



DEPARTMENT OF CORRECTIONS  
YOUTH SERVICES DIVISION  
OPERATIONAL PROCEDURE

Procedure No.: YSD 6.2.107	Subject: <b>CONTRIBUTION FOR COST OF CARE</b>	
Reference: <i>41-5-1525 MCA, Contribution for Costs—Order for Contribution—exceptions—collection 72-3-801 MCA, Notice to creditors</i>		Page 1 of 11 and Attachments
Effective Date: 02-10-04		Revised: 6/28/18 (Number Change Only)
YSD Administrator Signature: /s/ Cindy McKenzie		

## I. PURPOSE

Regional Program Administrators (RPAs) will collect financial information regarding the parents/guardians of a youth committed to the Department of Corrections' custody and supervision, once a signed commitment order is received. Whenever possible, the Department of Corrections (DOC) shall obtain court orders authorizing the collection of cost of care contributions from parents/guardians to offset DOC placement costs. This procedure will be reviewed annually and updated as needed.

## II. DEFINITIONS

**Adoption Subsidies** – Cash assistance paid monthly by the federal or state government to parents who have adopted children with special needs.

**CAPS** - Child and Adult Protective Services, the online statewide management system maintained by DPHHS. CAPS is the system through which payments will be made for out-of-home placements and/or for services provided to the youth.

**CHIMES** - the DPHHS economic assistance management system.

**Conformed Copy** - an exact copy of a document filed with a court that is file stamped by the clerk of court and that includes any handwritten notations to the document that exist on the original, including dates and the judge's signature. A conformed copy may or may not be certified.

**Cost of Care Contribution** - a monthly cost of care amount determined by a district or youth court pursuant to section 41-5-1525, MCA.

**CSED** - the Child Support Enforcement Division of the Department of Public Health and Human Services.

**Delinquent** – when the parent/legal guardian is late paying DOC amounts owed pursuant to a court ordered cost of care contribution.

**DPHHS** – Department of Public Health and Human Services for the State of Montana.

**Financial Affidavit** - the Montana Department of Corrections Financial Affidavit [YSD 6.2.107(A)] for cost of care contributions used to obtain financial information from a youth's parent or guardian.

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**Guardian** - an adult who is either the parent or another individual to whom the court has granted guardianship. Legal custody does not equate to guardianship.

**Individual Parent** - a parent of a youth who does not maintain a common household with the youth's other parent.

**Intact Family or Household** - a family or household in which both parents of the youth (natural or adoptive) reside and take joint responsibility for maintaining the family or household.

**MISTICS** - the Department of Labor Information system that contains wage and unemployment benefits data.

**MTCSm** is the computer program used by DOC to determine and calculate parents/guardians Cost of Care obligations for their son or daughter who are adjudicated to the DOC for custody or supervision and are placed out of the home.

**Montana Automated Child Support Guidelines** - the Windows-based automated calculation worksheet used to determine contributions for cost of care pursuant to the Uniform Child Support Guidelines.

**Order for Cost of Care Contribution** - the order issued by a youth or district court requiring parent(s) or guardian(s) to contribute toward the cost of out-of-home placements for youth pursuant to section 41-5-1525, MCA.

**Parent** - the natural or adoptive parent, but not a person whose parental rights have been judicially terminated or the putative father of an illegitimate youth unless the putative father's paternity is established by adjudication or by other clear or convincing proof [41-5-103(32), MCA].

**Poverty Level** - the gross income standard established by the federal government by which eligibility for public assistance is determined.

**RevQ** – Revenue Results – System (client/server/database) used to track parents, youths, placements and associated payments and accruals. The system also provides various reports.

**SEARCHS** - the CSED recordkeeping system for child support.

**SOLA** - Standard Of Living Adjustment.

**Supplemental Nutrition Assistance Program (SNAP)** – formerly known as the Food Stamp Program. SNAP benefits assist low-income households in purchasing the food they need for a nutritionally adequate diet and provide crucial support to needy households.

**Temporary Assistance for Needy Families (TANF)** – program administered by DPHHS providing temporary financial assistance to needy families. The receipt of TANF cash assistance is limited to 60 months in an adult's lifetime.

