\$25

¹ This includes when the defendant is sentenced, placed on probation, assigned to youthful trainee status, or granted a deferred judgment of guilt or a delayed sentence.

² MCL 780.905(1). The court shall order each person charged with an offense that is a felony, misdemeanor, or ordinance violation, that is resolved by conviction, assignment of the defendant to youthful trainee status, a delayed sentence or deferred entry of judgment of guilt, or in any other way that is not an acquittal or unconditional dismissal, to pay the Crime Victim Rights Assessment. The court may not waive, suspend, or offset the assessment for time served or community service performed.

³ MCL 780.905(3). The court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay the assessment. The court may not waive, suspend, or offset the assessment for time served or community service performed.

⁴ MCR 3.943(E)(5) and MCL 780.905(3). The Crime Victim Rights Assessment should be assessed on juveniles once per dispositional order, regardless of the number of petitions or charges covered in the order. The court may impose additional assessments following the receipt of new petitions when the court enters a supplemental order of disposition.

Minimum State Cost (Revised 04/01/12)

MCL 600.8381, 712A.18m, 769.1j, 769.1k, 780.811, 780.901

Offense Type	Amount ⁵
Adults, Including Juvenile Waivers and Designated (DJ) Cases Assess on each Count Based upon Offense Convicted ⁶	
Felony	\$68
Misdemeanor	\$50
Juvenile Delinquency (DL) Cases⁷ Assess on each Count Based upon Offense Adjudicated	
Felony	\$68
Misdemeanor	\$50

⁵ MCL 769.1j. Assess if any combination of other assessments is also ordered on that count (e.g. fine + cost, fine + restitution, crime victim assessment + restitution, etc.). The court may not waive, suspend, or offset Minimum State Costs for time served or community service performed. A probationer not in willful default of payment may petition the court for remission of any unpaid portion of Minimum State Costs, pursuant to MCL 771.3(6)(b). A juvenile not in default of payment may petition the court for remission of any unpaid portion of Minimum State Costs, pursuant to MCL 712A.18(19).

⁶ This includes when the defendant is sentenced, placed on probation, assigned to youthful trainee status, or granted a deferred judgment of guilt or a delayed sentence pursuant to MCL 769.1k.

⁷ MCL 712A.18m.

FEES - NEGLECT CASES (NA)

- ▶ 100% of the cost for the parent(s') and child(rens') attorney if court-appointed.
 - ▶ \$850 - parent attorney
 - ▶ \$1,350 - GAL (Guardian Ad Litem)
- ▶ Payment for out-of-home costs are figured on a household income basis. Full costs may be ordered for failure to meet with the collection department.

WAIVER/SUSPENSION OF FEES AND COSTS

Application:

- ▶ All applications must be by an otherwise eligible applicant (who must be a natural person, not a company or entity). Applicants must fully complete and file form MC20; Suspension of Fees/Costs (Affidavit and Order). The Clerk shall provide a copy of these forms to the applicant upon request at no charge.

Fees/Costs:

- ▶ Pursuant to MCR 2.002(A), the term “fees and costs” is limited for waiver/suspension purposes to only filing or entry fees required by law. Under appropriate showing, the term can be extended to include process service fees and/or publication costs pursuant to MCR 2.002(F).

Standards:

- ▶ Persons Receiving Public Assistance: The term “public assistance” means cash assistance provided under the Social Welfare Act, MCL 400.1 to 400.119b. (Cash assistance includes Temporary Assistance to Needy Families [TANF], Family Independence Payments [FIP, formerly AFDC], and Supplemental Security Income [SSI]). It DOES NOT include food assistance, child care or medical assistance. Pursuant to MCR 2.002(C), if a person shows that he or she is receiving public assistance, the payment of fees and costs shall be suspended by the Court.
- ▶ Other Indigent Persons: Pursuant to MCR 2.002(D), if a person shows inability to pay fees and costs because of indigence, Court shall order either

waiver or suspension of fees and costs until the conclusion of the litigation. To qualify under this provision, the party must show: 1) they are represented by a federally recognized legal services organization (eligibility for which is based on indigence); or, 2) that the annual family income before taxes is less than 125% of the Federal Poverty Guidelines for a family of their size for which they are legally liable to support; or, 3) that the party's family income and/or liquid assets are not enough to pay for the common necessities of life for the people they are required by law to support and also to pay court fees and costs.

