

OCSE Stafford Act Flexibilities Request Form

OCSE recognizes that specific states and tribes may need flexibilities in addition to the modified timeframes listed in DCL-20-04. Section 301 of the Stafford Act, 42 U.S.C. § 5141, provides that “Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State [or Indian tribal government] or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.”^[1]

Complete this form to request additional program flexibilities during the declared major disaster and submit it to the [Regional Program Manager](#) in your area. The request from the state or tribal child support director must identify the specific timeframe(s) needing modification or waiver (including the statutory or regulatory citations), a short description/rationale justifying the need for the modification or waiver of the timeframe based on the impact of the COVID-19 pandemic on program operations, and the desired revised timeframe.

OCSE will expedite the review process and the Regional Program Manager will provide a response via email to the state or tribal child support director.

Complete this section

State/Territory/Tribe Hawaii

Modification of Timeframe(s) from DCL-20-04

Identify in the table below any requested timeframe modifications from the examples in DCL-20-04.

	CRITERIA	DESCRIPTION	STATUTE/REGULATION	CURRENT REQUIREMENT	FLEXIBILITY
<input checked="" type="checkbox"/>	STATE PLAN	Payment disbursement within 2 business days	454B (c) (1) 302.32(b)(1), (2)(i), and 2(ii)	2 Business Days	5 Business Days for fully electronic processes and 10 Business days if manual processes are required.

^[1]Regulations issued by the Federal Emergency Management Agency (FEMA) under the Stafford Act at 44 CFR 206.2(a)(16), define the term “local government” to include Indian tribe, authorized tribal organization, or Alaska Native village or organization.

	CRITERIA	DESCRIPTION	STATUTE/REGULATION	CURRENT REQUIREMENT	FLEXIBILITY
<input checked="" type="checkbox"/>	STATE PLAN	Child support guidelines reviews conducted at least once every four years	467(a), 469 302.56(e)	Every 4 years	If a state is in the process of conducting a review or is initiating a review in 2020, the state has one additional year to complete the review.
<input checked="" type="checkbox"/>	PATERNITY AND SUPPORT ORDER	Establish orders or complete service of process within 90 calendar days of locate	303.4(d)	90 Calendar Days	180 Calendar Days
<input checked="" type="checkbox"/>	ENFORCEMENT	Take enforcement action within 30 calendar days of delinquency	303.6(c)(2)	30 Calendar Days	60 Calendar Days
<input checked="" type="checkbox"/>	ENFORCEMENT	Take enforcement action within 60 calendar days of delinquency when service of process is necessary	303.6(c)(2)	60 Calendar Days	120 Calendar Days
<input checked="" type="checkbox"/>	INTERSTATE	Make Intergovernmental referrals within 20 calendar days	303.7(c)(4)(i),(ii)	20 Calendar Days	40 Calendar Days
<input checked="" type="checkbox"/>	INTERSTATE	Take specified actions within 75 calendar days of receipt of an intergovernmental form and documentation from its central registry	303.7(d)(2)(i), (ii), and (iii)	75 Calendar Days	150 Calendar Days
<input checked="" type="checkbox"/>	INTERSTATE	Within 10 working days of locating the noncustodial parent in a different State, return forms, or, if directed, forward/transmit forms to noncustodial parent's state	303.7(d)(3)	10 Working Days	20 Working Days

