



CHILD SUPPORT SERVICES DIVISION ENFORCING A SUPPORT ORDER

Financial Institution Date Match (FIDM) & Administrative Enforcement in Interstate Cases (AEI)

CS 500.3

SUPERSEDES

CS 500.3, Financial Institution Data Match (FIDM) & Administrative Enforcement in Interstate Cases (AEI), October 20, 2017

REFERENCES

42 U.S.C. § 666(a) (14) and (17); MCA § 40-5-202(1), 924

Introduction

Federal law requires states to establish and maintain procedures for Financial Institution Data Match (FIDM) and Administrative Enforcement in Interstate Cases (AEI). These mechanisms increase the ability of states to take "quick enforcement" actions against an obligor's seizable assets. Specifically, FIDM provides an efficient, automated method of locating financial assets; AEI provides a special interstate process for obtaining a quick, one-time search of automated data bases and seizure of identified assets.

Organization of Procedures

The procedures and other information in the remainder of this section are divided into five parts:

- Part I: Enforcing FIDM Information in CSSD Cases
- Part II: Outgoing AEI Requests: Enforcement
- Part III: Outgoing AEI Requests: Locate with Enforcement
- Part IV: Incoming AEI Requests
- Part V: Informational: Montana Requirements for Other States



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Procedures

I. ENFORCING FIDM INFORMATION IN CSSD CASES

Caseworker

1. Upon receiving information from an in-state or multi-state FIDM identifying an account for possible enforcement, performs the screening in steps 1a and 1b below:
 - a. Determines whether the account holder is in fact the CSSD obligor, based on the name, address, and date of birth listed for the account the match was performed using the obligor's social security number submitted by the CSSD. If all of these data elements match, or if any does not match but the account holder can be confirmed to be the obligor based on other information, proceeds to step 1b. Otherwise, enters a case note for failure to confirm the match and takes no further action.
 - b. Determines whether the financial institution is located in Montana. If so, proceeds to step 2. If not, proceeds to step 3.
 - c. Identifies the appropriate target for service of the seizure action this may be the branch where the money is located; the person specially designated by the financial institution for any FIDM-related processes; or the registered agent listed with the Montana Secretary of State. Proceeds with seizure of the account as in sections CS 504.1, Writ of Execution, CS 507.3, Enforcing a Support Lien by Warrant for Distraint, or CS 507.6, Service of the Warrant for Distraint by Acknowledgment.

If a warrant for distraint is appropriate the debt is adjudicated, CS 507.6 is applicable. The account holder no longer has to sign an agreement with the CSSD to accept service by acknowledgment. Enters the appropriate event for issuance of the FIDM or MSFIDM writ or warrant.

Upon collection, processes the collection in the usual way for the pay source; enters the appropriate event for the FIDM or MSFIDM collection received. This event is used to count cases in which FIDM/MSFIDM information led to the collection of support; it should not be used to record cases with collections of \$0. If the CSSD case is an outgoing interstate (two-state UIFSA) case, notifies the responding state of the collection using standard two-state procedures.

NOTE:

Refusal to Comply Based on Account Location. If the office or agent served with the seizure action in Montana refuses to obey the writ or warrant because the account is located in a different branch office, either in Montana or out of state, the caseworker should consult with the staff attorney to determine the best course of action. It may be more practical to accept the refusal and initiate a new seizure in this step or in step 3 than to force compliance. Some multi-state financial institutions have notified states they will accept child support-related seizure actions only at certain identified offices.



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2. Identifies the state where the obligor's account is located, using information provided by the multi-state FIDM.
 - a. If the account state is also the responding state in a CSSD outgoing interstate (two-state UIFSA) case, forwards the data from the multi-state FIDM to the responding state according to standard two-state procedures, and takes no further action in this section.
 - b. If the account state is not a responding state in a CSSD outgoing interstate (two-state UIFSA) case, proceeds to Part II, these procedures to enforce against the out-of-state account.