**Youth** - an individual who is less than 18 years of age without regard to sex or emancipation [41-5-103(45), MCA].

**Youth Court Services** - the juvenile probation office for the respective judicial district.

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**Youth Placement Committee (YPC)** – a committee established in section 41-5-121, MCA assembled in each judicial district for the purpose of recommending an appropriate placement of a youth referred to the youth court or to the department, and periodically reviewing out-of-home placements as required by law.

**III. PROCEDURES****A. Initial Action**

1. RPA ensures the youth court order committing the youth to placement in a secure facility includes language requiring the youth's parents/guardians to complete a financial affidavit and to pay for all or part of the placement costs.
2. After a youth has been recommended by a YPC for placement at a state youth correctional facility and the youth has been placed, the RPA will collect personal and financial information regarding the youth's parents/guardians including marital status, address and telephone number.
3. Determine whether either parent is paying child support to a custodial parent by checking the SEARCHS database.
  - a. If child support is being collected via CSED, alert the CSED caseworker via email that the youth is in a DOC placement and when that placement began.
  - b. Use the CHIMES database or information provided to you by the parent(s) to determine whether the youth and/or his/her parent(s) or guardian(s) is receiving TANF and/or SNAP benefits to make a determination of whether it is appropriate to ask for financial information.
4. Send parent/guardian a Financial Affidavit [YSD 6.2.107(A)] along with a Notice Concerning Financial Support letter [YSD 6.2.107(B)]. Specify a return date of ten working days from the date of the notice.
5. If the financial affidavit is not returned by the specified date, mail a Second and Final Notice letter [YSD 6.2.107(C)] allowing an additional five working days for return.
6. If there is still no response or return of the financial affidavit, the RPA should proceed to calculate the cost of care contribution by imputing income using (a) the current minimum wage; (b) income from MISTICS; or (c) income from other sources.
7. Using the Montana automated child support system worksheet; follow the procedures noted below to determine the appropriate contribution, using information obtained.
8. Enter parent/guardian name, address, applicable dates and other information as it becomes available on the parent's form in RevQ.

**B. Calculating Cost of Care Contribution**

1. General.
  - a. Each RPA should maintain a current master MTCSm worksheet. The financial information obtained is entered into the worksheet.

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- b. When calculating a new cost of care contribution, the RPA will save the file under a name system developed by the RPA into the youth's electronic file located in their G drive.
2. Parent/Guardian and other identifying information on the Input Worksheet.
  - a. Enter the parent(s)/guardian(s) name(s), first name first. If it is an intact family, change the "N" to "Y" (this automatically affects data in certain cells on the Input Worksheet).
  - b. The parent name will automatically appear on Worksheet A.
  - c. The correct personal allowance amount will appear on Worksheet A (for an individual parent or an intact family) depending on whether there is an "N" or a "Y" in the box to the right of the parent's name on the Input Worksheet.
  - d. Enter the cause number from the youth's disposition order.
  - e. Enter the appropriate RPA name as the preparer.
  - f. Enter the date the Input Worksheet is prepared as the report date.
3. Subject child data.
  - a. Enter the name of the child (first name first), for whom a cost-of-care obligation is being calculated.
  - b. Enter the child's date of birth (in the format indicated).
  - c. The apricot colored cells automatically calculate the child's age and number of days with the State (always 365 days, see notes on Input Worksheet).
  - d. In the event two children of the same parent(s) are placed out of the home, a second child can be entered on the Input Worksheet in Cell A17. The RPA would then halve the total monthly cost-of-care on Worksheet A for the contribution for each child.
  - e. Nothing should be entered in the following areas:
    - 1) Child Health Insurance. This should be entered in Cell L114.
    - 2) Child Other Medical. The child is now under the care of the State, and medical expenses are paid by the parent's insurance, Medicaid, or the Department.
    - 3) Child Daycare Costs. The child has been removed from the home, and there are no daycare costs to the parent.
    - 4) Child Other Costs. All other costs related to the child are paid by the Department.
4. Adjustment to Primary Support Allowance – An individual parent is responsible for only half of the child's primary support allowance. To accomplish this, the program automatically enters half the primary support allowance as a negative amount in Cell H47. There is no adjustment for an intact family.
5. Dependent Care Tax Credit – This does not apply to the subject child who is no longer in the home.
6. Parent tax information (Note: Do not provide any advice to the parent that could be construed, in any way, as tax advice. If the parent asks for any information regarding taxes, refer them to a CPA, tax preparer, or other tax expert).
  - a. In Cell L71 enter the parent(s) marital status for the next tax reporting year ("M" for married and "S" for single).
  - b. In Cell L75 enter the number of exemptions the parent will claim for tax purposes. Unless the submitted financial information states otherwise, the number of tax exemptions should

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include the subject parent(s), the parent's spouse (if a single parent), and the children in the home, including the child in placement.