	CRITERIA	DESCRIPTION	STATUTE/REGULATION	CURRENT REQUIREMENT	FLEXIBILITY
<input type="checkbox"/>	INTERSTATE	Forward/transmit forms within 10 working days of locating the noncustodial parent in a different political subdivision within the State	303.7(d)(4)	10 Working Days	20 Working Days
<input checked="" type="checkbox"/>	INTERSTATE	File the controlling order determination request within 30 calendar days	303.7(d)(5)(i)	30 Calendar Days	60 Calendar Days
<input checked="" type="checkbox"/>	INTERSTATE	Notify appropriate jurisdictions of the controlling order determination and any reconciled arrearages within 30 calendar days	303.7(d)(5)(ii)	30 Calendar Days	60 Calendar Days
<input checked="" type="checkbox"/>	INTERSTATE	Within 10 working days of receipt of instructions for case closure, stop responding state income withholding and close interstate case	303.7(d)(9)	10 Work Days	20 Work Days
<input checked="" type="checkbox"/>	REVIEW AND ADJUSTMENT	Provide notice (of the right to request review of the order) within 15 business days when learning of noncustodial parent incarceration of more than 180 calendar days	303.8(b)(7)(ii)	15 Business Days	30 Business Days
<input checked="" type="checkbox"/>	INCOME WITHHOLDING	Issue the income withholding order (IWO) notice to the employer within 2 business days	303.100 (e)(2), 303.100 (e)(3), 454A(g)(1)(A)(i), 466, 453A (g) (1)	2 Business Days	5 Business Days for fully electronic processes and 10 Business days if manual processes are required.
<input checked="" type="checkbox"/>	SYSTEMS	The statewide system must transmit IWO orders and notices to employers and other debtors within 2 business days	307.11 (c) (1) (i)	2 Business Days	5 Business Days for fully electronic processes and 10 Business days if manual processes are required.

	CRITERIA	DESCRIPTION	STATUTE/REGULATION	CURRENT REQUIREMENT	FLEXIBILITY
<input type="checkbox"/>	TRIBAL PLAN	Provide notices of support collected itemized by month of collection, at least once a year	309.75(c)		Yearly notices of support collected due may be sent to families no later than December 31, 2020.
<input type="checkbox"/>	TRIBAL PLAN	Indicate that child support guidelines will be reviewed and revised, if appropriate, at least once every four years	309.105(a)(4)	Every 4 years	If a tribe is in the process of conducting a review or is initiating a review in 2020, the tribe has one additional year to complete the review

Other Modification or Waiver Being Requested

Identify the program requirement needing modification or waiver.

See attached.

Statutory or Regulatory Citations

Enter the statutory or regulatory citations of the requirement you are requesting to have modified or waived. (No citations are needed for timeframes from the above chart.)

See attached.

Reason for Request

Describe the specific impact on the program that prompts your request. If requesting flexibility on a timeframe, please specify your proposed new timeframe.

See attached.

Date of Submission: 07/07/2020

Submitted By: Lynette J. Lau

Date Submission Received



Division Assigned

Office of Audit

Division of Federal Systems

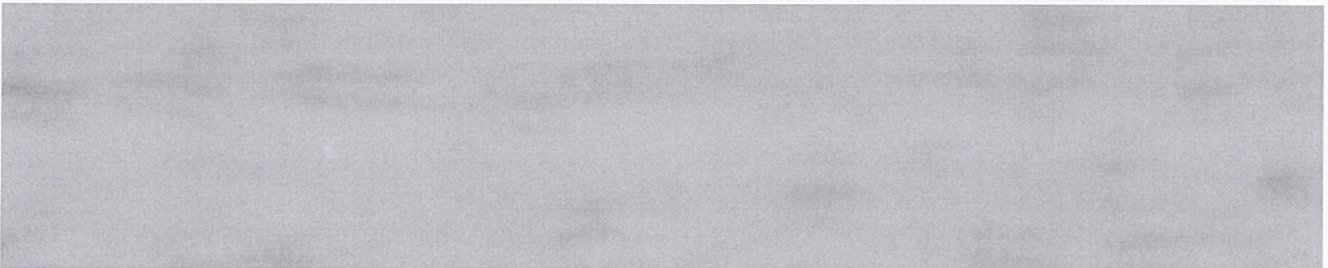
Division of Policy and Training

Division of Program Innovation

Division of Regional Operations

Division of State and Tribal Systems

Recommendation



Date Completed



OTHER MODIFICATIONS OR WAIVERS BEING REQUESTED

TIMEFRAME REQUIREMENTS

1) **45 CFR 303.2(b)**

Requires the IV-D agency to open a case within no more than 20 calendar days of receipt of referral of a case or filing of an application for services under § 302.33.

Request

We request that the requirement be extended from 20 calendar days to 30 calendar days.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, including an order from the Governor of the State of Hawaii that all non-essential workers stay at home, the agency requests flexibility to open cases within 30 calendar days.