NOTE:

Direct Enforcement Against Out-of-State Asset. Federal law does not prohibit the use of direct liens and levies across state lines. However, the CSSD's specific ability to issue a Warrant for Dstraint or obtain a Writ of Execution against an out-of-state asset is not clear. And, an interstate lien for which the CSSD does have authority, directs the financial institution only to freeze the funds, not to pay the amount of the lien; further, the lien is effective only if it is filed (perfected) according to the specific requirements of the state. Despite these restrictions, the CSSD may occasionally receive a collection based solely on the interstate notification document (FED-LIEN) issued to the financial institution. If this occurs, the caseworker must immediately put a hold on the affected accounts and alert the region's legal unit. The legal unit can then determine the status and proper handling of the collection based on the case facts, the laws of the other state, and any other relevant information.



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Procedures in Parts II through V apply for all types of cash assets, not just accounts in financial institutions.

II. OUTGOING AEI REQUESTS: ENFORCEMENT

Caseworker

1. Upon identifying a cash asset in another state belonging or payable to an obligor in a CSSD case, determines whether the case meets all the following criteria. If so, proceeds to step 2. If not, evaluates the case for other enforcement options, and takes no further action in this section.

- 1) The asset is located sufficiently for execution.

Prerequisite Locate. In cases where the CSSD has only partial information about an asset for example, the obligor has a bank account in Bismarck, North Dakota, but further action is needed to identify the holder, the payor, or the exact location of the asset for purposes of actual seizure, an AEI seize-only request does not apply. The CSSD must either submit an AEI locate-and-seize request (see Part III, these Procedures) or, if necessary, hold the AEI request and investigate the asset further using manual methods.

- 2) The total unpaid amount of the adjudicated debt in the case exceeds \$500- or three-months' support, whichever is less. In situations where the obligor owes a debt in more than one case, a separate AEI action is required for each case.
- 3) The debt is not sufficiently enforceable through income withholding because *either* there is no employer located for the obligor, *or* withholding is in place, but payments are not sufficient to retire the debt within two years, and the caseworker determines that seizure of the asset would be beneficial to the overall enforcement of the debt.
- 4) The cash amount of the asset is great enough or may be great enough to justify the time and resources required for quick-enforcement action under these procedures.

Recognize that a FIDM-reported account balance of \$0 does not necessarily mean a seizure will fail: the balance may increase by the time the seizure occurs, or the financial institution may have chosen not to report the actual balance for reasons of confidentiality. Also, the amount of the asset is not subject to the thresholds described in 2) and 5); these thresholds apply to the amount of the debt, not the amount of the asset.

- 5) The case meets any thresholds or other conditions set by the state where the asset is located. The Federal Office of Child Support Enforcement (OCSE) provides information for identifying states' requirements, in [Multistate FIDM Election Form and Instructions](#), and in [FIDM Freeze and Seize Interstate Processing](#).

Resources list arrears thresholds, enforcement conditions, information requirements, and applicable procedures for one-time asset enforcement in each state. Information about the state's IV-D operations and the state's requirements in actions received outside the IV-D environment.



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- 6) The case is not appropriate for a two-state UIFSA interstate referral or for a direct action against the asset by income withholding or interstate lien; or there is some advantage to pursuing quick enforcement in lieu of these options.

NOTE 1:

Interstate Liens in Conjunction with AEI. In some cases where a quick enforcement action is appropriate, the CSSD may choose to file an interstate lien against the asset in addition to initiating an AEI action. Where applicable the purpose of combining the two enforcement methods would be to secure the asset while the assisting state takes any due process steps required to execute the AEI.

NOTE 2:

Mandatory Action. For purposes of CSSD internal audit, an AEI action will be required if the case qualifies for AEI action according to criteria 1) through 6) above, and there is no other method available for enforcing the case.

