

BEST PRACTICES SUBMITTAL FORM
OCDA Fall Conference 2007

County: *Champaign County*

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Best Practice: *Lump Sum Dismissals*

Please Explain Your “Best Practice Procedure” And Summarize The Results Which Have Been Achieved Through This Process:

Please E-Mail Your Submittal Summary to Rob Pierson, Stark County CSEA via GroupWise or piersr01@odjfs.state.oh.us

Champaign County’s lump sum dismissal procedure is tool used by the agency that requires little additional effort on the part of the agency but has shown good results for us.

WHAT THE PRACTICE IS:

Basically, in most cases where a motion for contempt is filed, the legal department gives notice to the obligor of a certain amount which, if paid two or more weeks before the contempt hearing, will result in a voluntary dismissal of the contempt motion by the CSEA legal department. The usual lump sum amount is usually equal to six months of current support. This is due to the fact that a completely non-paying case will go to court, on average, about twice a year.

If the CSEA collects six months of support from a single filing, then the obligee and child gain a large lump sum that covers six months of time and the CSEA gains by being able to allocate more energy and court slots to other cases. The amount of the lump sum demanded by the CSEA for dismissal can be higher or lower depending on a variety of circumstances. If a case has been in complete non-payment status for a term of years then the amount will probably be lower to initially try to get an obligor back within the system in a way similar to many other county amnesty programs. If an obligor has been poor at paying on a regular basis after making lump sum payments in the past, the amount demanded will probably be higher because the agency knows that ongoing payment is less likely.

WHAT WORK IS NEEDED TO MAKE USE OF THE PRACTICE?:

Making the Offer:

The little effort needed to use the lump sum dismissal procedure is one of its main advantages. Essentially, the lump sum dismissal language is simply copied and pasted to the bottom of a contempt motion prepared by the legal department. The CSEA attorney will then calculate a lump sum amount to offer in exchange for a dismissal, either by figuring six months of support or some other number. The language used in this process is reproduced below:

THE CSEA GIVES NOTICE TO THE DEFENDANT, that, should he voluntarily pay the amount of [AMOUNT] towards existing child support arrearages and notify the agency of this 2 or more weeks before the scheduled hearing in this matter, counsel for the CSEA will file a motion requesting that this matter be dismissed. *For purposes of this offer a “voluntary payment” is a payment made by the Obligor or by a representative of the Obligor, or payments made by wage withholding. A tax offset, bank funds seized by the CSEA, and other funds intercepted by the CSEA are not voluntary payments.*

Following Through:

If an Obligor pays the lump sum amount 2 weeks or more before the hearing they notify the CSEA and the agency attorney checks the case to make sure the payment has been made. If it has, CSEA counsel will then file a motion and proposed entry to dismiss the case. This is done by using a dismissal motion template. The only information that normally needs to be entered into the template is the exact terms of the dismissal offer, the date of the upcoming hearing, and the identity of the Obligor. This can normally be cut and pasted directly from the earlier-filed motion. The typical work needed to review and prepare a dismissal is about 15 minutes by the agency attorney and 15 minutes by the legal assistant, which is much less time than would be needed if the case were to proceed to a hearing.

After a dismissal motion is completed, it is filed with the Court and the magistrate will typically sign a proposed entry prepared by the CSEA.

After a case is dismissed it returns to its assigned case manager for regular monitoring, including re-referral if payments again lapse.

WHAT ARE THE BENEFITS OF THIS PRACTICE?:

The Champaign County CSEA is a very small agency. We have only 11 employees total, including a single agency attorney and a single legal assistant. We are also limited by our Juvenile court in how many cases we can file and have active. In addition, our county as a whole, like many others, is under the stress of a tight budget.

The lump sum dismissal process offers many benefits to small counties especially. To the agency, for every case that we are able to remove from court because of a large lump sum payment, we can spend more time working more cases in Court and move forward more quickly on a larger number of paternity, support establishment, and enforcement actions than we would be able to otherwise. For the agency and county as a whole the process represents more efficient allocation of resources. Less labor is spent by the agency and court on a per case basis than if a case were to proceed all the way through to one or more hearings.

For obligors, the practice offers benefits both tangible and psychological. There is a very real benefit to obligors in the use of the lump sum dismissal process. By paying a fixed and certain sum, not only does an obligor avoid the inconvenience of making one or more court appearances, but they also avoid the uncertainty of what will happen to them at given court proceeding. By paying a lump sum amount, an obligor knows exactly what the outcome will be. The psychological benefit is also significant. There are times when obligors have gotten off-track on their payments and, even if they want to reverse this, they may feel like no good means exists to get "out of trouble with the CSEA." Paying a lump sum amount serves as a good first step for an obligor to square things up with the agency and not feel that they need to remain in hiding and non-payment status. Paying a lump sum doesn't erase an obligor's past history, but allows a means for obligors to see that they can work, within the system, to set things right over time.

Of course, the most important consideration is the benefit of the process for the children and those who care for them. Our long term goal is, as always, to work towards regular and complete payment of support. Unfortunately, there are a significant segment of cases where this is a very difficult goal to reach. Sometimes the lump sum dismissal process can make-up for gaps in regular payments. There are other cases, however, where an obligor's payments are so bad that the lump sum payments may be the only ones made on the case. In these situations, past practice would have usually resulted in the obligors serving jail time with no payments being made to the child, whereas now large cash payments are being made. This is not to say that a perfect solution has been found, but I believe that the benefit to children now is greater than what it was under prior practice, and we continue to enforce these lump sum cases and improve on the methods we use in relation to the lump sum dismissal tool. Over time, the results are getting better and better.

I most clearly saw the real benefit of our new procedures in a case I had in court not long ago. Back in October a contempt motion was filed against an obligor who had not paid in a period of years. A lump sum offer was made. To my surprise, the obligor paid the lump sum amount in early December and the CSEA dismissed the case against him. Unfortunately, the obligor didn't follow-up with regular payments after that and it became necessary to re-file a contempt action against him which did eventually get to court. When the hearing occurred, the obligor failed to appear despite being served and it was necessary to issue a warrant for his arrest. The mother-obligee was present at the hearing, however, and afterward I went to talk to her to explain what I was hoping to accomplish (resumption of regular payments) in the earlier lump sum dismissal. I also began to apologize for the fact that we weren't able to get steady payments yet from the obligor and promised that we'd keep working hard on the case to make it happen. The mother interrupted me, however, before I finished and thanked me for what the agency had done. She explained that she'd just lost her job that November and didn't think that she was going to be able to provide Christmas for her children at all that year. She said that suddenly getting six months of child support paid in early December was the greatest thing that could have happened because it allowed her to buy Christmas presents for her kids and helped the family get by until she got a new job in January. While this was not the largest payment the agency has gotten from a lump sum, I think it is the most meaningful to me personally.

HOW CAN WE CONTINUE TO IMPROVE THIS PROCESS?:

I'd most like to improve the ability of the obligors to communicate to agency counsel that they have made a lump sum payment and would like the dismissal offered in a motion. Right now, obligors basically inform a customer service representative an email or note is given to the legal department to let CSEA counsel know to review the case. I plan to, in the future, craft a simple form that obligor's can drop-off or send in that could go in my box to make sure that the CSEA is reliably following through on it's offered dismissal motion when obligor's pay the lump sum asked of them.