2) **SSA §454B (c) (1); 45 CFR 302.32(b)(1), (2)(i), and 2(ii), and (3)**

Requires payment disbursement within 2 business days as it applies to intergovernmental IV-D cases (302.32(b)(1)), recipients of aid under the state's title IV-A or IV-E plan (302.32(b)(2)(i) and (2)(ii)), and individuals not receiving title IV-A assistance (302.32(b)(3)).

Request

We request that the requirement be extended from 2 business days to 5 business days for electronic processes and 20 business days if manual processes are required. This request expands upon the modification of timeframe noted in the above table.

Rationale

Due to the additional \$600 federal pandemic unemployment compensation as a result of the CARES Act, we must manually review every unemployment insurance benefit (UIB) withholding to determine whether it exceeds the monthly income withholding order for all cases. There are currently over 200,000 residents receiving unemployment insurance benefits. Staff are reviewing each unemployment insurance benefit payment individually and manually calculating appropriate amount of withholding. Then the financial department must individually manually release each UIB payment received. This is a very time and resource consuming process that must be done each day.

We are also requesting that the flexibility apply to cases for individuals not receiving title IV-A assistance pursuant to 45 CFR 303.32(b)(3). The manual review of the UIB payments is not solely limited to intergovernmental cases (302.32(b)(1)), and title IV-A or IV-E assistance cases (302.32(b)(2)(i) and (2)(ii)); we must also do the same review for individuals not receiving title IV-A assistance (303.32(b)(3)).

3) **45 CFR 303.4(d)**

Requires the IV-D agency to commence proceedings to establish a support order and, if necessary, paternity, within 90 calendar days of locating the alleged father or noncustodial parent.

OTHER MODIFICATIONS OR WAIVERS BEING REQUESTED

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Requires the IV-D agency to open a case within no more than 20 calendar days of receipt of referral of a case or filing of an application for services under § 302.33.

Request

We request that the requirement be extended from 20 calendar days to 30 calendar days.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, including an order from the Governor of the State of Hawaii that all non-essential workers stay at home, the agency requests flexibility to open cases within 30 calendar days.

2) **SSA §454B (c) (1); 45 CFR 302.32(b)(1), (2)(i), and 2(ii), and (3)**

Requires payment disbursement within 2 business days as it applies to intergovernmental IV-D cases (302.32(b)(1)), recipients of aid under the state's title IV-A or IV-E plan (302.32(b)(2)(i) and (2)(ii)), and individuals not receiving title IV-A assistance (302.32(b)(3)).

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We request that the requirement be extended from 2 business days to 5 business days for electronic processes and 20 business days if manual processes are required. This request expands upon the modification of timeframe noted in the above table.

Rationale

Due to the additional \$600 federal pandemic unemployment compensation as a result of the CARES Act, we must manually review every unemployment insurance benefit (UIB) withholding to determine whether it exceeds the monthly income withholding order for all cases. There are currently over 200,000 residents receiving unemployment insurance benefits. Staff are reviewing each unemployment insurance benefit payment individually and manually calculating appropriate amount of withholding. Then the financial department must individually manually release each UIB payment received. This is a very time and resource consuming process that must be done each day.

We are also requesting that the flexibility apply to cases for individuals not receiving title IV-A assistance pursuant to 45 CFR 303.32(b)(3). The manual review of the UIB payments is not solely limited to intergovernmental cases (302.32(b)(1)), and title IV-A or IV-E assistance cases (302.32(b)(2)(i) and (2)(ii)); we must also do the same review for individuals not receiving title IV-A assistance (303.32(b)(3)).

3) **45 CFR 303.4(d)**

Requires the IV-D agency to commence proceedings to establish a support order and, if necessary, paternity, within 90 calendar days of locating the alleged father or noncustodial parent.

Request

We request that the requirement be extended from 90 calendar days to 270 calendar days.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, an executive order from the Governor of the State of Hawaii that all non-essential workers stay at home, and orders from the Judiciary limiting access to the court for filing and postponing non-emergency matters, the agency requests flexibility.

