



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

SUPERSEDES

CS 602.1 Case Initiation--Mother Obligee, May 5, 2016

REFERENCES

ARM 37.62.303, MCA § 40-5-231 through 40-5-237, 40-6-101 through 40-6-118, 42-2-201 et seq., MCA 40-5-1008, 1043 and MCA 40-5-231, 50-15-210, & Rule 301, Montana Rules of Evidence

Introduction

Paternity establishment is beneficial for a variety of reasons, such as giving the child additional identifying information, a more complete medical history, and the possibility of increasing the child's extended family. It may also make the child eligible for benefits such as Social Security if the father becomes disabled or dies.

Initiating a paternity case is an involved process, from issuing a paternity affidavit and gathering information on the alleged or presumed father to determining jurisdiction and the period of conception. In instances where there are multiple alleged fathers or presumed fathers, the process may become more complex. By following the policy and procedures in this section, the paternity case will move forward toward paternity establishment.

Definitions and Terminology

Absolute Defenses: Facts that are not subject to further proof and that prevent the CSSD from proceeding with a paternity action. Examples of absolute defenses:

- There is a current court order or irrebuttable presumption establishing another man as the father.
- The CSSD served the Notice of Parental Responsibility (NPR) on the alleged father by mistake, intending to serve another man.
- Genetic testing has already excluded the alleged father.
- A paternity action for the same child is pending in another jurisdiction the CSSD does not have subject matter jurisdiction in the case.

Alleged Father (AF): A man who is named as a possible father of the child, who has not been excluded by genetic testing, and who is not a presumed father according to these definitions.

Contested Case: A proceeding subsequent to service of a contested case notice in which a determination of legal rights, duties and responsibilities is to be made after an opportunity for a hearing.

Genetic Test: A scientific test using deoxyribonucleic acid (DNA) to determine probability that a person is a child's biological father. The genetic test must be conducted by a lab approved by the American Association of Blood Banks (AABB).



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

In-house Paternity Database: The CSSD database containing paternity acknowledgments and affidavits of non-paternity completed at a Montana hospital submitted to CSSD for payment. It does not include birth records without a father, children born in wedlock, paternity acknowledgments and affidavits of non-paternity completed and filed independently by the parents, information regarding withdrawal of a paternity acknowledgment, or information from the putative father registry.

Irrebuttable Presumption: The presumption created when a. or b. below applies. An irrebuttable presumption has the same force and effect as an administrative or court order adjudicating paternity; it may be set aside only for fraud, duress, or material mistake of fact. The Department of Public Health and Human Services is not authorized to make a determination of fraud, duress or material mistake of fact.

- The voluntary acknowledgment of paternity is irrebuttable 60 days after the acknowledgment is signed, or a paternity or support order is entered, whichever is earlier.
- There is an irrebuttable presumption of paternity under the laws of an Indian territory or another state.

Mother Obligee: A natural mother of a child who is entitled to receive support as the child's custodian and is the applicant or enrollee for services.

Multiple Allegation: Case involving more than one alleged/presumed father, or a paternity case involving one presumed father whose paternity is denied by the mother and no other alleged/presumed fathers have been identified.

Negative Genetic Testing Results: Results from testing conducted by an AABB accredited lab, conclusively showing the person could not be the biological father of the child.

Non-Public Assistance: A case that never has or currently is not receiving government aid such as TANF or IV-E Foster Care.

Notice of Parental Responsibility CS 605.2A (NPR): A legal notice served on a person named as an alleged father of a child that entitles the person to a hearing to determine if there is reason to believe they are the child's biological father. The notice includes the right to request a hearing. The only purpose of the hearing is to determine if the person will be ordered to submit to genetic testing.

Paternity Case: A case where:

- There is no person who has genetically tested positive;
- There is no court or administrative order declaring paternity;
- No irrebuttable presumption of paternity exists; and either
- The child is born to an unmarried mother; or
- The child was born during a marriage, and the mother alleges the spouse is not the biological father.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Personal jurisdiction: The power of the Department to bind a person to a determination involving rights or obligations. Personal jurisdiction can be waived.

- Personal jurisdiction exists when,
- The parent can be served by personal service or by certified mail in Montana.
- The parent resided with the child in Montana.
- The parent engaged in sexual contact in Montana and the child may have been conceived by that contact.
- The parent resided in Montana and provided prenatal expenses or support for the child.
- The parent submits to Montana jurisdiction by consent, by waiver of contest, or by entering a general appearance.
- The child resided in Montana as a result of a parent's acts or directives.
- There is any other basis for jurisdiction under the Montana and U.S. constitutions.

