

Office of Recovery Services Agency Overview

The Office of Recovery Services (ORS) is an agency within the Utah Department of Human Services. The Office was established as a State program in the 1970s, and became the designated state Child Support Enforcement Agency in 1976. The enabling Federal legislation for this was Title IV-D of the Social Security Act (passed by Congress in 1975).

The Office of Recovery Services administers Child Support Services and Children in Care Collections and Medicaid Recovery Programs.

For more information: <http://www.ors.utah.gov>

ORS' Mission

The mission of the Office of Recovery Services (ORS) is: to serve children and families by promoting independence through responsible parenthood and to ensure public funds are used appropriately.

ORS works within the bounds of state and federal laws and limited resources to provide:

- Services on behalf of children and families in obtaining financial and medical support. We do this through locating parents, establishing paternity and support obligations, and enforcing these obligations.
- Collection of Medicaid reimbursement from responsible third parties to both reimburse and avoid State Medicaid costs.

Financial Institutions and Child Support

COMMON FIDM QUESTIONS

1. What does FIDM stand for and what laws established the FIDM program?

Financial Institution Data Match Program

The FIDM program stems from Federal legislation passed in 1996, which requires state child support agencies to enter into agreements with financial institutions and to automate to the greatest extent possible. Additional legislation in 1998 simplified the process for multi-state financial institutions doing business in more than one state. Although the procedures for data match with single-state and multi-state financial institutions differ, the requirements are identical.

Each state is responsible for identifying and matching data with single-state financial institutions. To accomplish this, states conduct outreach to financial institutions and provide guidance.

States have statutes that govern the execution of liens and levies. These statutes usually establish parameters, define terms and establish procedures. Items addressed usually include:

- ✓ Lien threshold- the amount that the lien-eligible debt must equal or exceed before lien is issued.
- ✓ Arrearage debt - the sum of child support arrears.
- ✓ Lien duration - the time period the lien is in effect.
- ✓ Due Process- the right to notice of the lien and to appeal.

The Office of Recovery Services (ORS) is authorized by Utah law at **UCA 62A-11-304.1** to impose liens and levy (attach and seize) upon money and property held in financial institutions to satisfy past-due child support obligations recorded on the Utah State Case Registry (ORSIS computer system). ORS is authorized to levy upon the money even if the non-custodial parent is making regular current or arrears support payments. Generally, ORS will levy upon savings and other types of savings depository accounts, such as retirement accounts and mutual funds.

Under Federal law at **42 USC. 666(a)(17)**, ORS is required to implement and maintain a data match system with financial institutions for locating the assets of child support debtors. ORS conducts data matching with various in-state and out-of-state financial institutions.

To levy upon a non-custodial parent's financial assets, ORS sends a "Notice of Lien-Levy" to the financial institution, such as a bank or credit union. The financial institution is required to freeze the account and send the money to ORS after 21 calendar days unless it receives a release from ORS or from a court. ORS may release all or part of the funds if the lien-levy action has been contested and a determination has been made that some or all of the funds are exempt from levy.

Overview - Federal Legislative Authority

Public Law 104-193

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), provided new enforcement remedies for child support. Among these remedies are Section 466(a)(17) of the Social Security Act (the Act) which requires states to establish procedures under which the state child support enforcement (IV-D) agency enters into agreements with financial institutions doing business in the state for the purpose of securing information leading to the enforcement of child support orders. The state shall develop and operate, in coordination with financial institutions, a data match system in which each financial institution will provide quarterly the name, record address, Social Security number or other taxpayer identification number for each non-custodial parent who maintains an account at such institution and who owes past-due support. The state supplies the name and Social Security number or other taxpayer identification numbers. These procedures must provide for automated data exchanges to the maximum extent feasible.

The state child support agency establishes procedures to identify cases subject to the data match and to any subsequent attachment/lien and levy action. Financial institutions subject to the matching provision are required to encumber or surrender the assets of the delinquent obligor held by the institution in response to the notice of attachment/lien and levy from the state agency. The attachment/lien and levy action is subject to the laws of the state where the asset is located.

The data matches are conducted by either of the following two methods using data specifications. Under Method 1 (all accounts method), the financial institution submits a file containing all open accounts which is matched by the state against records of delinquent obligors. Under Method 2 (matched accounts method), the financial institution receives a file identifying delinquent obligors, matches the file against its open accounts and submits a file of any matched records to the state. Data specifications for Method 2 files and record layouts were approved by the U.S. Office of Management and Budget (OMB Control No: 0970-0196) on March 5, 1999. The same data specifications have been universally adopted for Method 1. Section 466(a)(17)(B) of the Act establishes that the state child support agency may pay a reasonable fee to institutions conducting the data match, not to exceed the actual costs incurred by the institution. Some states have written into their legislation the option to reimburse financial institutions for conducting the data match with accounts of delinquent child support obligors.

Pursuant to Section 466(a)(17)(C) of the Act, a financial institution will not be liable under any federal or state law to any person for (1) any disclosure of data match information to the state IV-D agency or its designated representative, (2) encumbering or surrendering any assets held by a financial institution in response to a notice of lien or levy issued by the state IV-D agency or (3) any other action taken in good faith to comply with the requirements of Section 466(a)(17) of the Act.