2. Initiates an AEI request as follows:

- a. Prepares for CSE-AEI (UIFSA Transmittal #3) Request for Assistance, providing the following information:
 - i. Certifications that the obligor and social security number are correctly identified; all Montana due process requirements have been met to certify due process the CSSD must have served and resolved a notice stating a sum-certain debt amount; and the amount of the arrears is correct.
 - ii. Case data elements including, at a minimum, the CSSD case number; the CSSD payment FIPS code; the name, address, social security number, date of birth, and any aliases of the obligor; any bank accounts or other cash assets in the state belonging or payable to the obligor specify the type of asset, the name and address of the asset holder or payor, and the account number if applicable; a copy of the support order; the amount of the monthly support obligation; the date of the last payment; and the unpaid amount of all adjudicated arrears, fees, and fines. Other information, such as the name of the obligee, may also be useful depending on the case facts.
 - iii. Any other information required by the assisting state according to available references.
- b. Attaches any other documents required by the assisting state according to available references, makes a copy of the complete package for the case file, and transmits the request to the assisting state.
- c. If the asset to be seized was identified by a multi-state FIDM, puts legal holds on the accounts.



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NOTE:

Compliance with Assisting State's Requirements Essential. Because the main purpose of AEI procedures is to enable states to execute on assets as quickly and efficiently as possible, it is crucial to the process to provide all necessary information and documents to the assisting state up front. Any delays caused by incomplete information will lessen the chances of successful execution.

3. Monitors for action by the assisting state within a reasonable amount of time. The assisting state is required to act promptly. If necessary, contacts the assisting state concerning the status of the AEI request.
4. If contacted by the obligor to contest a seizure action by the assisting state, proceeds as follows:
 - a. If the obligor is contesting the assisting state's right to seize the asset for example, the assisting state's authority or procedures in taking the action, the obligor's right to an exemption in that state, or the identity of the obligor, refers the obligor to the assisting state for appeal.
 - b. If the obligor is contesting the debt amount, discusses the facts of the case and requests the obligor provide proof of payments, if applicable. If a mistake in the amount certified to the assisting state is discovered, and the CSSD has already received the collection, arranges for the appropriate refund.

If the CSSD has not yet received the collection, immediately alerts the assisting state by telephone or fax to the correction in the certified arrears; following the contact prepares and sends form CSE-IIUP, Status Update, confirming the correction.

If the obligor is not satisfied with the outcome of the contact, advises him or her of the available remedies: file a petition in the applicable Montana district court, or seek relief from the assisting state for issues other than the debt amount.
5. Upon receipt of a collection from the assisting state, processes the collection in the usual way for the pay source, and enters a case note for the AEI action completed with a collection. If the CSSD's outgoing request was based on multi-state FIDM information, enters the appropriate event for the MSFIDM collection received.

If the CSSD case is an outgoing interstate (two-state UIFSA) case the assisting state is not the responding state but a third state, notifies the responding state of the collection using standard two-state procedures.
6. Upon being informed by the assisting state that the seizure action did not produce a collection, enters a case note for the AEI action completed with no collection.



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III. OUTGOING AEI REQUESTS: LOCATE WITH ENFORCEMENT

Caseworker

1. Upon identifying a case where cash assets belonging or payable to the obligor in a CSSD case may exist in another state, determines whether the case meets all the criteria listed in a. through b. of this step. If so, proceeds to step 2. If not, evaluates the case for other enforcement options, and takes no further action in this section.
 - a. There is reason to believe that cash assets belonging or payable to the obligor may exist in a particular state, based on specific knowledge; logical factors involving the obligor's geographic proximity to the state; or logical factors concerning the obligor's known past or present associations with the state.
 - b. There is some advantage to pursuing asset location and seizure through AEI limited to FIDM and other automated data bases rather than through two-state UIFSA Full Locate or interstate referral to the other state.
 - c. If a cash asset were to be identified in the state, the case would meet the criteria for an AEI seizure action in Part II, these procedures, concerning Montana thresholds and conditions \$500- or three-months' support in unpaid adjudicated debt, not sufficiently enforceable through income withholding, separate AEI for each case, and thresholds and conditions set by the other state.