Positive Genetic Testing Results: Scientific evidence resulting from a genetic paternity test, showing a 95% or higher probability of paternity of the alleged father being the biological father of the child. The genetic test must be conducted by a lab approved by the American Association of Blood Banks (AABB) to be a valid test.

Presumed Father (PF): A person for whom a rebuttable presumption of paternity applies and who has not been excluded as the biological father by genetic testing results.

Presumption: A person is presumed to be a child's father when:

- The child is born during, or within 300 days after the termination of marriage of the person and the child's natural mother. The marriage may be terminated by death, annulment, declaration of invalidity, or divorce or after a decree of separation is entered by a court.
- There is a voluntary acknowledgment of paternity on file with the Department, which has not been rescinded by either parent and has not yet become irrebuttable.
- There is a registration of parental interest on file in the Putative Father Registry maintained by the Office of Vital Records, and the registration has not been revoked.
- Results of genetic testing show a 95% or higher probability of paternity.
- The person is presumed to be the child's biological father under the laws of the state or Indian territory in which the child was born.
- While the child is under the age of majority, the person receives the child into their home and openly represents the child to be the person's biological child.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

- There is case evidence supporting one of the following situations, and an Office of Legal Affairs (OLA) attorney has entered a case note approving the use of the presumption under the specific circumstances:

Before the child's birth, the person and the child's natural mother have attempted to marry each other by a legally recognized marriage in apparent compliance with law, although the attempted marriage is or could be declared invalid **and**:

- If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce;
- or
- If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

After the child's birth, the person and the child's natural mother have married or attempted to marry each other by a legally recognized marriage, although the attempted marriage is or could be declared invalid, **and**:

- The child's mother and the child's alleged father have acknowledged the alleged father's paternity of the child in writing and the acknowledgment is filed with the department of public health and human services;
- or
- With the person's consent, the person is named as the child's father on the child's birth certificate;
- or
- The person is obligated to support the child under a written voluntary promise or by court order.

Public Assistance: Means tested government assistance such as TANF, IV-E Foster Care.

Reasonable Cause: Objectively reasonable belief that an alleged/presumed father could be the child's biological father. Generally, this means there is some indication the man had sexual contact with the mother during the possible period of conception. The CSSD must have reasonable cause prior to issuing a Notice of Parental Responsibility.

Rebuttable Presumption: A presumption which may be rebutted by a preponderance of the evidence.

Resolving/Resolution: The CSSD process that causes a change in case or participant activity status from paternity to order establishment; may be by presumption or order. The CSSD process may also change the case or participant status to order enforcement.

Single Allegation: A paternity case involving only one alleged father.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Subject matter jurisdiction: The Department's authority to hear and determine an action or controversy. Subject matter jurisdiction cannot be waived.

Tribunal: a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity that, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter.

POLICY

Conditions for Initiating a Paternity Case

A paternity case is a case in which a child is born to an unmarried mother or a married mother who claims her husband is not the biological father; there is no man who has genetically tested positive; there is no court or administrative order declaring paternity; and no irrebuttable presumption of paternity exists. In some instances, there may be conflicting rebuttable or irrebuttable presumptions. For example, there is a signed hospital establishment of paternity, but later a different man's genetic test shows him to be the father. An attorney at the Office of Legal Affairs (OLA) should be consulted prior to resolving paternity when there are conflicting presumptions.

A case with an irrebuttable presumption of paternity or an order of paternity is not a paternity case; instead, it is a support order establishment or enforcement case. This is true even if there are allegations or rebuttable presumptions against other men or if the obligor genetically tests negative. Genetic testing is only offered in a paternity case, if the presumption is irrebuttable genetic testing is no longer offered.

The child's natural mother is the obligee in the case. When the obligee is not the natural mother but a third-party custodian, refer to CS 602.2 Case Initiation: Third-Party Custodian.

Change in Case Status by Exclusion or Presumption

As the CSSD obtains new presumptions or excludes alleged or presumed fathers by genetic testing, the paternity status of a case may change. Examples are a single-allegation case ceases to be a paternity case when the CSSD obtains or discovers a presumption of any type for the alleged father; a multiple-allegation case becomes a single-allegation case when the CSSD excludes all but one alleged/presumed father; and a multiple-allegation case ceases to be a paternity case when the CSSD obtains a genetic testing presumption for one of the men in the case. Once paternity is no longer an issue the case is considered a support order establishment case.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Paternal Documents

The primary tool for initiating a paternity case is a paternity affidavit, used to gather essential information from the mother relating to the child's paternity. Additionally, other sources regarding the paternity are checked, sources may include:

- The existing case file, public assistance referral or CSSD Enrollment form.
- The in-house paternity data base of hospital acknowledgments.
- The CSSD Paternity Registry--paternity orders and genetic testing results submitted by the CSSD. This is rarely used, as the cases represented are no longer in CSSD paternity status.
- Birth records maintained by the Office of Vital Records.
- The Putative Father Registry--claims of parental interest maintained by the Office of Vital Records.
- The Paternity Acknowledgment Registry for out-of-state births, maintained by the Office of Vital Records. This is not often used as most of the acknowledgments in the registry were obtained and submitted by the CSSD.
- Further information obtained directly from the mother.
- Information obtained from the Office of Public Assistance (OPA) or other sources.
- The records and paternity determination procedures of another state or jurisdiction.

Depending on the facts of the case, other information sources may be relied on in addition to the paternity affidavit. In general, the caseworker is looking for the most efficient way to gather reliable information about the identities of all named alleged/presumed fathers, existing presumptions that were previously unknown to the CSSD, Montana's jurisdiction to establish paternity, and the basis for proceeding against each alleged/presumed father. Other sources' information may repeat, support, expand, or contradict the information contained in the completed paternity affidavit.

Proceeding for Unknown, Unlocated Allegations

The CSSD does not delay opening a case solely because an alleged father's name or location is unknown; the name or location may be discovered during or as a result of gathering information.

Proceeding in a Multiple-Allegation Case

The alleged/presumed fathers in a multiple-allegation case are typically processed concurrently. The CSSD may use discretion to wait before taking the next action on one allegation in anticipation of paternity being resolved by actions on another allegation. Any determination to not proceed immediately to the next step for a given allegation must take into account the federal timelines.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

Contact with the Alleged/Presumed Father

When a written paternity claim is received, the CSSD is required by law to send a paternity claim notification letter. This letter informs the alleged/presumed father that he has been named as the father of the child. It also explains the process of establishing paternity and the options available for resolving the allegation without legal action. The letter can include a consent to genetic testing, offering the opportunity to resolve the matter through voluntary genetic testing. Genetic testing will determine the probability of paternity or if the case is a single-allegation case the alleged/presumed father can sign an admission of paternity. Either option eliminates the need to send the notice of parental responsibility and a possible hearing to resolve the paternity allegation.

Issuing Paternity Affidavit

One paternity affidavit for each allegation is sent to the mother. The mother is asked to complete the affidavit, provide her notarized signature, and return it to the CSSD within 10 calendar days. If a returned affidavit names other allegations, additional paternity affidavits are sent.

Exception: In a single-allegation case, if a presumption for the alleged/father is confirmed the paternity affidavit is not required.

Notification of Paternity Claim

Montana statute MCA§40-5-232(6) requires alleged/presumed fathers to be notified of the paternity claim against them. The notification must be sent directly after the case opening or upon locating, without regard to whether there is sufficient evidence to commence a paternity action.

Period of Conception

The paternity affidavit gathers evidence supporting a paternity allegation and checks on its biological validity. The caseworker uses the date the child was born, or in the case of a premature or overdue birth, the date the child should have been born to determine the possible period of conception. If the dates the mother provided in the affidavit for sexual contact with the alleged/presumed father do not coincide with the period of conception, the man is only removed from the case, if he is an alleged father. If he is the presumed father, the period of conception difference does not eliminate him from the case.

Admission of Paternity in Multiple-Allegation Cases

If more than one presumed or alleged father is named in a multiple-allegation case, the CSSD will not accept an admission of paternity until positive genetic testing results can be obtained, and he signs a multiple-allegation version of an admission of paternity acknowledging the existence of additional - alleged/presumed fathers.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Determining Jurisdiction

The following guidance does not apply to cases where the mother or alleged/presumed father is Native American. For determination of jurisdiction in a Native American case, refer to CS 250.1 Native American Jurisdiction.

The CSSD does not need jurisdiction to resolve paternity in a non-contested case under this section. However, in a case where application of the facts, such as voluntary genetic testing, admission of paternity, or a combination of these is not sufficient to resolve paternity, the CSSD must assert jurisdiction over an alleged/presumed father before proceeding in a contested case against him. The CSSD has a basis for asserting jurisdiction over an alleged/presumed father if any of the following conditions apply:

- He is served by personal service or by certified mail with notice in Montana.
- He submits to Montana jurisdiction by consent, contest, or by entering a general appearance.
- He resided with the child in Montana.
- He resided in Montana and provided prenatal expenses or support for the child.
- The child resided in Montana as a result of his acts or directives.
- He engaged in sexual contact in Montana and the child may have been conceived by that contact.
- There is any other basis for jurisdiction under the Montana and U.S. constitutions.