- c. The program automatically calculates tax liabilities for the parent and places them on Worksheet A. These are standard calculations and do not include factors such as the mortgage interest deduction, etc. In general, tax liabilities should not be overridden by the RPA without written justification.
7. Is the parent a railroad employee?
  - a. Check "Yes" in Cell L78 if he/she is.
  - b. Railroad employees pay a "Tier II" income tax which contributes to financing Railroad Retirement benefit payments in excess of coverage provided under Social Security (Tier I is the basic Social Security tax).
8. Parent Income (Note: a step-parent's income is not included in parent income).
  - a. Wages, salaries, commissions – the parent's annual income as determined from the financial affidavit, pay stubs, W-2 Forms, tax returns, MISTICS.
  - b. Self-employment net earnings – the parent's gross revenue less legitimate expenses for self-employment.
  - c. Pensions, Social Security – the parent's retirement or disability income.
  - d. Unearned income – income from investments.
  - e. Imputed income – when the parent is currently unemployed (and is otherwise employable) or has not provided employment information, estimated income is attributed to the parent.
    - 1) If the parent has an occupation, determine the annual wages the parent should be earning by consulting the Informational Wage Rates by Occupation on the Montana Department of Labor and Industry web site.
    - 2) If the parent does not have an established occupation, determine the annual wages the parent should be earning based on the current Montana minimum hourly wage.
  - f. Other taxable income – tips as shown on the parent's W-2 Form or as reported by the parent.
  - g. Other non-taxable income – adoption subsidies, insurance proceeds and inheritances.
9. Earned Income Credit (EIC)
  - a. Explanation.
    - 1) This is a tax credit for working people who have low to moderate income.
    - 2) EIC is added to income tax withheld and other credits to reduce the taxes still owed to the IRS or to increase the tax refund.
    - 3) When the tax refund amount is greater than the tax liability, the program automatically calculates the amount of the EIC and enters it on Worksheet A as income to the parent (i.e. the parent has effectively paid no federal income tax and has actually received money in lieu of paying income taxes).
  - b. Amount of earned income.
    - 1) The program automatically places the total of the parent's wages, salaries, commissions, and self-employment net earnings in this cell.
    - 2) If the parent files taxes jointly with a spouse who is not the child's natural or adoptive parent and the information is available, add the step-parent's wages, salaries, commissions, and self-employment net earnings to the natural parent's total earnings

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in this cell. This must be done because the EIC on their tax returns is calculated from the family's total earnings.

c. Qualifying children for EIC.

- 1) Children are an important factor in determining the EIC if they are under the age of 19 or under the age of 24 if they are full-time students.
- 2) Children must have lived in the home for more than half the year.
- 3) Children need not be claimed as deductions.
- 4) Enter the number of qualifying children (as above). This applies to all such children claimed, not just the child in placement.

10. Child Tax Credit

a. Explanation.

- 1) The Child Tax Credit is added to income tax withheld and other credits to reduce the taxes still owed to the IRS or to increase the tax refund.
- 2) When the tax refund amount is greater than the tax liability, the program automatically calculates the amount of the Child Tax Credit paid to the parent and enters it on Worksheet A as negative federal income taxes "paid" (i.e. the parent has effectively paid no federal income tax and has actually received money in lieu of paying income taxes).

b. Qualifying children for the Child Tax Credit.

- 1) Children must be under the age of 17 at the end of the tax year.
- 2) Children must have lived with the parent for more than half the year.
- 3) Children must be claimed as dependents on the federal tax return.
- 4) Enter the number of qualifying children (as above). This applies to all such children claimed, not just the child in placement.

