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](https://www.acf.hhs.gov/css/resource/ocse-regional-contact-map) 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***

Mississippi

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

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

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|  | **CRITERIA** | **DESCRIPTION** | **STATUTE/REGULATION** | **CURRENT REQUIREMENT** | **FLEXIBILITY** |
| ✔ | STATE PLAN | Payment disbursement within 2 business days | 454B (c) (1)302.32(b)(1), (2)(i), and2(ii) | 2 Business Days | 5 Business Days for fully electronic processes and 10 Business days if manual processes are required. Six-months if payments received from the IRS/BFS or 20 business days from the date federal guidance is received regarding stimulus payments. |

[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.

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|  | **CRITERIA** | **DESCRIPTION** | **STATUTE/REGULATION** | **CURRENT REQUIREMENT** | **FLEXIBILITY** |
| ✔ | STATE PLAN | Child support guidelines reviews conducted at least once every four years | 467(a), 469302.56(e) | Every 4 years | 2021 guideline review, extended to 08/2022 for review completion. |
| ✔ | PATERNITY AND SUPPORT ORDER | Establish orders or complete service of process within 90 calendar days of locate | 303.4(d) | 90 Calendar Days | 300 Calendar Days |
| ✔ | ENFORCEMENT | Take enforcement action within 30 calendar daysof delinquency | 303.6(c)(2) | 30 Calendar Days | 180 Calendar Days |
| ✔ | ENFORCEMENT | Take enforcement action within 60 calendar days of delinquency when service of process isnecessary | 303.6(c)(2) | 60 Calendar Days | 300 Calendar Days |
| ✔ | INTERSTATE | Make Intergovernmental referrals within 20calendar days | 303.7(c)(4)(i),(ii) | 20 Calendar Days | 40 Calendar Days |
| ✔ | INTERSTATE | Take specified actions within 75 calendar days of receipt of an intergovernmental form and documentation fromits central registry | 303.7(d)(2)(i), (ii), and (iii) | 75 Calendar Days | 150 Calendar Days |
| ✔ | 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’sstate | 303.7(d)(3) | 10 Working Days | 20 Working Days |

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|  | **CRITERIA** | **DESCRIPTION** | **STATUTE/REGULATION** | **CURRENT REQUIREMENT** | **FLEXIBILITY** |
| ✔ | INTERSTATE | Forward/transmit forms within 10 working days of locating the noncustodial parent in a different political subdivisionwithin the State | 303.7(d)(4) | 10 Working Days | 20 Working Days |
| ✔ | INTERSTATE | File the controlling order determination request within 30 calendar days | 303.7(d)(5)(i) | 30 Calendar Days | 300 Calendar Days |
| ✔ | INTERSTATE | Notify appropriate jurisdictions of the controlling order determination and any reconciled arrearageswithin 30 calendar days | 303.7(d)(5)(ii) | 30 Calendar Days | 60 Calendar Days |
| ✔ | INTERSTATE | Within 10 working days of receipt of instructions for case closure, stop responding state income withholding and closeinterstate case | 303.7(d)(9) | 10 Work Days | 20 Working Days |
| ✔ | 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 |
| ✔ | 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. |
| ✔ | 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. |

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|  | **CRITERIA** | **DESCRIPTION** | **STATUTE/REGULATION** | **CURRENT REQUIREMENT** | **FLEXIBILITY** |
| ✔ | Performance Penalties  | Paternity Establishment percentage must remain at 90% or more. Order Establishment percentage must remain at 50% or more. Current Collections percentage must remain at 40% or more. Submission of complete and reliable data in response to an OCSE audit. | 409(a)(8) 305.31(e) 305.40(a) 305.61 |  | Waive penalties on performance through 9/30/2021 |
| ✔ | Paternity documentation for data reliability audit | Documentation supporting the parentage indicators in the system including birth certificates and Affidavit of Paternity  |  | Must be supporting documentation for parentage data submitted  | Hold the state harmless in the FFY2020 audit for any file that does not include the supporting documentation for parentage data |

# Other Modification or Waiver Being Requested

Identify the program requirement needing modification or waiver.

Performance Penalties: Waive any penalties that would otherwise apply through FFY 2021 (September 30, 2021)

Hold Harmless in the FFY 2020 audit for any case file that does not include the supporting documentation for paternity and born-out-wedlock.

## 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.)

42 USC 609, 45 CFR 303.319(e), 45 CFR 305.40, 45 CFR 305.61

308.1(a); 308.1(b)(2)(iv)

## 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.

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. Mississippi is requesting that the waivers on performance be applicable to FFY 2020 and 2021, and that all other flexibilities be effective and applicable from January 20, 2020 through September 30, 2021.

Mississippi is asking for extended time frame flexibilities outlined above for the following reasons:

* Judicial barriers - In March 2020, courts across Mississippi began closing until all courts stopped non-emergency hearings which included child support. Also, child support offices closed to the public effective March 16th, 2020 in an effort to prevent the spread of the virus to employees and customers. As of this submission, child support offices remain closed. While some courts have reopened, child support offices remain closed and are unable to proceed with paternity testing. Therefore, there are limited child support matters being brought before the courts that are open. It will likely be the next fiscal year until the courts and child support catch up with the backlog. As such, Mississippi is requesting for longer extensions of time for establishing and enforcing orders.
* Service of process barriers - Securing service of process has been difficult. Further complicating matters is that USPS changed its process of providing service by mail by not having the individual served sign the acknowledgment card. Many courts will not accept this as proper service, and the state will have to attempt service in other ways.
* Paternity establishment barriers - During the pandemic, documentation was difficult to obtain because of limited access to patients in the hospital and limited staffing to assist parents in completing the Acknowledgment of Paternity documentation. At the same time, child support offices were closed to the public preventing a secondary method for parents to complete the Affidavit of Paternity. Lack of access to the Affidavit of Paternity may impede the number of paternities established through the affidavit process which will impact the state's paternity establishment rate. Further, the Mississippi Bureau of Vital Records has been delayed in sending birth certificates needed to establish paternity during this pandemic.
* Staffing barriers - During the pandemic, many offices have and will continue to be required to adjust work schedules to promote social distancing and safe practices including teleworking, alternating schedules, and possible reduction in force. These adjustments caused barriers to processing incoming and outgoing mail, print jobs, and access to in-person meetings with custodial and non-custodial parents.
* Payment Processing - Stimulus checks were sent to state IV-D programs without any coding to distinguish a stimulus check from a regular tax offset payment. As of the date of this submission, there has been no guidance given to states on whether or not the IRS will do a reach-back of funds on stimulus payments issued to incarcerated or deceased individuals. As such, the state needs flexibility to hold these funds for up to 6-months from the date of receipt, unless guidance is received before that 6 months expires. If the 6-months expires without guidance, the state will request another extension of time to processing these payments. Once guidance is received, the state may need extra days to make system changes based on what guidance is received.
* Guidelines Review - Prior to COVID-19, Mississippi was planning to begin initiation of its guidelines review that is due in August 2021. Discussions had started with stakeholders, including the legislature, to begin having hearings as early as this summer. However, with delays in the regular legislative session and the legislature focused on budgets and COVID-19 expenditures, Mississippi may not be able to initiate the guidelines review and have it completed prior to August 2021. Further complicating matters, procurement has been delayed on securing an expert to assist the state in this review.

**Date of Submission: Submitted By:**

Lyndsy Irwin, IV-D Director, MDHS

06/24/2020

**For Federal Office of Child Support Enforcement Use Only**

***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***