To assert jurisdiction in any of the conditions above the CSSD must serve notice on the man by sheriff, process service, or certified mail.

Where one of the above conditions applies and the alleged/presumed father is located out of state, federal regulations require that the CSSD assert its own jurisdiction to establish paternity whenever possible. This means the CSSD must attempt to obtain service on the man by sheriff, process service, or certified mail.

If none of the above conditions apply, the CSSD has no basis for asserting jurisdiction. The CSSD may attempt to create a basis by requesting the alleged/presumed father sign a waiver of jurisdiction. This would satisfy bullet two above, 'He submits to Montana jurisdiction by consent, by waiver of contest, or by entering a general appearance'.

Where the CSSD cannot assert jurisdiction over a particular alleged/presumed father, the case is referred to the state most likely to be able to assert jurisdiction over him.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Contested Case Determining Reasonable Cause

If paternity cannot be established the CSSD must initiate contested case actions against an alleged/presumed father. To serve notice in a contested paternity case, the CSSD believe an alleged/presumed father could be the child's biological father. This means there is some indication that the man had sexual contact with the mother during the possible period of conception. In most cases, the information on the returned paternity affidavit or the documentation establishing a presumption of paternity is sufficient to establish reasonable cause for proceeding against the named man. In questionable cases, an OLA attorney should be consulted.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

PROCEDURES

Case Preparation

Caseworker

Upon receipt of a public assistance referral or a CSSD Enrollment for Services form for a case where paternity is at issue, prepares the case for informal or formal action by proceeding as below:

Notifies Alleged Father/Presumed Father of Paternity Claim

- Sends CS 601.3A Paternity Claim Notification.
Sending the Notice of Paternity Claim cannot be delayed or combined with the father's paternity packet in step 2 of Sends Paternity Documents below, unless time frame requirements for paternity and support order establishment in CS 200 Federal Standards for CSSD Program Operations can be met.
- If another man is identified as a possible father at any time after the case opens, sends CS 601.3A Paternity Claim Notification.
- If a man's location is unknown, notification must occur as soon as he is located.

Case Option for Sending CS 601.3A Paternity Claim Notification

Single-Allegation Case

In a case where it is believed, the mother may be more successful than the CSSD in persuading the alleged/presumed father of the benefits of cooperation she may agree to send paternity claim notification and admission of paternity to the alleged/presumed father in order to obtain his signature on the documents.

Sends Mother

A revised CS 602-1A Paternity Letter to Mom with paternity affidavit, asking for assistance in delivering and obtaining the signature of the alleged father on paternity claim notification and admission of paternity.

Upon the mother's agreement also sends:

- CS 601.3A Paternity Claim Notification
- CS 606.2A Admission of Paternity



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Omitting 605.2 Notification of Parental Responsibility

Depending on the facts of the case, it might be necessary to avoid contact with the alleged/presumed father by omitting the notification of parental responsibility. The following are examples and actions that may be taken after reviewing the paternity affidavit and after determining jurisdiction:

- The alleged/presumed father is under eighteen years of age.
- If the alleged father is under the age of 18, the CSSD will not proceed to establish a support obligation until he is 18 years of age.
- There is reason to believe the alleged/presumed father will remove himself from the CSSD's jurisdiction if he is informed of the paternity case.
- Proceeds with service of process as in CS 605.2 NPR: Single- and Multiple Allegation Cases.
- The affidavit is not returned, or it appears the allegation will not be supported by the returned affidavit.
 - Begins the case close process when the affidavit is not returned. Refers to CS 201.5 Identifying Case Closure.
- If there is enough reasonable cause to believe an action is necessary proceeds to CS 605.2 NPR: Single-Allegation Cases or 605.3 NPR: Multiple Allegation Cases for service of process.

Multiple-Allegation Case

If according to the facts of the case, the chances of resolving the child's paternity for a man are low, attempts to resolve the paternity by proceeding to one or more of the other allegations first, taking into consideration locate status. Proceeds to service of process as in CS 605.2 NPR: Single- and Multiple Allegation Cases.

Paternity Acknowledgment Birth Records

Administrative Staff

These steps are for a child born in Montana.

