

**Michigan Supreme Court
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M E M O R A N D U M

DATE: May 16, 2003

TO: Friends of the Court
cc: Chief Circuit Judges and Presiding Family Division Judges
Circuit Court Administrators
Family Division Administrators

FROM: John D. Ferry, Jr., State Court Administrator

SUBJ: SCAO Administrative Memorandum 2003-04
Bank Accounts for Processing Payments

The Friend of the Court Act requires the State Court Administrative Office, Friend of the Court Bureau, to develop and recommend guidelines for conduct, operations, and procedures of the friend of the court offices [MCL 552.519(3)(a)]. It further states that “each friend of the court shall take all necessary steps to adopt office procedures to implement . . . the recommendations of the bureau” [MCL 552.503(6)].

Friend of the court offices will soon transition to MiCSES 2.4. With this transition, offices will be required to cooperate with the Michigan State Disbursement Unit (MiSDU) to continue central processing of receipts and payments. Existing friend of the court bank account monies will be turned over to the executive branch for further processing once a friend of the court office converts to MiCSES 2.4. This memorandum provides policies and procedures for turning over the accounts and concluding friend of the court responsibilities for those accounts.

MiCSES and MiSDU have limits on their ability to process payments that are directed to a single support case when the payer has multiple cases. Further, these systems restrict how money can be retained. It is the Court’s policy that local offices should continue to receipt and disburse payments to facilitate payments that cannot be processed due to system limitations. This memorandum provides policies and procedures for processing payments when system limitations exist.

Should an office have questions or additional thoughts on alternatives to opening a new account, please contact Steve Capps at 517-373-4835 or by e-mail at cappss@courts.mi.gov or Elizabeth Barber at 517-373-4835 or by e-mail at barberb@courts.mi.gov .

A. Transition of Existing Friend of the Court Accounts to MiSDU.

1. Closing Out FOC Accounts

Before converting to MiCSES 2.4, friend of the court (FOC) bank accounts must be reconciled before transfer of funds to the MiSDU. This includes the following:

- a. Reconcile the ending bank statement balance to the monies in CSES, including the identification of all reconciling items (deposits in transit, outstanding checks, overage, shortages, unrecovered NSF checks, unrecovered posting errors/misapplied payments, bank service charges, checks cleared in error, bank errors, credit memos, debit memos, and other items on the bank statement that are not on the court records and vice versa).
- b. Identify and rectify all bank errors. Errors that cannot be corrected due to time limits imposed by the bank should be adjusted through the local funding unit until they can be corrected.
- c. Identify all NSF checks and posting errors (misapplied payments). Unrecovered NSF checks and posting errors should be adjusted through the local funding unit. The FOC office should maintain detailed documentation that supports the amount necessary to replenish the bank account. If an NSF check or posting error is subsequently recovered, deposit the funds with the local funding unit and properly account for and record in the friend of the court records.¹
- d. Identify and resolve unreconciled differences between the bank statement balance and the monies in CSES. Should an unreconciled difference exist that cannot be found, the unreconciled difference should be properly adjusted through the local funding unit or the escheats process.
- e. Review and escheat held monies and outstanding checks, as appropriate, to the State of Michigan unless an outstanding check

¹The process for recovering NSF checks received locally for payments that have been transferred to the SDU is currently being reviewed. When final, that process will be provided to the friend of the court offices.

can be reissued to the payee. The Unclaimed Property Division of the Michigan Department of Treasury requires that all court deposits and uncashed checks unclaimed for a period of one year, including undeliverable and outstanding checks, should be escheated as prescribed in Treasury regulations.

2. Audits and Documentation concerning FOC accounts.

a. Audits.

Supreme Court Finance will be available to give procedural assistance to FOCs when they perform the duties in subsection A-1. Accounting audits should be conducted locally pursuant to State Court Administrative Reference Guide section 6-04. By taking the steps set forth in subsection A-1, the FOC determines the balance that exists, whether any encumbrance exists for those monies, and the amount for which the funding unit will become responsible. The steps set forth in subsection A-1 are the minimum requirements for an FOC to turn money over to the MiSDU.

b. Documentation to be Retained by FOC.