4) 45 CFR 303.6(c)(2)

Requires the IV-D agency take any appropriate enforcement action unless service of process is necessary within no more than 30 calendar days of identifying a delinquency or other support-related non-compliance with the order or the location of the noncustodial parent, whichever occurs later. If service of process is necessary prior to taking an enforcement action, service must be completed and enforcement action taken within no later than 60 calendar days.

Request

We request that the requirement be extended from 30 calendar days to 150 calendar days and from 60 calendar days to 180 calendar days, respectively.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, an executive order from the Governor of the State of Hawaii that all non-essential workers stay at home, and orders from the Judiciary limiting access to the court for filing and postponing non-emergency matters, the agency requests flexibility. The USPS' stated policy of not requiring signatures for certified mail also impacted legal proceedings requiring service of process.

5) 45 CFR 308.2(h)

In IV-D cases needing support orders established, regardless of whether paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following timeframes pursuant to §303.101(b)(2)(i) of this chapter:

(i) 75 percent in 6 months; and

(ii) 90 percent in 12 months.

Request

We request that the minimum standard be changed to 50 percent in 6 months and 75 percent in 12 months.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, an executive order from the Governor of the State of Hawaii that all non-essential workers stay at home, and orders from the Judiciary limiting access to the court for filing and postponing non-emergency matters, the agency requests flexibility. The USPS' stated policy of not requiring signatures for certified mail also impacted legal proceedings requiring service of process.

6) 45 CFR 303.32(c)(2)

The State agency must transfer the NMSN to the employer within two business days after the date of entry of an employee who is an obligor in a IV–D case in the State Directory of New Hires.

Request

We request that the timeframe be extended from 2 business days to 5 business days.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, an executive order from the Governor of the State of Hawaii that all non-essential workers stay at home, and orders from the Judiciary limiting access to the court for filing and postponing non-emergency matters, the agency requests flexibility.

7) 45 CFR 303.2(a)(2)

When an individual requests an application for IV–D services, provide an application to the individual on the day the individual makes a request in person, or send an application to the individual within no more than 5 working days of a request received by telephone or in a record.

Request

We request that the timeframe be extended from 5 working days to 10 working days.

Rationale

Due to limited operational capacity as a result of COVID-19 and social distancing requirements, an executive order from the Governor of the State of Hawaii that all non-essential workers stay at home, and orders from the Judiciary limiting access to the court for filing and postponing non-emergency matters, the agency requests flexibility.

8) 45 CFR 305.0-305.66

Requires the IV-D agency to comply with required federal performance measures and federal audit requirements and to be subject to performance penalties for each federal fiscal year (FFY).

Request

We request the following:

- 1) A waiver of any performance measure penalties that would otherwise apply through FFY 2020 (9/30/2020) due to the agency's failure to meet required federal performance measures and hold the CSEA harmless in the FFY 2020 audit for any case file that does not include the supporting documentation for paternity and born-out-wedlock.
- 2) A 60-day extension of the deadline to submit the mandatory Child Support Enforcement Annual Data Report (OCSE-157 report) from 10/30/2020 to 12/31/2020.
- 3) A 90-day extension of the deadline to submit final revisions to the OCSE-157 report from 12/31/2020 to 3/31/2021.
- 4) An extension of the deadline for the submission of the associated Audit Case Listing (ACL) from the 10th business day in the following calendar year (1/15/2021) to the 10th business day following the revised due date for final revisions to the OCSE-157 report (4/14/2021).

Rationale

These waiver requests are made due to the impact of COVID-19 on state and field operations. The impact to performance measures will likely be seen into federal fiscal year 2021 as the state and courts work to catch up from being closed due to the COVID-19 emergency. We are requesting that the waivers on performance be applicable to FFY 2020.

Because Hawaii hospitals were restricting admittance into delivery rooms, this adversely affected the ability to obtain voluntary establishments of paternity (VEP). In addition, hospitals were not transmitting VEPs to the state Department of Health (DOH) because of DOH's closure. Since DOH was closed, we were not able to obtain these records from DOH.

Due to COVID-19, courts in Hawaii have been closed since March 2020. The judicial establishment of paternity came to a complete halt. As the courts slowly reopen, it will take a significant amount of time to address the backlog of cases that were created by the shutdown.