1. Searches the Putative Father Registry for possible father information for the child of the case.
2. Searches the in-house paternity database for the paternity acknowledgment and the Vital Records system.
3. If after a thorough search the paternity acknowledgment cannot be found, sends CS 602.1D Request for Birth Records to the AOU. The request for birth records should include: the birth record, paternity acknowledgment, information regarding withdrawal of a paternity acknowledgment and affidavit of non-paternity.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Administrative Orders Unit (AOU)

Upon receipt of CS 602-1D Request for Birth Records, does an in-person search for the items requested at the Office of Vital Records. If the items are found, uploads them to the case file as new mail.

If the items requested cannot be found, makes a system case note with an explanation as to why they could not be found and makes a corresponding notation on the request form prior to returning the birth records request form to the requestor, by adding it to the case record.

Caseworker

Reviews birth and paternity records received for any presumptions or exclusions and adds or removes allegations or presumptions as necessary.

If the paternity acknowledgment is less than 60 days old and therefore still rebuttable, looks for any notification of withdrawal before establishing a support order based on the presumption. When paternity is established refers to CS 401.3 Notice and Order Concerning Support, or CS 401.6 Subsequent Notice and Order Concerning Support.

Unknown or Unlocated Father

If the alleged/presumed father cannot be named or cannot be located, the caseworker should proceed with applicable steps in these procedures wherever possible in preparation for informal contact or service of process when the man is finally located.

Single-Allegation Case

In a single-allegation case with a confirmed presumption, a paternity affidavit is not required. Updates the case in system and proceeds to CS 401.3 Notice and Order Concerning Support or CS 401.6 Subsequent Notice and Order Concerning Support for order establishment.

Child Not Born in Montana

Paternity Established in another State:

1. Determines if paternity has been established by an order or irrebuttable presumption in another state. Determination can be made by obtaining copies of the order, birth records or paternity acknowledgments. Copies can be requested from other states through the Child Support Portal via the Electronic Data Exchange (EDE) or a request made to the CP by a 10- day notice.

End of paternity process.

2. Proceeds to establish a support order. Refers to CS 401.3 Notice and Order Concerning Support or CS 401.6 Subsequent Notice and Order Concerning Support.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Paternity NOT Established in another State:

Retains information in the case record if paternity has not been established by an order or irrebuttable presumption in another state.

The proper filing of a Montana Acknowledgment of Paternity creates a rebuttable or irrebuttable presumption of paternity in Montana, regardless of the child's place of birth. If the paternity acknowledgment is less than 60 days old, it is still a rebuttable presumption.

Non-U.S. Births. For purposes of paternity establishment, Canada and all U.S. territories and possessions are treated as states. For births in foreign countries, consult an OLA attorney.

Determines Native American Jurisdiction

1. If the child was born in Montana, determines if the mother, or alleged/presumed father, is Native American.
 - If yes, follows procedures in CS 250.1 Native American Jurisdiction.
 - If no, refers to procedures, Paternity Acknowledgement Birth Records at the beginning of procedures in this section. Retrieves and maintains birth records in the case file.
2. Returns to this section when the state of Montana jurisdiction applies.

Sends Paternity Documents

1. Sends to Mother:
 - CS 602-1A Letter to Mother
 - CS 606.2 Paternity Information Flyer for Parents
 - CS 602-1C Paternity Affidavit
 - CS 408-3C Long Arm Jurisdictional Questionnaire, only if the alleged/presumed father resides out of Montana or their location is unknown, or if the CP and child lived out of state or the child was born out-of-state.

Non-U.S. Births

For purposes of paternity establishment, Canada and all U.S. territories and possessions are treated as states. For births in foreign countries consult the CSED legal staff for possible adaptation of case initiation and subsequent procedures.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

2. Sends Alleged/Presumed Father Paternity Packet:

- CS 602-1B Paternity Letter to Alleged Father, single or multiple-allegation version, depending upon the case.
- CS 606-2F Consent to Genetic Testing.
- Sends CS 405.5 Waiver of Personal Jurisdiction if the alleged/presumed father resides or may reside outside of Montana.

If the alleged/presumed father resides or may reside outside Montana Form CS 405-5 Waiver of Personal Jurisdiction.

The waiver of personal jurisdiction may be omitted if:

- Long-arm jurisdiction already applies.
- It may hinder the success of paternity establishment.
- There is reason to believe its use may jeopardize compliance with federal timeframes.

Single-Allegation Cases

- CS-606.2A Admission of Paternity and Application for Paternity Consent Order
- CS 606.2 Paternity Information Flyer for Parents

Multiple-Allegation Case becomes a Single-Allegation Case

Sends CS 606-2A Admission of Paternity Multiple-Allegation version in cases where genetic test results have eliminated another alleged/presumed father, making a multiple-allegation case into a single-allegation case. The informed consent language is included in this version.

