**Section 160.89 Interest**

a) Interest Established and Enforced with the Assistance of the Department

1) Unadjudicated Interest

A) Unadjudicated interest is interest that has not been reduced to a judgment by a court for judicial cases or the Department for administrative cases. A non-assistance custodial parent is an individual who completes an application for IV-D services (see Sections 160.5 and 160.10).

B) Effective January 1, 2021, the Department will provide a custodial parent, on a one-time basis, the opportunity to establish unadjudicated interest through the Department. The Department will accept one-time written requests from a custodial parent for both judicial cases and administrative cases. The Department will establish unadjudicated interest when the custodial parent makes a written request and meets all of the following criteria:

i) The emancipation of the youngest child on the case for which the custodial parent is requesting interest;

ii) The principal balance for current support is $0.00 on the case for which the custodial parent is requesting interest;

iii) The minimum amount of interest due to the custodial parent on that case is $500; and

iv) The written request must be received by the Department within one year after meeting the criteria of this subsection (a)(1)(B) or, if applying for IV-D services, after the emancipation of the child, within one year after applying for IV-D services, provided that they meet the required criteria.

C) Effective January 1, 2021, interest on cases meeting the criteria of subsection (a)(1)(B) shall be calculated prospectively from the last judgment entered and contained in the Department's certified computer system or, if no judgment was entered, from the charges and payments, or balances, reflected and contained in the Department's certified computer system.

2) Adjudicated Interest. Effective January 1, 2021, the Department will enforce adjudicated interest orders obtained by the custodial parent, non-custodial parent or either the custodial parent's or the non-custodial parent's attorney.

3) As part of an arrearage establishment process under this Section, the Department shall calculate interest on child support judgments, including judgments arising by operation of law from child support orders, by applying one‑twelfth of the current statutory interest rate as provided in Section 2-1303 of the Code of Civil Procedure [735 ILCS 5] to the unpaid child support balance as of the end of each calendar month. The unpaid child support balance at the end of the month is the total amount of child support ordered, excluding the child support that was due for that month to the extent that it was not paid in that month and including judgments for retroactive child support, less all payments received and applied as set forth in this Section. Effective January 1, 2021, the total unpaid child support balance shall be maintained and reflected in the Department's certified computer system. This balance shall be presumed to be correct and shall be the basis for the calculation of interest provided for in this Section. If an individual wishes to challenge this presumption, the individual must prove, to the appropriate tribunal (judicial for judicial cases and administrative for administrative cases), that the balance is incorrect by a preponderance of the evidence.

b) The accrued interest shall not be included in the unpaid child support balance when calculating interest at the end of the month.

c) The unpaid child support balance as of the end of each month shall be determined by calculating the current monthly child support obligation and applying all payments received for that month, except federal income tax refund intercepts, first to the current monthly child support obligation and then applying any payments in excess of the current monthly child support obligation to the unpaid child support balance owed from previous months. The current monthly child support obligation shall be determined from the document that established the support obligation.

d) Federal income tax refund intercepts and any payments in excess of the current monthly child support obligation shall be applied to the unpaid child support balance. Interest on child support obligations may be collected by any means available under federal and State laws, rules and regulations providing for the collection of child support. Effective January 1, 2021, any payments in excess of the current monthly child support obligation and the unpaid child support balance shall be applied to the adjudicated accrued interest on the unpaid child support balance entered by the court for judicial cases or the accrued interest entered by the Department for administrative cases.

e) The provisions of this Section shall also apply to calculation of interest on maintenance and unallocated maintenance and child support judgments arising by operation of law from maintenance and unallocated maintenance and child support orders.

f) Effective January 1, 2021, for non-assistance cases meeting the criteria in this Section, the custodial parent may request that the Department calculate and enforce interest during the arrearage establishment process. If no such request is made, or if the request is not made within the time period required by this Section, the custodial parent, through the courts, may enforce any accrued interest, without the involvement of the Department. If the custodial parent requests interest after the emancipation of the youngest child and after the principal balance for current support is zero, but does not meet the remainder of the criteria provided for in this Section, the Department will not calculate interest, but instead may provide the custodial parent with a copy of the Department's interest finding and a cover letter explaining the Department's policy regarding interest and informing the custodial parent of the option to seek legal advice. In cases in which there is an assignment of support to the State, the Department may calculate and enforce interest.

(Source: Amended at 44 Ill. Reg. 17400, effective October 14, 2020)