11. Allowable Deductions

- a. Court ordered child support for other children – the total annual amount of child support ordered for other children and/or juvenile Probation Cost of Care Orders.
- b. Number of other children for allowance
  - 1) Enter the number of other children in the parent's household.
  - 2) The program automatically looks up the correct total allowance for the number of other children and places it on Worksheet A.
- c. Court ordered alimony/spousal support – the total annual amount being paid.
- d. Health insurance premium for children – the annual amount as provided on the parent's financial affidavit.
- e. Mandatory retirement contributions (after tax) – annual retirement account contributions made prior to tax withholding as shown on the parent's pay stubs.
- f. Mandatory retirement contributions (before tax) - annual retirement account contributions made after tax withholding as shown on the parent's pay stubs. This, most typically, will be 401(k) savings plan contributions.
- g. Required employment expense – the annual amount of such required expenses such as uniforms, gloves, tools, professional licenses required for job, etc.
- h. Dependent care expense for other children – the annual amount of daycare expenses for the parent's other children.

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- i. Daycare tax credit – the number of other children under the age of 13 for whom daycare expenses are incurred.
  - j. Other deductions - extraordinary expenses such as family medical or prescription costs, court ordered expenses, etc. Include an appropriate description of the expenses in the area provided.
12. Adjustments to income available for the Standard of Living Adjustment (SOLA).
- a. Miles traveled to exercise long distance parenting.
    - 1) Must be more than 2,000 miles in a calendar year, to impact the contribution calculation.
    - 2) If the program calculates a minimum contribution (the parent's income after deductions is less than the parent's personal allowance), long distance parenting miles will have no impact on the calculation.
    - 3) Determine the round-trip miles a parent must travel to visit the child at their placement location, estimate the number of visits the parent will make over the duration of the placement, and calculate the total of number of miles that will be traveled.
  - b. Other costs incurred to exercise long distance parenting – estimate the annual cost of bus, train, or airline tickets to be incurred by the parent when visiting the child at their placement location.
  - c. Other adjustment to SOLA – at the RPA's discretion, supported by reasonable justification, other direct travel expenses such as motel, fuel, and meal costs.

**C. Cost of Care Contribution Exemptions**

- 1. RPAs may exempt parents/guardians from contributing toward the cost of care under certain circumstances as outlined below. The RPA should consult with DOC legal on a case-by-case basis to determine whether it is appropriate to seek court approval of an exemption. If exempt, financial status should be reviewed annually.
  - a. Financial ability to contribute – if the monthly contribution amount is less than twenty dollars (\$20.00) as calculated by the Montana automated child support guidelines, the parent/guardian is exempt from contributing toward the cost of care.
  - b. Social Security Disability Income (SSDI) – if the parent(s)' sole source of income is SSDI, the parent/guardian is exempt from contributing toward the cost of care.
  - c. Student – if a one-half to full-time student in a course of study designed to better the parent/guardian economic situation, the parent/guardian is exempt from contributing toward the cost of care while in school.
  - d. Unusual circumstances – if (a) unusual emotional and/or physical needs of a legal dependent require the parent/guardian's presence in the home full time, or (b) the parent/guardian has made diligent efforts to find and accept suitable work or to return to customary self-employment to no avail, the parent/guardian is exempt from contributing toward the cost of care. RPAs should consider these circumstances carefully and obtain appropriate documentation from parents supporting the unusual circumstances.

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- e. Legal guardians – if the guardians became legal caretakers for the youth after the youth offended, or it was known the youth was troubled and the legal guardians were not primarily responsible for the youth's pre-adolescent environment and supervision, the legal guardians are exempt from contributing toward the cost of care.
- f. Welfare Recipients – if the parent(s) or guardian(s) is receiving TANF or SNAP benefits, he/she is exempt from contributing toward the cost of care.
- g. Imprisonment – If the parent/guardian is in prison at the time the youth goes into placement, they are exempt from contributing toward the cost of care. When and if they are released and the youth is still in placement, the process to calculate cost of care will begin.

**D. Notification of Calculation**

- 1. Once a cost of care contribution is calculated the RPA will send the Notification of Contribution letter [YSD 6.2.107 (D)] to the parent(s) along with copies of the Montana child support guidelines worksheet and notes describing how the cost of care calculation was determined.
- 2. The notification of contribution letter allows 10 days for the parent(s) to dispute the calculation. If after 10 days the parent(s) has not contacted the RPA disputing or providing additional information, the RPA will prepare the cost of care documents.
- 3. If the RPA determines no cost of care contribution is to be assessed, the RPA will send a Notification of No Contribution letter [YSD 6.2.107 (E)].