To provide accountability, the friend of the court office should obtain detailed documentation from the child support computer system that supports the amount that was actually converted and transferred to the MiSDU and the amount that will remain local. At a minimum, the detailed suspense and held receipts reports should be printed immediately before conversion and the child support computer system should provide the FOC office detailed reports for any exceptions that occur at conversion.

3. Transition of Responsibility to MiSDU.

Once the FOC has completed the steps under subsection 1, and the MiSDU has provided the information under subsection B-2-b, the FOC should obtain an administrative order from the Chief Circuit Court Judge authorizing the transfer of the FOC bank account funds to the SDU (see Model LAO in Appendix "A"). For funds that are not transferred, the FOC must monitor the bank account balance to ensure that the account maintains a positive balance. If the account reaches a balance that may not cover all outstanding checks, the friend of the court office will need to ask the local funding unit to replenish the account to cover any shortages. One year after

the conversion and transfer of funds to the SDU, the office should review the remaining balance for escheats purposes and the account should be closed.²

B. Requirement to Maintain Bank Accounts for Processing Special Payments.

1. Requirement to Receive Payments.

It is the Court's policy that local FOC offices will continue to receive payments after conversion to MiCSES 2.4 that cannot be processed adequately by MiCSES and the MiSDU. Although payments can be processed by the MiSDU after conversion to MiCSES 2.4, the allocation of payments among multiple cases cannot be made in accord with the court's orders for certain types of payments. To be allocated properly, payments such as those made pursuant to Qualified Domestic Relations Orders, Eligible Domestic Relations Orders, and payments designated to a particular case pursuant to MCR 3.208, must continue to be processed locally.³

FOC offices are not required to accept general support payments that can be processed centrally. General support payments that can be processed centrally may be accommodated locally by providing an envelope to a payer for the payment to be forwarded to the MiSDU. Michigan Law provides that "[a]fter SDU support and fee receipt and disbursement is implemented in a circuit court circuit, the office for that court may accept a support payment made in cash or by cashier's check or money order" [MCL 552.509(3)].

2. Options for Bank Accounts.

Local FOCs should open a new bank account to process payments they receive after conversion to MiCSES. Current bank accounts should not be used post conversion. It is better to freeze those accounts on the date of conversion, process the money in those accounts, and close them. If the

²In addition, any funds that cannot be identified to a support recipient, governmental agency, or other payee existing in other friend of the court bank accounts should be escheated and the account should be closed.

³OCS Action Transmittal 2003-05 discusses the types of cases that cannot be processed centrally. The Action Transmittal advises FOCs to make provisions for processing certain payments locally and forwarding the payments to MiSDU in a format that it can process.

FOC uses another county account such as the county treasurer's account, the court should obtain an agreement with the account holder governing how the funds will be controlled. If any other county account is used, the account holder should be aware that its use would require the account to be subject to federal IV-D auditors. Although the FOC can use the circuit court clerk account, special court rules apply to money paid to the clerk [MCR 8.106]. Therefore, the SCAO concludes that the best course of action is for the FOC to open a new account.

3. Administrative Requirements.

The FOC should obtain proposals for banking services from several banks. Thereafter, it is recommended that the court issue an administrative order establishing the account as a non-interest bearing account or, in the alternative, establishing that any interest earned on the account be used to offset administrative costs associated with maintaining the account and processing payments from the account.⁴

C. Cash Handling Functions.

The Michigan Supreme Court Reference Manual, section 6-05 contains guidelines for cash handling functions. Section 6-05-C contains minimum security safeguards for any automated accounting system the FOC might use. Section 6-05-D contains minimum internal control guidelines for separation of functions in cash handling. Pursuant to these guidelines no employee shall complete more than one of the following functions:

- Opening the Mail
- Receipting Payments
- Balancing Receipts to the Accounting Records
- Performing Bank Reconciliation

Section 6-05-F describes in detail the manner in which these functions should be performed. These Court standards must be maintained notwithstanding any other less restrictive federal or state standards that might exist.⁵

⁴Because interest may be program income, it may be easier for accounting purposes to have the bank offset interest against service fees.

