OFFICE OF CHILD SUPPORT ENFORCEMENT

An Office of the Administration for Children & Families

Direct Application for Title IV-D Services from International Residents

PIQ-99-01

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U.S. Department of Health and Human Services
Administration for Children & Families
Office of Child Support Enforcement

PIQ-99-01

DATE: January 14, 1999

TO: Regional Program Managers

FROM: David Gray Ross
Commissioner
Office of Child Support Enforcement

RE: Direct Application for Title IV-D Services from International Residents

Question: Are States required to provide child support enforcement services to individuals who reside in a foreign country and who apply directly to the State for paternity or support enforcement services?

Answer: Yes. Section 454(4)(A)(ii) of the Social Security Act (the Act) imposes a literal requirement that State agencies must provide Title IV-D services to anyone who has filed a proper application for services with the agency.

Section 454(6)(A) of the Act states that "services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan." This provision makes it clear, in the interstate context, that services must be provided to anyone who applies. OCSE has consistently interpreted the language now found under section 454(4)(A)(ii) as imposing no residency or citizenship requirement as a precondition for Title IV-D services under the Act. See DCL 98-80 and DCL 94-45. Section 454(4)(A)(ii) of the Act thus continues to require that services be provided to anyone who applies, regardless of nationality, just as section 454(6)(A) makes this principle explicit in the interstate context.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) amended the Act by adding section 459A, which provides authorization to the Federal government to declare foreign countries to be "reciprocating countries," and to enter into international agreements with such countries. The section, however, also allows States to continue existing reciprocity agreements they may have with foreign countries and to enter into new reciprocal agreements with foreign governments which have not been declared reciprocating countries under Federal law. Under the authority noted above, States may also continue to provide services to U.S. citizens living abroad and to non-resident aliens who apply (or have applied) directly to the State for child support enforcement services.

Prior to PRWORA, reciprocal agreements between States and foreign jurisdictions were not specifically encompassed under any provision of title IV-D of the Act. Neither the Act nor IV-D regulations specifically provided for the provision of services for incoming international cases based solely on reciprocity arrangements negotiated independently by State agencies. OCSE policy, however, has long recognized that there are no constraints within the Act prohibiting individuals in foreign countries from filing a signed application for services in accordance with sections 302.33(a)(i) and 303.2(a)(2) and (3) of the regulations. Consequently, States were free to negotiate international arrangements whereby the foreign country would facilitate securing the applications for services from individuals and forwarding them to the State for provision of services. See PIQ 92-06. Many cases are currently being worked under these prior arrangements, or by direct application of individuals in foreign countries to the State where the obligor resides, and IV-D agencies should continue to work these cases until such time as the originating country is declared a foreign reciprocating country.

I hope this addresses your concerns.