**E. Motions & Orders for Cost of Care**

- 1. RPAs may seek an order for cost of care contribution by working through appropriate legal counsel (i.e. the county attorney's office in the county where the youth court case is filed or the DOC legal services bureau) to file the appropriate paperwork. Individual courts may require varying language or format of court orders. Include the following documents for review by legal counsel when seeking an order for cost of care contribution:
  - a. A copy of the dispositional order committing the Youth to the custody of the Department
  - b. Motion for Order for Cost of Care Contribution and Brief in Support [YSD 6.2.107(H)];
  - c. Affidavit in Support of Motion for Order for Cost of Care Contribution [YSD 6.2.107(I)];
  - d. A copy of all supporting exhibits;
  - e. The appropriate order for cost of care contribution:
    - 1) Order for Cost of Care Contribution (Individual Parent) [YSD 6.2.107(J)]; or
    - 2) Order for Cost of Care Contribution for (Intact Family) [YSD 6.2.107(K)];
- 2. The RPA should advise legal counsel if the order for cost of care contribution is not received within a reasonable time to determine if it is appropriate to prepare and file a Notice of Issue.
- 3. When the conformed order for cost of care contribution is received from the court, enter the date of the order and the date it was received in the parents cost of care tab in RevQ. Ensure the appropriate monthly contribution amount is updated.



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4. Upon receipt of a signed order for cost of care contribution, mail a copy to the parent(s) with the Order of Support Notice letter [YSD 6.2.107(L)]. Include copies of:
  - a. The signed Order for Cost of Care Contribution.
  - b. Optional Automatic Payroll Deduction Form [YSD 6.2.107(M)],
  - c. Virtual Cashier Letter [YSD 6.2.107(N)],
  - d. Initial Invoice

#### **F. Modifying Orders for Cost of Care Contribution**

1. The RPA may be notified by the parent/guardian that his/her financial situation has changed, or such information may be received from other sources.
2. A modified order for cost of care contribution reducing or increasing the cost of care contribution should be obtained from youth or district court if, in the RPA's opinion, the financial situation of the parent/guardian has changed enough to warrant a modification.  
*Note: CSED modifies orders when the increase or decrease is at least 15%.*
  - a. After receiving corroborating documentation, recalculate the cost of care contribution based on the new information.
  - b. If, in the RPA's estimation, the difference between the original calculation/order and the recalculation is significant, a modified order for cost of care contribution may be obtained.
    - 1) Prepare a Motion to Modify Order for Cost of Care Contribution [YSD 6.2.107(O)], supporting Affidavit [YSD 6.2.107(P)], and Order Modifying Order for Cost of Care Contribution [YSD 6.2.107(Q)] for review and approval by legal counsel. Upon review and approval by legal counsel, file them with the appropriate youth or district court.
  - c. Upon receipt of a modified order for cost of care contribution, mail a copy to the parent/guardian along with a cover letter specifying the effective date of the modified amount. Include a copy of the invoice from RevQ to show the updated balance due.

#### **G. Monitoring Contributions**

1. Monitoring current contributions.
  - a. Review the status of cost of care contributions in RevQ monthly to avoid overpayments.
    - 1) The COCC invoice in RevQ calculates the balance due based on placement days and total amount paid.
  - b. The RPA will continue to send monthly COCC invoices as long as there is a balance owed. A balance may be due past the youth's 18th birthday or the date they were returned home.
  - c. Reconcile individual contribution totals to CAPS, including any expenses generated
  - d. Once the parent/guardian has met his/her obligation, mail a Termination Notice letter [YSD 6.2.107(R)] explaining he/she is no longer required to submit a contribution. (If the youth enters a subsequent placement at a later date, the order for cost of care contribution is reinstated or a new cost of care calculation is completed, depending on the length of time between placements.) The RPA will send the parent/guardian a Reinstatement Notice letter at this time [YSD 6.2.107(S)].
2. Identification of delinquent contributions.