Unknown or Unlocated Father

If the alleged/presumed father cannot be named or cannot be located, the caseworker should proceed with applicable steps in these procedures wherever possible in preparation for informal contact or service of process when the man is finally located.

Processing the Paternity Affidavit

Single-Allegation Case

In a single-allegation case with a confirmed presumption, a paternity affidavit is not required. Updates the case in system and proceeds to CS 401.3 Notice and Order Concerning Support or CS 401.6 Subsequent Notice and Order Concerning Support for order establishment.

1. Monitors for the return of the paternity affidavit within 10 days after the mailing date.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

- a. Reviews for completeness and determines the period of conception according to guidance provided in Period of Conception above.
- b. Takes any or all of the following steps, as indicated by review of paternity affidavit:
 - Returns the paternity affidavit to the mother, explaining where further information is required.
 - Schedules and conducts an interview with the mother to complete the paternity affidavit.

Unknown Allegations

An allegation against a man whose name, identity, and location are unknown is considered a valid allegation, if the mother is willing to work with the CSSD to identify the man. This includes completing a paternity affidavit and interview. An unknown allegation is treated as any other allegation would.

2. Conception and Sexual Contact Dates for Alleged/Presumed Father
3. If conception and sexual contact dates in the paternity affidavit rules out an alleged/presumed father, removes the man from the case and updates the case in system.
4. Sends CS 601.3B Paternity Claim Follow-up Letter and proceeds for case type:

Single-Allegation Case

Non-public assistance case

Contacts the mother about other possible allegations. If another allegation is identified, proceeds to Paternity Affidavit with New Allegation below. If no other allegation is identified begins case closure, refers to CS 201.5 Identifying Closed Case Status.

Public Assistance Case

Requests assistance from the CSSD public assistance liaison for assistance obtaining information from the mother or other sources. If another allegation is identified, proceeds to Paternity Affidavit with New Allegation below. If no other allegation is identified, sets a non-cooperation status on the case.

Multiple-Allegation Case

Takes no further action for the removed man. Proceeds or continues to process other allegations per policy and procedure.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

Presumed Father

If the conception and sexual contact dates in the paternity affidavit rules out the presumed father is not excluded, the period of conception differences do not eliminate him from the case. Consults with a supervisor when the paternity affidavit contradicts an existing presumption.

Paternity Affidavit for New Allegation

If a new allegation is returned with a paternity affidavit, proceeds with actions below.

Sends CS 501.1C Paternity Affidavit for the new allegation.

- For a public assistance case contacts, the OPA to add the new allegation to the public assistance case.
- For a non-public assistance case, sends an Enrollment for Services packet to the custodial parent to gather additional information and to obtain an Authorization to Act for the new allegation.
- Sends CS 408-3C Long Arm Jurisdictional Questionnaire, only if the alleged/presumed father resides out of Montana or their location is unknown, or if the CP and child lived out of state or the child was born out-of-state.

Mother returns paternity affidavit for new allegation:

1. Updates the case with the new alleged/presumed father.
2. Refers to back to Case Preparation procedure above.

Paternity Affidavit Not Returned

Non-Public Assistance Case

Begins case closure procedures when a paternity affidavit is not returned or not returned in a timely in a begins case closure procedures. Refers to CS 201.5 Identifying Closed Case Status.

Public Assistance Case

For a public assistance case is:

- Notifies the OPA that the mother has not cooperated.
- If OPA closes out the mother for failure to comply with CSSD's request, caseworker issues a CS 201.5B 60 Day Closure Letter to the mother for non-cooperation from non-public assistance applicant.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

- Consults with supervisor and OLA attorney when the mother continues to be uncooperative and the public assistance referral remains open or the referral closes, but there is reason to complete the paternity establishment before closing the child support case.
- Upon OLA attorney's advice, follows procedures in CS 405.12 Investigative Subpoena for a subpoena duces tecum to compel the mother to complete and submit a paternity affidavit.

Additional Sources for Paternity Information

The paternity affidavit is the primary tool for gathering essential information from the mother, however, additional sources of information that may help with paternity establishment are:

- The existing case record, the public assistance referral, or the non-public assistance enrollment form.
- Information obtained by the caseworker directly from the mother.
- Information obtained directly from the Office of Public Assistance (OPA), or other sources.
- The records and paternity determination of another state or jurisdiction.

Admission of Paternity

If the alleged/presumed father returns a signed and notarized, CS 606.2A Admission of Paternity and Application for Paternity Consent Order, proceeds as follows:

Single-Allegation Case

Updates case in system and proceeds to CS 606.2 Paternity Consent Order.