NOTE:

Status for Internal Audit. For purposes of CSSD internal audit, the AEI locate-and-seize option is one of the tools a caseworker may use to satisfy the requirement for locate action in a non-paying case, if there is reason to believe the obligor may have assets in the particular state.

2. Initiates an AEI action as in Part II of these procedures, specifying on form CSE-AEI that the request is for a locate-and-seize action.
3. Monitors for action by the assisting state as for a seize-only request in Part II of these procedures.
4. Upon being contacted by the obligor contesting a seizure action, or upon receiving a collection from the assisting state, proceeds as in Part II of these procedures.
5. Upon being informed by the assisting state of the outcome of the AEI locate-and-seize request, enters a case note for the results. For any locate or asset information received, updates the case as applicable, and takes any further enforcement steps indicated by the new information.



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IV. INCOMING AEI REQUESTS

Interstate/Locate Unit

1. Upon receiving an AEI request from another state, determines whether the request meets conditions a and b:
 - a. All required information is provided (see Part V, these procedures). If necessary, contacts the requesting state to obtain any missing information.
 - b. The debt exceeds \$500- or three-months' support, whichever is less. If the debt does not meet the threshold, informs the requesting state Montana will not accept the request, enters a case note, and takes no further action in this section.
2. Promptly opens the case using a special identifier to indicate an AEI case. Resolves the participants, enters the necessary information on the SOS and SOD screens, and sets up the appropriate accounts. For a locate-and-seize request proceeds to step 3; for a seize-only request, skips to step 5.

Locate Unit

3. Processes the locate portion of the request as follows:
 - a. Arranges for the case to run against the CSSD's automatic interfaces at the next opportunity, usually overnight. If the obligor has been submitted for locate action previously, a system entry is required to request the run.
 - b. Monitors for information from the automatic interfaces.
 - c. Promptly prepares a response to the requesting state containing the following information:
 - i. Any locate information received from the automatic interfaces; or a statement the action produced no information.
 - ii. A statement Montana will keep the request open for the time required to complete a full cycle of quarterly FIDM runs and will seize and forward any assets found or notify the requesting state of any negative results.
4. Monitors for the results of the FIDM run.
 - a. If an account in a financial institution is identified, transfers the case to the appropriate Interstate caseworker.
 - b. If the FIDM run does not identify any assets, promptly notifies the other state, and closes the locate case.



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V. MONTANA REQUIREMENTS FOR OTHER STATES

Interstate Caseworker

5. Determines whether the asset is suitable for AEI seizure by the CSSD, refer to NOTE below.
 - a. If so, identifies the appropriate Montana office or agent for service of the seizure action, and proceeds to step 6, 7, or 8, as applicable. **IMPORTANT:** Seizure actions in steps 7 and 8 must be conducted within the same time frames as those used in Montana intrastate cases.
 - b. If not, promptly informs the requesting state the asset is not available for seizure at this time, forwards information about any expected change in status, and closes the AEI case. The determination the asset is not suitable for seizure should be documented in the course of case closure. If a subsequent request is received, reopens the case, and begins again at step 1, this Part.

NOTE:

Suitable Assets Described. To be suitable for AEI seizure an asset must be located in Montana, see policy above, available in the form of cash, available within a reasonable amount of time, and appropriate for one-time enforcement. Assets identified by Montana FIDM will meet all of these conditions. Assets identified directly by the requesting state must be evaluated more closely. Certain cash distributions or lump sum payments due the obligor assuming the payor or holder is located in Montana may or may not be available within a reasonable amount of time. Examples include distributions from inheritances or lawsuits; lump sums for retirement or workers' compensation; or distributions from the deceased obligor's estate. Also, assets payable periodically such as wages, regular benefits, or installment payments will generally require ongoing enforcement initiated by the requesting state, rather than AEI seizure.

