**Section 160.90 Earmarking Child Support Payments**

a) Child support payments may be earmarked for the needs of a specific child or set of children. "Earmarking" refers to:

1) the restriction of the use of all or a portion of the child support payments for:

A) children receiving Supplemental Security Income (SSI); and

B) children not eligible to receive TANF for reasons other than sanctions.

2) the caretaker relative's (see 89 Ill. Adm. Code 101.20) election to exclude children who are not siblings of other children receiving TANF from the TANF assistance unit and restrict the use of a portion of the child support payments for the use of those children. "Siblings" means children born to or adopted by the same parents or having one parent in common (i.e., brother/sister, half-brother/half-sister, but not including step-brothers or step-sisters).

b) Optional Earmarking Assistance Units

In an optional earmarking assistance unit, a caretaker relative may request that child support payments be earmarked for the needs of a specific child or set of children not required to be included in the standard filing unit (see 89 Ill. Adm. Code 112.300 (b)).

1) An optional earmarking assistance unit consists of a TANF assistance unit:

A) in which a child support order has been entered for one or more children in the assistance unit;

B) the children included in the child support order are not blood-related siblings to the other children receiving TANF; and

C) the caretaker relative elects to earmark support for the children.

2) Department staff must advise TANF caretaker relatives of the Department's optional earmarking policy:

A) during the TANF application process;

B) when redetermining eligibility for the TANF assistance unit; or

C) when the caretaker relative contacts the caseworker to discuss earmarking child support payments.

3) Whenever a caretaker relative contacts a caseworker about optional earmarking, the caseworker will schedule an appointment for the caretaker relative within seven business days of the contact. At the appointment, the caseworker will:

A) explain the advantages and disadvantages of earmarking child support payments;

B) inform the caretaker relative of the time standards for effecting redirection of the child support payments as well as the time lags involved in reapplication for TANF;

C) provide the caretaker relative with a handout containing information on earmarking child support payments; and

D) give the caretaker relative the form that he/she must use to request earmarking, if the caseworker determines that the caretaker relative is eligible for optional earmarking. Additionally, the caseworker will inform the caretaker relative that she may sign and submit the form immediately or at any time.

4) If a caretaker relative elects to earmark child support for one or more children in the household, the earmarked child(ren) will be deleted from the grant in the second fiscal month after the date the caretaker relative submits the written request. (Note: "Fiscal month" refers to a month that starts with a given day in one calendar month and ends the day before the same given day in the next calendar month, e.g., July 8 through August 7. In this case, the "given day" is the day the caretaker relative submits the written request to the Department.) The caretaker relative is entitled to the earmarked support received by the Department beginning the first day of the calendar month the deletion is effective. The earmarked child support will be forwarded to the caretaker relative within 21 days after the Department's receipt of the earmarked support. The excluded child's share of the support payment will not be considered available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.

5) If the caretaker relative requests to add an earmarked child back to the TANF grant, the Department shall render a decision on the eligibility of the child being added within 45 days after the date of the written request. However, if the child is determined eligible for TANF, benefits will be authorized from the date the written request was received by the Department or the date of initial eligibility after the date of the written request.

6) A caretaker relative shall not exercise an earmarking option more than once in a 12 month period for any child or set of children (i.e., until 12 months have passed from the effective month of deletion).

c) Allocation Assistance Unit

In an allocation assistance unit, a caretaker relative may request that child support payments be earmarked for the needs of a specific child or set of children who are 18 years of age or older or otherwise ineligible for TANF cash assistance for reasons other than receipt of SSI or sanctions.

1) An allocation assistance unit consists of a TANF assistance unit:

A) where the child support order applies only to an ineligible child; or

B) in which:

i) a child support order has been entered for two or more children; and

ii) at least one of the children included in the child support order is receiving TANF; and

iii) at least one of the children included in the child support order is ineligible for TANF for reasons other than sanctions or receipt of SSI (e.g., children in the child support order who are not living with the TANF unit, or children 18 or older in the home who are not eligible for TANF cash assistance).