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- a. If a parent/guardian has missed two payments and is therefore delinquent, prepare and mail a Dunning Notice letter [YSD 6.2.107(T)]. Include a specific date by which the parent must contact the RPA for an alternative arrangement or expected payment. Clearly state the consequences if contact is not made or the payment is not received on time.
  - b. If contact is not made and/or payment is not received, the RPA may use his/her discretion to send a second and final Dunning Letter, pursue an order re: contempt of court, pursue an order for income withholding in accordance with YSD 6.2.111, and/or refer the parent/guardian to the State Department of Revenue to intercept any tax refund that may be owing to the parent/guardian.
3. Uncollectible arrears for cost of care.
- a. After all efforts to collect cost of care contributions from a youth's parent/guardian have been exhausted, whether or not the youth has been released from his/her commitment to DOC, at the RPA's discretion the parent/guardian may be referred to the State Department of Revenue for interception of his/her tax refund.
  - b. Should the parent/guardian who has been court ordered to pay a cost of care contribution become deceased prior to paying the balance of such a debt, the RPA has the discretion to write off the remaining amount. Alternatively, the RPA may work with legal counsel to file a creditor's claim with the deceased estate in an attempt to collect the balance due. (Refer to section I below).
  - c. The RPA should document in the file and RevQ any decisions related to these issues.

**H. Closing Out Court-Ordered Cost of Care Contributions**

1. When the youth reaches the age of 18, the RPA will determine if the cost of care contributions are paid in full as reflected in RevQ.
2. If the contributions are paid in full, the RPA will complete a Satisfaction of Judgment [YSD 6.2.107(U)] and file it with the appropriate clerk of court.
3. The RPA will send a conformed copy of the Satisfaction of Judgment to the parent/guardian and place one in the youth's file.
4. In past cases where cost of care contributions were collected by CSED and the amount due has been paid in full, the RPA should follow the procedures outlined in this section to obtain a satisfaction of judgment.

**I. Creditor's Claims**

1. Should a parent/guardian become deceased before satisfying his/her obligation under a cost of care contribution order and a probate has been opened for the estate, it may be possible to collect the balance owing from the decedent's estate.
2. The RPA may work with legal counsel to file a Creditor's Claim Against Estate [YSD 6.2.107(V)] in the probate action within four months of the date of the estate's first publication of a notice to creditors. (72-3-801, MCA.)

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3. Because it may be difficult to know when the notice was published, it is good practice to file the creditor's claim immediately upon determining that a probate has been opened for the estate.
4. It may be necessary to contact the court's probate clerk (in the county where the decedent resided) periodically to determine if/when probate has been opened.

**IV. CLOSING**

Questions concerning this procedure should be directed to the Financial and Program Services Supervisor.

**V. ATTACHMENTS**

YSD 6.2.107 (A) Financial Affidavit  
YSD 6.2.107 (B) Notice Concerning Financial Support letter  
YSD 6.2.107 (C) Second and Final Notice letter  
YSD 6.2.107 (D) Notification of Contribution letter  
YSD 6.2.107 (E) Notification of No Contribution letter  
YSD 6.2.107 (F) Order for No Cost of Care Contribution  
YSD 6.2.107 (G) Cover Letter to Clerk of Court  
YSD 6.2.107 (H) Motion for Order for Cost of Care Contribution and Brief in Support  
YSD 6.2.107 (I) Affidavit in Support of Motion for Order for Cost of Care Contribution  
YSD 6.2.107 (J) Order for Cost of Care Contribution (Individual Parent)  
YSD 6.2.107 (K) Order for Cost of Care Contribution (Intact Family)  
YSD 6.2.107 (L) Order of Support Notice letter  
YSD 6.2.107 (M) Optional Automatic Payroll Deduction  
YSD 6.2.107 (N) Virtual Cashier Letter  
YSD 6.2.107 (O) Motion to Modify Order for Cost of Care Contribution  
YSD 6.2.107 (P) Affidavit in Support of Motion to Modify Order for Cost of Care Contribution  
YSD 6.2.107 (Q) Order Modifying Order for Cost of Care Contribution  
YSD 6.2.107 (R) Termination Notice letter  
YSD 6.2.107 (S) Reinstatement Notice letter  
YSD 6.2.107 (T) Dunning Notice  
YSD 6.2.107 (U) Satisfaction of Judgment  
YSD 6.2.107 (V) Creditor's Claim Against Estate