6. If the asset is in the form of an expected future distribution available within a reasonable amount of time, at the discretion of the caseworker initiates a support lien or creditor claim to secure the asset until the seizure can be executed; proceeds immediately to step 7 or 8 as applicable.
7. If the support order is a Montana order CSSD or district court, proceeds with seizure of the asset as in step 7a or 7b below.
 - a. If the debt has not been adjudicated, or if a judicial proceeding is desirable for some other reason, proceeds as in CS 504.1, Writ of Execution.
 - b. If the debt has been adjudicated, proceeds as in section CS 507.3, Enforcing a Support Lien by Warrant for Dstraint, or section CS 507.6, Service of the Warrant for Dstraint by Acknowledgment. Note that section 507.6 applies whenever the asset is held by an entity that has signed an agreement with the CSSD to accept service by acknowledgment. See the Bulletin preceding that section for a current listing of asset holders with signed agreements.



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For assets identified by the FIDM run in step 4, the system event for issuance of a FIDM writ or warrant does not apply. The event applies only for FIDM/MSFIDM information received by the CSSD and used to collect in a CSSD case.

8. If the support order is not a Montana order, chooses the best option from sub steps 8a through 8c below, and proceeds as indicated.
 - a. Registration. Registers the support order according to the procedures in CS 500.2, Registration of Support Orders for Enforcement Only. The CSSD registration action will have the additional effect of adjudicating the debt listed in the notice of registration.

If a hearing is requested and granted, delays seizure action until the order from the hearing is issued; then, if the order from the hearing confirms the registration, proceeds with seizure by warrant for distraint as in step 7b.

If the order from the hearing vacates the registration, informs the requesting state, and proceeds as in step 5b; takes no further action in this section.

If no hearing is requested and granted on the registration action, proceeds in step 7b as soon as the response period for the notice of registration ends.
 - b. Uniform Enforcement of Foreign Judgments Act (MCA 25-9-501). Takes seizure action under this law as follows:
 - i. Obtains an exemplified copy of the support order from the requesting state. The exemplified copy is proof of the signature of the judge for the court that entered the order; it acts as a "super certified" copy, allowing the CSSD to pursue enforcement of the foreign judgment through a Montana district court.
 - ii. Works with the Interstate Legal Unit to prepare and issue a package to the appropriate Montana district court containing a motion to enforce the foreign judgment; an affidavit signed by the appropriate Interstate staff member attesting to the validity of the foreign support order; the original exemplified copy of the support order; a debt computation from the requesting state, if available; and the writ, application/affidavit, praecipe, notices, and other applicable documents and envelopes required for a writ action under CS 504.1. Note that the praecipe to the clerk of court must include a request for a conformed copy of the filed motion. Other items in the writ package should be adapted as necessary to conform to the foreign judgment motion. Retains a copy of the complete package for the case file.
 - iii. Upon receipt of the conformed copy of the filed motion requested in step 8b(ii) above, works with the Interstate Legal Unit to prepare a notice to the obligor informing him or her of the action to enforce the foreign judgment, and containing a certificate of mailing.



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Attaches to the notice copies of the CSSD's motion to enforce the foreign judgment and the CSSD's affidavit concerning the foreign support order. Completes the certificate of mailing and sends the notice package to the obligor by certified mail, retaining a copy for the case file. Sends a copy of the notice to the court for filing.

- iv. Monitors for action by the court under MCA 25-9-501, and for execution and return of service as described in CS 504.1. The sheriff is required to hold the seized asset for 30 days before distribution.
- v. If the obligor contacts the CSSD contesting enforcement of the foreign judgment, explains any request for relief must be directed to the district court.