⁵Section 6-05-D provides that, in smaller courts, where the number of employees is limited and duties cannot be adequately separated, court management must provide a greater review and supervision of employee functions and procedures. In smaller courts, lesser federal

D. Performance Bonds, Liens, and Receiverships.

1. Definition of Performance Bonds, Liens, and Receiverships.

Performance bonds are money or property that is paid to the court or one of its agents to be used to satisfy future support. Receiverships are fiduciary relationships created by court order in which the fiduciary (receiver) is appointed to take charge of a person's property and use it for specified purposes. Liens may be established by court order to encumber specific property that will be used for a specific purpose. Liens, performance bonds, and receiverships are determined by the substantive provisions of the order that establishes them regardless of how the order is titled.⁶

2. Limitations on Receiverships and Bonds.

a. Receiverships.

Receiverships are not supported by MiCSES. Because the receiver is a fiduciary having responsibilities that may not be appropriate for FOCs⁷ and because there is no separate statutory authority for an FOC to be a receiver, the SCAO recommends that FOCs not be appointed as receivers.⁸

b. Performance Bonds.

- 1) MiCSES currently cannot process performance bonds. For a bond to be established, it is necessary to hold money outside MiCSES and process it. Several options exist:

or state standards may be acceptable provided other safeguards are in effect.

⁶Bonds and liens have a separate statutory basis for child support purposes. Some orders use traditional language in describing bonds and liens that may not reflect the language used in statute. For instance before the current statutes were enacted, a "receiver" might be used to take charge of a workers compensation settlement to pay support. Today, that same action may be described as a lien.

⁷For instance, a receiver may have fiduciary responsibilities to the property owner that are beyond statutory authority granted to the FOC. Moreover, the receiver may have accounting responsibilities and responsibilities to initiate adversary proceedings.

⁸This is not to suggest that the court cannot appoint a receiver outside the FOC.

- Establish a separate bank account to receive and disburse bond money on the individual case.
- The order establishing the bond can require the payer to set up a restricted account from which the FOC can withdraw money to satisfy support.
- Establish an FOC account to receive and disburse money on all cases.
- Establish a relationship with a contractor (banking institution or otherwise) to process payments pursuant to the bond.

2) The bond statute [MCL 552.625] wording suggests that a hearing is required before the bond is used to satisfy support. However, nothing in the statute prohibits a court from entering an order that would require periodic payments to be made from an amount posted in advance to satisfy future payments.

c. MCL 552.605c limits a payer's ability to pay support in advance. Payments in excess of a month's support must be returned to a payer, notwithstanding the payer's desire to provide support in advance. The only method of allowing a payer to prepay support is to establish a bond order.

Appendix A
Model Local Administrative Order Directing Friend of the Court to Transfer Bank
Account funds to MiSDU

State Court Administrative Office
Model Local Administrative Order ____ - Order Directing Friend of the Court to Transfer Bank
Account funds to MiSDU

[LOCAL COURT LETTERHEAD]
Administrative Order [year] - [number]

Order Directing Friend of the Court to Transfer Bank Account funds to MiSDU

This administrative order is issued in accordance with State Court Administrative Office, Administrative Memorandum 2003- ____, effective May ____, 2003. The purpose of this order is to transfer bank account funds paid to the friend of the court to the MiSDU for processing and payment. The court finds that all of the requirements of State Court Administrative Office Administrative Memorandum 2003- ____ subsection A have been satisfied. The court further finds that the Office of Child Support has provided detailed documentation that supports the amount to be converted and the amount that will remain with the friend of the court

IT IS ORDERED:

- 1. The friend of the court shall transfer the funds from the following bank accounts to the MiSDU for cases in which funds may be distributed:**

Bank:
Account No.
Amount to be transferred to MiSDU:

Bank:
Account No.
Amount to be transferred to MiSDU:

Bank:
Account No.
Amount to be transferred to MiSDU:

- 2. The Friend of the Court shall review the remaining balance in the accounts, process any remaining payments if possible, and, after one year from the date of this order, escheat the balance remaining in the accounts.**