Review of Application:

- ▶ Upon filing with the Circuit Court Clerk of the properly completed form MC20, the application will be referred to the Court Collections Unit for review and recommendation. The Court Collections staff will interview (if necessary) the applicant and make a written recommendation within one business day. Completed forms and the recommendation shall be forwarded promptly by the Court Collections staff as follows:
 - ▶ To the Chief Circuit Judge for commencement of new actions
 - ▶ To the assigned Trial Judge for matters subsequent to initiation of case
- ▶ The Chief Judge or assigned Trial Judge will review the application and recommendation and complete the order portion of form MC20. Form MC20 with the completed order together with form MC287 (if applicable) and the Court Collection Unit recommendation form shall be returned to the Clerk for filing. The Court Clerk shall inform the party of the judicial action.
- ▶ Collections may require the applicant to complete SCAO Form MC287 if additional financial information is required to document indigence under items 2 & 3 listed in "Other Indigent Persons" above.

Certain Domestic Relations Cases:

- ▶ If a party is granted a fee waiver/suspension in an action for divorce, separate maintenance, or annulment or affirmation of marriage, the Court shall order applicant's spouse to pay the fees and costs pursuant to MCR 2.002(E). In such an event, the Court Clerk shall notify the party of the amount due.

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	WAIVER/SUSPENSION OF FEES AND COSTS (AFFIDAVIT AND ORDER)	CASE NO.
---	--	-----------------

Court address _____ Court telephone no. _____

Plaintiff/Petitioner name	v	Defendant/Respondent name
Plaintiff's/Petitioner's attorney and bar no.		Defendant's/Respondent's attorney and bar no.
<input type="checkbox"/> Probate In the matter of _____		

NOTE: Requests for waiver/suspension of transcript costs or mediation fees must be made separately by motion.

AFFIDAVIT

1. I ask the court to waive/suspend fees and costs for the following reason: (check either a or b)
- a. I am currently receiving public assistance: My DHS case number is _____
(MCR 2.002[C] requires the court to suspend payment of fees and costs.)
- OR**
- b. I am unable to pay fees and costs because of indigency, based on the following facts:
 My average gross income is about \$ _____ every week. two weeks. month.
 I am receiving unemployment benefits.
 I am not employed.
 I have a vehicle: Year: _____ Make: _____ Model: _____ Amount Owed: \$ _____
 The total amount in all my bank accounts is: \$ _____
 Write down any other assets and how much they are worth. If you need more space, attach a separate sheet.

I pay \$ _____ in rent/mortgage every month. I pay \$ _____ in utilities (water, electricity, gas) every month. I pay \$ _____ for court-ordered child support. I pay \$ _____ for court-ordered _____ specify
 Write down any other obligations and how much you pay. If you need more space, attach a separate sheet.

2. The number of people living in my household is _____
3. I am signing this affidavit for a person who is a minor. has the following disability _____

Applicant signature

Name (type or print)

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy clerk/Register/Notary public

Notary public, State of Michigan, County of _____

ORDER

IT IS ORDERED:

1. The applicant has shown by *ex parte* affidavit that he/she is
- a. receiving public assistance, and payment of fees and costs are waived/suspended pursuant to MCR 2.002(C).
 - b. indigent and payment of fees and costs are waived/suspended pursuant to MCR 2.002(D).
- The applicant is required to notify the court if the reason for waiving/suspending the fees and costs no longer exists.
2. The application is denied.

Date Judge

INSTRUCTIONS FOR USING FORM MC 20, WAIVER/SUSPENSION OF FEES AND COSTS (AFFIDAVIT AND ORDER)

»» CAN I FILE MY LEGAL PAPERS WITH THE COURT FREE OF CHARGE?

When you file a legal paper with the court or are ordered to case evaluation, you are often required to pay certain fees. If you cannot afford these fees, you can ask the court to "waive" or "suspend" them using this form (MC 20).

»» FILING AN AFFIDAVIT

1. Prove That You Cannot Afford to Pay a Filing Fee

You must show the court that you cannot afford to pay the fees. If you receive public assistance, you must give the court your DHS case number. If you do not receive public assistance, you must give the court information about your assets and obligations. An asset is something you own, such as money, a car, a house, or other property. An obligation is something you owe, such as rent, a loan payment, utilities, court-ordered child support, etc.

2. Complete Form MC 20

After you prepare the legal papers you want to file with the court, complete form MC 20.

If you are receiving public assistance, check the box in front of item 1a. Write in your DHS case number. Public assistance means you are receiving help from the Michigan Department of Human Services and/or are receiving federal social security income (SSI), which includes Medicaid (a DHS program). It does not include benefits such as veterans assistance (VA benefits) or unemployment. Do not check the box in front of item 1b. Gross income means before any deductions.

If you are not receiving public assistance, check the box in front of item 1b. Check all the boxes that apply to you. If you are not employed, check that box. Write in all the requested information about your assets and obligations.