NOTE:

Enforcement Timing. The advantage of moving to enforce the foreign judgment vs. registering the foreign order in step 8a is the ability to initiate the seizure without an administrative response period for adjudication of the debt. It is important, then, that the clerk of court understand the need for immediate action on both the motion and the writ, as any delay may cancel the effectiveness of the enforcement.

- c. Joint Enforcement. Contacts the requesting state and, if agreed, coordinates the following concurrent actions:
 - 1) REQUESTING STATE: perfects an interstate lien on the asset in Montana. Requirements for asserting interstate liens on Montana property are given in Part V.
 - 2) MONTANA: proceeds with registration and seizure step 8a.

The purpose of the interstate lien is to prevent withdrawal or receipt of the asset after Montana's notice of registration is issued. In this scenario it is assumed the requesting state can file the lien immediately, having already satisfied its own due process requirements.

9. Upon completion of a seizure action in steps 7 or 8, closes all accounts, and closes the case. Retains the paper copy case file for future reference.

Understand that any collection will be forwarded to the requesting state via regular CSSD payment processing; the caseworker will notify the requesting state of the results of the seizure action via form CSE-IRUP, in the course of regular case closure. System records for the AEI request received and the associated collection action and amount will be retained on system for the closed case.

Return funds to the noncustodial parent, within 5 business days after the agency determines the funds are SSI, or concurrent SSI and SSDI, or concurrent SSI and SSR benefits under title II of the Act, indicating the noncustodial parent's financial account have been incorrectly garnished.

10. If after the case is closed another AEI request is received for the same case, reopens the case, and begins again at step 1.



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Incoming AEI Requests

The following thresholds, conditions, information, and documents are required for AEI requests from other states. Requirements are listed on the IRG section J. Support Enforcement and in [Action Transmittal-08-09](#).

Thresholds and Conditions:

Debt exceeding \$500- or three-months' support, whichever is less.

Asset conditions for seize-only requests:

Asset must be in the form of cash, collectible by one-time enforcement vs. ongoing, and seizable immediately or within a reasonable time, with a date of availability provided. Also, the holder must have an office, agent, or other physical location in Montana. For locate-and-seize requests Montana will pursue only accounts identified by FIDM interface; no other assets identified by automated interface will meet the above conditions.

Information and Documents:

- Separate request for each case with the same obligor
- Certification that the obligor and Social Security Number are correctly identified
- Certification that all due process requirements of the requesting state have been met
- Certification that the amount of the arrears is correct
- Certified copy of the support order
- Debt computation worksheet
- Case number in the requesting state
- Obligor's name, address, Social Security Number, date of birth and any aliases
- Names of obligee and children
- Amount of the monthly support obligation
- Date of the last payment
- Amount of the certified arrears
- Payment address and FIPS code
- [For seize-only requests] Asset specifications type, location, amount, payor, or holder
- [For cases with non-Montana support orders, upon CSSD request] Exemplified copy of the support order



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Direct One-Time Enforcement Actions: The following information is **provided as a reference** for staff. The CSSD does not participate in direct interstate liens, or seizures initiated by other states against Montana assets.

Requirements for Incoming Interstate Liens against Cash Assets

- 1) Uniform Commercial Code lien filing
 - Filing agency: Montana Secretary of State
 - Filing fee: \$7
- 2) Notice of lien filing to asset payor or holder (recommended)

Requirements for liens against other assets such as real property, motor vehicles, and other non-cash personal property do not apply to this section.

Requirements Incoming Interstate Seizures

- 1) Writ of execution issued by a Montana district court the underlying judgment *must* be registered in Montana, the application for the writ *must* be made by an attorney licensed to practice in Montana.
- 2) Personal service of the writ on the property holder by a levying officer; fees charged by levying officer.
- 3) Notice of exemptions to the property holder.
- 4) Notice of seizure to the obligor.
- 5) Warrant of execution issued by the district court if the levying officer determines an expectation of privacy applies.
- 6) Filing of original writ and levying officer's return of service with the district court.