2) Where the child support order also applies to other children in the household who are receiving TANF benefits, and the order explicitly allocates the child support payment between or among the children, the Department will forward to the ineligible child's current adult caretaker, or to the child if emancipated, that portion of the child support payment allocated to the child who is not in the grant, and will not consider the support paid to the ineligible child available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.

3) Where the child support order applies to other children in the household who are receiving TANF benefits, and the order does not allocate the amounts to be paid to each child, the Department will allocate the child support order between or among the children on a pro-rata basis (if the case is being referred for judicial action, will instruct IV-D attorneys to seek such pro-rata allocation from the court) and forward the ineligible child's support payment to the child's current adult caretaker, or to the child if emancipated.

A) Department staff must advise TANF caretaker relatives of the Department's policy for allocation assistance units and that the caretaker relative may earmark support for the ineligible children:

i) during the TANF application process;

ii) when redetermining eligibility for the TANF assistance unit; or

iii) when the caretaker relative contacts the caseworker to discuss earmarking child support payments.

B) Department staff will advise the caretaker relative of the following:

i) of the pro-rata allocation policy;

ii) of how the caretaker relative may request such allocation; and

iii) that the caretaker relative may obtain his/her own counsel and seek a different allocation of the child support order.

C) Additionally, Department staff will:

i) provide the caretaker relative with a handout containing information on earmarking child support payments; and

ii) give the caretaker relative the form that he/she must use to request earmarking. Additionally, the caseworker will inform the caretaker relative that she may sign and submit the form immediately or at anytime.

4) The Department will pro-rate the child support order unless or until an allocated order is entered. The caretaker relative is entitled to the earmarked support beginning the calendar month the child is removed from the grant, if currently receiving TANF, or, if the child is not currently receiving TANF, for the calendar month following the month the request for earmarking is made. The earmarked child support will be forwarded to the caretaker relative within 21 days of the Department's receipt of the earmarked support.

5) When the ineligible child is not living with the TANF assistance unit, the caretaker relative must provide the Department with the child's current address, and must authorize payment to the custodial adult with whom the child is living, or to the child if living independently.

d) SSI Children

1) Earmarking child support payments for an SSI child is mandatory when there is a TANF assistance unit:

A) in which a child support order has been entered for two or more children;

B) at least one of the children included in the child support order is receiving SSI; and

C) at least one of the children included in the child support order is receiving TANF.

2) If the child support order only applies to the SSI child, the Department will not consider the support paid for the SSI child available to the remaining assistance unit members when determining initial or continued eligibility for TANF or benefit level.

3) Department staff will review TANF cases at the following times to identify SSI children to determine if the case is eligible for earmarking:

A) during the TANF application process;

B) when redetermining eligibility for the TANF assistance unit;

C) when deleting a child from the assistance unit because of receipt of SSI; or

D) whenever the caseworker discovers there is a SSI child for whom earmarking is mandatory.

4) Informing Caretaker Relatives

A) Whenever an SSI household contacts the Department or is identified by the Department (see Section 160.90(b)(2) above), the Department will immediately inform the caretaker relative:

i) of the pro-rata allocation policy for SSI children; and

ii) that the Department will pro-rate the terms of the support order unless the caretaker relative chooses to obtain his/her own counsel and seek an allocation providing a greater share of the child support order for the SSI child.

B) Additionally, Department staff will provide the caretaker relative with a handout containing information on earmarking child support.

5) The caretaker relative is not required to make a request or submit any authorization to earmark support for an SSI child.

e) Any TANF household aggrieved by the Department's action or inaction with regard to the policy set forth in this Section can file a notice of appeal in accordance with 89 Ill. Adm. Code 102.70, 102.80, 102.82 and 104: Subpart A.

(Source: Amended at 21 Ill. Reg. 16050, effective November 26, 1997)