Do not sign the form until you are in front of a notary public or the clerk of the court.

3. Sign the Affidavit Under Oath

After form MC 20 is completed, sign it under oath in front of a notary public or a clerk of the court. You must bring your photo identification with you when you sign the affidavit. There may be a fee to have your affidavit signed in front of a notary public.

4. Make Copies

After you have signed the affidavit under oath, make a copy of the completed form for your records. If your court case is a domestic relations case, such as divorce, paternity, separate maintenance, etc., make another copy of the completed form for the friend of the court office. If you are at the court when you sign the affidavit, you can ask the clerk of the court to make copies for you. There may be a cost to make the copies.

5. File Form MC 20

Take or mail the original and all copies of this form (MC 20) to the clerk of the court along with any other legal papers you want to file. If your court case is a domestic relations case, such as divorce, paternity, separate maintenance, etc., include the friend of the court copy you made in step 4. If you mail the form, include a postage-paid envelope with your return address.

»» GETTING A SIGNED ORDER

When you file your affidavit with the court, the clerk of the court will give it to the judge. The judge will make a decision and will sign the order. The clerk of the court will keep the original and return a signed copy to you. The clerk of the court will send a copy to the friend of the court if you filed that copy.

RECOMMENDATION FOR FEES/COSTS WAIVER/SUSPENSION

Case No. _____

The applicant, _____, has requested that the fees/costs be
waived/suspended in this case.
Name

Following a review of the information provided by the applicant, I recommend that the application be:

Approved for the reason that:

- The party is a Government Unit;
- The party is receiving public assistance;
- The party is represented by federally recognized legal service organization(s);
- The family income is less than 125% of the Federal Poverty Guidelines;
- The family income or liquid assets are not enough to pay for common necessities.

Denied for the reason that:

- The family income exceeds 125% of the Federal Poverty Guidelines;
- The family income or liquid assets are sufficient to pay for common necessities:

Verify liquid assets.

Reviewed by: _____ Date: _____

- New filing – refer to Chief Judge
- Subsequent filing – refer to Assigned Judge _____

PROCEDURES

Payments:

- ▶ Payment may be made in person at the Circuit Court Clerk's Office. Forms of payment such as cash, money orders, registered or certified checks are accepted. Payments may also be made by mail or on-line (www.calhouncountymi.gov).

Monthly Statement:

- ▶ A statement of billing will be sent on a monthly basis showing balances due in any care/service category. The billing statement has the account identification and should be returned with the payment to apply appropriately.

Non-Payment:

- ▶ Failure to pay or failure to pay as ordered may result in a contempt proceeding with the possible sanctions of payment in full being required, wage assignment, tax interception and/or incarceration.

Statements:

A statement of billing includes a list of the accounts for various service/care areas for which the parties are being billed and the balances due for each.

- ▶ As payments are made each month on a regular basis, as ordered/agreed, the parties will receive a monthly statement with the current balance due.

- ▶ If payments are not made in approximately four weeks between statements, the parties will receive a delinquent letter informing them that the account is past due.
- ▶ If payments are not made prior to accounts being updated and prepared for the next billing, the parties will be required to appear at the collection department and meet with the unit manager to discuss the options available in order to avoid possible show cause proceedings and possible contempt of court.
- ▶ If the party fails to appear for a Collection Unit appointment and/or comply with the payment plan, the matter will be referred for a show cause hearing and possible contempt sanctions.

SHOW CAUSE PROCESS

After 90 days and no payment, a motion and order to show cause will be prepared and scheduled, with the following exceptions:

- ▶ Restitution show cause hearings are generated through the prosecuting attorney's office.
- ▶ If payment arrangements are made prior to the hearing, the hearing will be adjourned or cancelled.

All show cause hearings are set quarterly before a Referee or Judge.

Possible disposition orders include:

1. Income withholding/wage assignment.
2. Assessment of further costs.
3. Jail time.

Bench warrants will be requested if a party fails to appear.

Enforcement:

Collection tools of the Circuit Court Family Division:

- ▶ Show Cause hearings/contempt of court actions
- ▶ Income withholding/wage assignment
- ▶ Tax intercepts
- ▶ Bench warrants
- ▶ Order to remit prison funds (DJ included)

PAYMENT PLANS

Documents needed to apply for a payment plan:

- ▶ Social Security Card
- ▶ Driver's license or picture I.D. (Passport)
- ▶ Current employment paycheck/stub
- ▶ Proof of residency (a bill with name/address)
- ▶ Current bank account statement
- ▶ Name, address, and phone number of two references (not living with you).
- ▶ Financial information
- ▶ Petition and order for installment payments/income withholding