Multiple-Allegation Case

Contacts the admitting father and explains that the CSSD will not accept an admission of paternity without confirmation by genetic testing results and a signed multiple-allegation version of the admission of paternity attempts to negotiate genetic testing.

Negotiating Voluntary Genetic Testing

Attempts to negotiate an agreement to genetic testing if the alleged/presumed father contacts the CSSD to discuss testing.

Agrees to voluntary genetic testing

Follows procedures for scheduling, monitoring, obtaining results, and settling genetic testing costs if the man signs the consent to genetic testing or agrees to voluntary genetic testing without returning the consent to genetic testing. Refers to genetic testing procedures in this section and to CS 604.1 Genetic Testing.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Does not agree to genetic testing

For cases where paternity cannot be resolved with voluntary genetic testing determines whether jurisdiction for a contested case can be asserted based on the criteria listed under Determining Jurisdiction below.

Genetic Testing: Mother non-cooperative

1. Makes every effort to obtain cooperation with genetic testing.
2. Enters case notes regarding discussion to obtain cooperation.
3. After exhausting all efforts to obtain cooperation, takes one of the following actions:
 - For a non-public assistance case begins case closure proceedings, refers to CS 201.5 Identifying Closed Case Status.
 - For a public assistance case, notifies the OPA of the non-cooperation and sets a non-cooperation status on the case.
 - For a public assistance cases where the mother is not included in benefits, subpoenas the cooperation of the mother through adaptation of the CS 605.2B Genetic Testing Subpoena.

Agreement to Genetic Testing

Opportunity for Cooperation by an Alleged/Presumed Father

1. Contacts alleged/presumed father to explain the paternity establishment process and options for resolving the allegation without legal action.
2. Attempts to have the man sign CS606-2F Consent to Genetic Testing.

Single-Allegation Case

- Sends CS606-2F Consent to Genetic Testing
or
- Sends CS 606.2A Admission of Paternity to sign and return notarized.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Oblige

CS 602.1

Multiple-Allegation Case

When the man signs the consent to genetic testing, it removes any future requirement for a hearing, obtains an agreement to pay genetic testing costs and, in some situations, allows the CSSD to enter a paternity default order if the man does not appear for testing. Refers to Rules for Resolving Paternity in Multiple-Allegation Cases in CS 605.3 NPR: Multiple Allegation Cases.

- Sends only CS 606-2F Consent to Genetic Testing.
- Does not send an CS 606.2A Admission of Paternity. The CSSD will not accept a signed admission of paternity in a multiple-allegation case until a positive genetic testing result is received.

Positive Genetic Testing Results

Updates case in system for the method of paternity establishment, and concurrently takes actions below:

Sends Mother

- Copy of the genetic testing results.
- A cover letter explaining the results and the next CSSD actions.
- Sends or if previously sent, requests the return of CS 404.6A Financial Affidavit.

Sends Father

- Copy of the genetic testing results.
- CS 606.2 Paternity Information Flyer.
- CS 601.1R Results of Genetic Testing Cover Letter packet.
- CS 606.2A Admission of Paternity

If the case involves multiple allegations **before** genetic testing sends the multiple-allegation version of CS 606.2A Admission of Paternity. The single-allegation version is not acceptable.

- Proceeds to establishment of a support order, refers to CS 401.3 Notice and Order Concerning Support or CS 401.6 Subsequent Notice and Order Concerning Support.
- Sends to the Administrative Orders Unit (AOU)

The original genetic testing results, the chain of custody, and any photographs.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Time Frame

Within 90 calendar days of locating the obligor the CSSD must resolve paternity and serve notice of establishment of an order for financial and medical support on the man determined to be the father.

Additional Steps for Father after Positive Testing

Following notification of positive results, takes action as follows:

- If the father signs and returns the admission of paternity or if an acceptable admission has been previously obtained, updates the case and proceeds to CS 606.2 Paternity Consent Order.
- If the father contacts the CSSD and continues to deny paternity, proceeds to CS 606.4 Referral to District Court. Continues with support order establishment, during the referral.

Negative Genetic Testing Results

Upon receipt of negative genetic test results, takes actions as follows:

- Updates case in system.
- Sends to the mother a cover letter and a copy of the genetic testing results; explains the results, requests the mother's cooperation in naming other allegations. A photograph of the alleged/presumed father may be sent.
- Sends to the man tested a cover letter, CS 601.3B Paternity Claim Follow-Up Letter, a copy of the genetic testing results, and explains the results.
- Sends genetic testing results, the chain of custody, and the photographs to the AOU.
- Retains a copy of the genetic test results for the case record.