Public Law 105-200

Public Law 105-200, the Child Support Performance and Incentive Act of 1998, amended PRWORA to better facilitate the data match for multi-state financial institutions (MSFIs); i.e., those operating in two or more states. Public Law 105-200 authorizes the federal Office of Child Support Enforcement to act as the conduit between states and territories and the MSFIs in the development and implementation of a centralized, quarterly data match program for the collection of child support delinquencies. Multi-state financial institutions may opt to match through the Federal OCSE or with the individual states in which they do business. Beginning in July 1999, OCSE began distributing the national file of delinquent obligors to the MSFIs for matching using Method 2. OCSE began distributing match information to state IV-D agencies in August 1999.

Public Law 106-102

Traditional insurance products, such as annuities and whole life policies, are not specifically included in the definition of account under Public Law 104-193 though they may be reportable to a particular state under its own statute. The banking reform bill leaves the regulation of the business of the insurance industry under the laws and regulations of the states. PRWORA required states to establish procedures under which their child support enforcement agencies would enter into agreements with financial institutions for the purpose of securing information leading to the enforcement of child support orders. All states have passed the necessary statutes to comply with this requirement. These statutes are similar to the federal statute in defining the financial institutions, and accounts subject to the match and providing other pertinent information relevant to conducting the data match.

In addition, states have laws, policies and procedures that govern the execution of liens and levies. These usually establish parameters, define terms and establish procedures. Items addressed usually include lien threshold, lien duration and due process.

FIDM In-State Processing Freeze - Seize Process

State Legislative Authority

Statutory Authority

Utah law governing child support liens and levies is found at the following Utah Code Annotated citations:

UCA 62A-11-304.1 Expedited procedures for establishing paternity or establishing, modifying, or enforcing a support order.

<http://www.le.utah.gov/UtahCode/getCodeSection?code=62A-11-304.1>

UCA 62A-11-304.5 Financial institutions.

<http://www.le.utah.gov/UtahCode/getCodeSection?code=62A-11-304.5>

and

UCA 62A-11-313 Effect of Lien.

<http://www.le.utah.gov/UtahCode/getCodeSection?code=62A-11-313>

2. Will the Office of Recovery Services reimburse financial institutions for the cost of the match incurred by the financial institution?

Under UCA 62A-11-304.5(2), ORS is authorized to pay a reasonable fee to a contracted financial institution for compliance with this law. The fee may not exceed the actual cost incurred; however, ORS has established a maximum fee reimbursement of \$150.00 per quarter. To receive the reimbursement, institutions must contract with ORS and, after submitting each quarterly match, timely submit the **ORS FIDM Reimbursement Request** form with the financial institution's invoice stating the match costs.

3. When does the financial institution send in the ORS FIDM Reimbursement Request form?

Each financial institution submits the **ORS FIDM Reimbursement Request** form (along with the financial institution's invoice including the institution's match costs) within 30 days of the end of each quarter. If ORS receives the **ORS FIDM Reimbursement Request** form and the institution's invoice after 30 days, reimbursement will not be authorized.

4. Who is subject to financial information matching and reporting under Utah Law?

- (a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. SEC. 1813(c);
- (b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);
- (c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786 (r);
- (d) a broker-dealer as defined in Section 61-1-13; or
- (e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

5. What information must be submitted by financial institutions subject to the reporting requirements of the law?

Utah law at UCA 62A-11-304.5(1)(a)(ii) requires every (contracted) financial institution each calendar quarter to provide the name, record address, Social Security number, other taxpayer identification number, or other identifying information for any person who owes child support who maintains an account at the institution. This information must be reported quarterly for all new, existing and closed accounts during the reporting quarter. Data layouts and methods for submitting the information are included in the **Financial Data Match Specifications Handbook**.

6. What Data Transfer Methods are available to financial institutions?

Institutions may only report using the Secure File Transfer Protocol.

Matching methods are as follows:

METHOD 1: (All Accounts Method)

Institutions/Service Providers may elect to submit (to ORS), on a quarterly basis, a file identifying all open accounts. Every institution electing this option must submit a file each quarter of all accounts to be matched against the ORS data files.

ORS will then send a data file within 30 days back to the institution or service agent with a list of hits for those obligors/account holders that matched.

The institution/service agent must then return a file within 30 days of “B” Record (*see **Financial Data Match Specifications Handbook***) for each matched account.

METHOD 2: (Matched Accounts Method)

Institutions/Service Providers may elect to match files supplied by ORS, on a quarterly basis (and within 30 days of receiving ORS’ file) against all accounts maintained at that institution. Institutions electing this option must report information required by ORS on all accounts at the institution maintained by obligors/account holders on ORS’ inquiry file.

7. Do I need to sign a FIDM Agreement every year?

No, the FIDM Agreement is effective for three years. (See the **Financial Institution Data Matching Program Agreement**.) However, if you contract with a different third-party vendor to perform your data match during that time, an updated contract is required.

Office of Recovery Services FIDM Program Contact Information

MAILING ADDRESS:
ORS FIDM
PO BOX 45033
Salt Lake City, Utah 84145-0033
FAX: 801-536-8636
EMAIL: orsfidm@utah.gov