

ADVISORY NO. 448

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TOPIC: TEXAS MANDATES CHILD SUPPORT ENFORCEMENT INTERFACE

During the 81st legislative session, the Texas Legislature passed SB 865 which is designed to intercept insurance claims in order to increase child support collections in the state. The bill amends Texas Family Code § 231.015 to require the Texas Attorney General's child support division to operate a program to improve the enforcement of child support obligations, including child support liens. Some insurance companies have been voluntary participants in the program up until the effective date of the new bill, June 19, 2009.

The purpose of the program is to “intercept certain liability insurance settlements or awards for claims in satisfaction of the [child support] arrearage amounts” By its own terms, the statute applies to all “insurance companies”. The Attorney General appears to have interpreted this term to include certified self-insurers. The AG also maintains that the program applies to “all claims of a company licensed or authorized to transact business in Texas, regardless of the state where the claim arises or is filed.”

The AG's office is required to consult with TDI and representatives of the Texas insurance industry, including insurance trade associations in the development of rules to implement the program. To date, the AG's office has not proposed rules to implement amended § 231.015. However, the Attorney General's office has recently distributed letters to system participants notifying them of the legislation and providing instructions to comply with the amended statute.

Currently, the Office of the Attorney General has contracts with the State of Rhode Island and Providence Plantations to participate in the Child Support Lien Network (CSLN). The AG provides CSLN with a periodically updated list of its child support obligors. In turn, CSLN provides participating insurance companies with two methods of matching a pending settlement or award: an automatic data match, or an interactive lookup.

The Automatic Data Match

The first way to comply with the new law is through an automatic data match system. This is the method that the AG prefers that you use. It allows an insurance company to conduct an automatic electronic interface of its pending claims against the list of child support obligors through Insurance Service Office (ISO). An insurance company desiring to participate in the automatic data matching process must give ISO permission to match its claim data with CSLN. ISO may be contacted at [800-888-4476](tel:800-888-4476), or by email at njsupport@iso.com.

After the data is submitted to ISO, CSLN matches its list of child support obligors daily against the ISO claim data. After that point a participating insurance company will receive a notice of

child support lien (or wage withholding instrument for a workers' compensation claim) only on those claims that the company has registered with ISO and that match the name of an obligor who owes past-due child support. This allows the insurance company to focus work efforts on only those claimants that actually require child support enforcement activity.

The Interactive Lookup

As an alternative to the automatic data match, an insurance company may implement an interactive lookup method to comply with the law. This method requires an insurance company to check the name of an individual insurance claimant to see if there are outstanding child support obligations by accessing the CSLN database of child support obligors.

To register for access to this database, a company must: 1) go to the Office of the Attorney General's child support lien web page at <http://www.childsupportliens.com/TX/>; 2) click on the ARegister@ label in the left margin and complete and electronically submit the registration form; and 3) print, sign and fax to CSLN at 888-430-6907 a copy of the confidentiality statement.

Once the insurance company registration information has been reviewed and the signed confidentiality statement has been received, secure access to the database of child support obligors will be approved. The company will be notified via e-mail of access approval. This notice will include the user ID that has been assigned, the web site address, and basic instructions.

Insurance companies are encouraged to query the CSLN database of child support obligors as early as possible in the claims process, but not later than 30 days before a claim settlement, if possible. The insurance company receives immediate notification of the status of the match. If there is no match, the insurance company is informed.

If there is a positive match, the insurance company is informed and provided the basic match data. If there are multiple possible matches within one state, the insurance company is asked to call CSLN to identify the correct obligor. If there are multiple possible matches within more than one state, the insurance company is notified that CSLN will work with the insurance company and the affected states to determine the appropriate course of action.

When an interactive match occurs, CSLN notifies the State child support enforcement agency of a match. The State child support agency will send a notice of child support lien (or, in the case of a worker's compensation claim, a wage withholding instrument) to the company. Thus, it appears to us that your response to the identification of a match will be reactive, rather than proactive. That is the position outlined in the AG's current rules. We anticipate that any new rules will follow the same process.

An insurance company that provides information or otherwise responds to a notice of child support lien or levy under Subchapter G, Chapter 157, or acts in good faith to comply with procedures established in the pilot program under this section 231.015 is not liable for those acts under any law to any person.

The Attorney General's child support division considers any information received from an insurance company as confidential. Such information shall be used or disclosed by the child support division only for the purpose of collecting past-due child support or for other purposes as enumerated in subsection (c) of Family Code §231.108.

The child support division is the state "Title IV-D agency" that is designated under the Texas Family Code Chapter 231 to provide child support services under Part D of Title IV of the federal Social Security Act. In addition to providing child support services for parents who wish to obtain or provide support for their children, the child support division operates the State Disbursement Unit (SDU). The SDU is the centralized unit that is responsible for receiving, distributing and maintaining and furnishing child support payments and records.