Single-Allegation Case

Reviews case information and asks the mother if there could be another possible allegation.

Multiple-Allegation Case

- Retains the results in the case record as evidence, excluding the man as the father.
- Proceeds as per procedure for the other allegations.

No other allegations have been identified

- For a non-public assistance case begins case closure procedures. Refers to CS 201.5 Identifying Closed Case Status.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

- For a public assistance case:
 - Notifies the OPA that the mother has not cooperated.
 - Consults with supervisor and OLA attorney when the mother continues to be uncooperative and the public assistance referral remains open or the referral closes, but there is reason to complete the paternity establishment before closing the child support case.
 - Upon the OLA attorney's advice, follows the procedures in CS 405.12 Investigative Subpoena for a subpoena duces tecum to compel the mother to complete and submit the paternity affidavit.

If paternity is not resolved, the CSSD must serve notice of parental responsibility and financial and medical support on each alleged/presumed father within ninety days after location.

Period of Conception

1. Determines the starting and ending dates of the possible period of conception by using one or more of the following:
 - The conception date calculator (Excel spreadsheet).
 - The manually operated paternity wheel.
 - Counting backward, 286 and 246 days exactly from the child's date of birth. This allows for accepted ranges in both the date of fertilization and the period of gestation.

2. Conception and Sexual Contact Dates for Alleged/Presumed Father.

Alleged Father. If conception and sexual contact dates in the paternity affidavit rules out an alleged father, removes the man from the case and updates the case in system.

- Sends CS 601.3B Paternity Claim Follow-up Letter.
- Proceeds for case type, refers to step 2 of Processing the Paternity Affidavit above.

Presumed Father. If the conception and sexual contact dates in the paternity affidavit rules out the presumed father is not excluded, the period of conception differences do not eliminate him from the case. Consults with a supervisor when the paternity affidavit contradicts an existing presumption.

3. Retains the entire period of conception information in the system.
This allows for consideration of all possible allegations including future ones, even when it appears paternity will be established based on sexual contact on a specified date.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Determining Jurisdiction in a Contested Case

For cases where paternity cannot be resolved under this section, determines if jurisdiction can be asserted based on the criteria in Determining Jurisdiction.

Jurisdiction CAN be asserted based on criteria

Proceeds to Determining Reasonable Cause for a Contested Case below.

Jurisdiction CANNOT be asserted based on criteria

Identifies the responding agency for an intergovernmental referral, in most instances the responding jurisdiction will be where the alleged/presumed father resides. Proceeds as follows:

Waiver of jurisdiction not sent with cs 601.3a Paternity Claim Notification

1. Sends CS 405.5 Waiver of Personal Jurisdiction.
2. Proceeds with intergovernmental referral.
 - The interstate referral may be delayed pending a response to CS 405.5 Waiver of Personal Jurisdiction, but only to the extent time frames for interstate compliance in the case permit.
 - If the waiver is returned, dismisses the interstate referral, and proceeds Determining Reasonable Cause for a Contested Case.

Waiver of jurisdiction sent with the CS 601.3A Paternity Claim Notification but not returned:

1. Proceeds with an intergovernmental referral for paternity and in most instances establishment of a support order and its enforcement.

Jurisdiction in a Foreign Country

If jurisdiction appears to be in a foreign country, consults with a supervisor and an OLA attorney, if needed.

2. Monitors for case opening notification by the other agency.
3. Upon notification of parental responsibility being resolved, updates case in system.
4. Monitors case for establishment of a support order by the responding agency.

End of paternity process.



CHILD SUPPORT SERVICES DIVISION PATERNITY ESTABLISHMENT

Case Initiation: Mother Obligee

CS 602.1

Determining Reasonable Cause for a Contested Case

Determines whether reasonable cause exists to proceed with a contested case against an alleged/presumed father based on the conditions found in Determining Jurisdiction above.

- If reasonable cause exists, consults with supervisor and follows procedures in CS 605.2 NPR: Single and Multiple-Allegation Cases.
- If it is believed that reasonable cause does not exist consults with a supervisor before removing the man from the case.
 - Upon supervisor approval removes the man from case and sends CS 601.3B Paternity Claim Follow-up Letter.
 - processes other allegations.
 - retains the man as a case participant and attempts to obtain further information to support a reasonable cause.

If jurisdiction for a contested case cannot be asserted based on the criteria listed above, proceeds to intergovernmental referral in Determining Jurisdiction for a Contested Case above.