

Chapter 07 - Supervision and Monitoring

Section - 07 Collection of Offender Payment Obligations

A. Purpose. The purpose of this section is to:

- (1) Identify the authority for the agency to collect payment obligations; and
- (2) Establish the procedures for the collection of payment obligations by agents and monitors.

Note: the forms referenced in this section are available online through SafetyNet at <http://intranet.dpscs.mdstate/> .

B. Authority.

(1) The agency's authority to collect payment obligations derives from statute. The payment obligations and corresponding Maryland Annotated Code authority include:

- (a) Probation supervision fees, Criminal Procedure Article, Section 6-226;
- (b) Probation drug or alcohol abuse testing fees, Criminal Procedure Article, Section 6-226;
- (c) Probation restitution, Criminal Procedure Article, Sections 11-606;
- (d) Referral of overdue restitution to the Central Collection Unit, Criminal Procedure Article, Section 6-616;
- (e) Parole and mandatory supervision fees, Correctional Services Article, Section 7-702;
- (f) Restitution as a condition of parole or mandatory release, Correctional Services Article, Section 7-701;
- (g) Parole or mandatory release drug or alcohol abuse testing fees, Correctional Services Article, Section 7-702;
- (h) Court costs;
- (i) Fines, Courts and Judicial Proceedings Article, Section 7-503;
- (j) Public Defender's fees, Article 27A, Section 7;
- (k) 2% collection fee, Criminal Procedure Article, Section 11-607; and
- (l) Drinking Driver Monitor Program monthly program fee, Correctional Services 6-104.

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(2) An offender may be ordered by a court to pay, through the agency, fees in addition to those listed in the preceding paragraph. Included among the additional fees are those to be paid to the:

- (a) State Victims of Crime Fund; and
- (b) Criminal Injuries Compensation Fund (“CICF”).

(3) The statutory authorities cited in paragraphs (1) and (2) of this subsection are available online through the Maryland State Law Library website at <http://www.lawlib.state.md.us/>.

(4) **Interstate transfers.** Agency supervision fees and drug testing fees:

(a) May be imposed upon an offender whose supervision is transferred to Maryland; and

(b) May not be imposed upon an offender whose supervision is transferred from Maryland to another state.

Note: Please see Chapter 09, (“Interstate Compact for Adult Offender Supervision”), section H (“Fines, Costs, Restitution and Other Fees.”) for important additional information regarding interstate transferees and payment obligations.

C. Definitions.

(1) In this section, the following terms have the meanings indicated.

(2) Terms defined.

(a) “Agency” means the Community Supervision agency, formerly the Maryland Division of Parole and Probation, within the Department of Public Safety and Correctional Services.

(b) “Cashier’s check” means a check drawn by a bank upon itself and made payable to a designated payee.

(c) “Payee” means the person to whom money is paid or to be paid.

(d) “Payment obligation” means a financial debt that is owed by an offender and payable through the agency.

(e) “Payor” means the person who pays or is to pay money.

(f) “STARS” means the Statewide Accounting and Reporting System, the State’s accounting information system.

D. Responsibilities of Agent, Monitor, and Supervisor.

(1) An agent or monitor shall:

(a) For each case containing a payment obligation, be responsible for all of the items listed in this subsection;

(b) Ensure that the offender's payment obligations, waivers, and exemptions, if any, are correctly listed and accurately encoded in OBSCIS II; and

(c) Consult Appendix B of this section for specific procedures and additional information about OBSCIS II payment obligations data entry.

(2) **Was a DPP-COL-1 completed and signed?** An agent or monitor shall determine whether form DPP-COL-1 ("Payment Instructions") was completed and signed at Intake. If a DPP-COL-1 was completed and signed at Intake, during the first meeting with the offender the agent or monitor shall:

(a) Review the offender's payment obligations with the offender; and

(b) Ensure that the offender has payment envelopes, as set forth in paragraph (6) of this subsection.

(3) If a DPP-COL-1 was not completed and signed at Intake, during the first meeting with the offender the agent or monitor shall:

(a) Complete a DPP-COL-1;

(b) Review the offender's payment obligations with the offender;

(c) Have the offender sign the DPP-COL-1;

(d) Ensure that the offender has payment envelopes, as set forth in paragraph (6) of this subsection; and

(e) Give a copy of the DPP-COL-1 to the offender.

(4) **Is the payment obligation information in OBSCIS II correct and complete?** An agent's or monitor's supervisor shall ensure that payment obligation information:

(a) Was entered into OBSCIS II at Intake; and

(b) Is correct and complete.

(5) **Was timely remedial action taken?** If an agent or monitor finds that payment obligation information was not entered into OBSCIS II at Intake or was entered incorrectly, the agent or monitor shall ensure that the information is correctly entered not later than ten days after the date the offender's case was assigned to the agent or monitor.

(6) **Does the offender have blue payment envelopes?** In order for an offender to remit payment and to have the payment properly credited, an agent or monitor shall ensure that a payor has blue payment envelopes and the correct case number.

(7) **Are hardcopies of payment obligation forms and correspondence in the case file?** An agent or monitor shall ensure that a hard copy of each payment obligation transaction and correspondence is placed and retained in the appropriate case folder.

(8) **Monthly responsibilities.** Each month an agent or monitor shall determine offender compliance with payment obligations by directly accessing OBSCIS II payment data.

(9) In accordance with an offender's supervision plan, an agent or monitor shall:

(a) Remind the offender, in person or by mail, of the offender's payment obligations; and

(b) Use rewards and sanctions in response to the offender's compliance and noncompliance with payment obligations.

(10) **Collection and Accounting Alert Report.** Among the purposes served by this report is to alert an agent or monitor to take remedial action to obtain or to correct information that is missing or incorrect.

(11) A Collection and Accounting Alert Report is generated monthly and can be accessed through SafetyNet (Go: Parole and Probation Reports > C & A report.)

Note: Access to the Reports section of SafetyNet requires a network logon and password.

(12) **Supervisor's duty to review data and alerts.** During a supervisor's monthly case review process, the supervisor shall examine current payment data and alerts and ensure that each alert is addressed or remedied not later than the following month.

(13) **Duty to remedy alerts regarding missing or incorrect information.** Prior to the generation of the next months C & A Alert report, all cases are to be reviewed and attempts made to rectify cases appearing on the report. Staff efforts are to be documented in the Departments Case Management System. An agent or monitor shall:

(a) Obtain the information indicated as missing on the Collection and Accounting Alert Report;

(b) Correct the information indicated as incorrect on the Collection and Accounting Alert Report; and

(c) Ensure that complete and correct information is entered into OBSCIS II.

(14) Finding correct addresses. For checks returned as undeliverable because the address was wrong or the intended recipient moved, use all available resources to determine the correct or new address. These resources include: DASHBOARD, Maryland Judiciary Case Search, Offender Case Management System (OCMS), Motor Vehicle Administration (MVA), District Court of Maryland Criminal System Inquiry Related Persons Display in JIS, States Attorneys Office, Internet or telephone directories, and OBSCIS. Once the intended recipient's correct or new address is learned, contact the recipient to verify that this is the party to whom payment is to be sent and, if verified, ensure OBSCIS II data is updated.

Examples of commonly missing or incorrect information: Street addresses, zip codes, payee's name, and amount of 2% fee.

(15) A change that is effected in OBSCIS II prior to the end of a calendar month will be reflected on the next month's Collection and Accounting Alert Report.

Example: An agent is issued a Collection and Accounting Alert Report on March 13. Although the agent has thirty days to effect the necessary changes to OBSCIS II, only the changes that are submitted and entered into OBSCIS II before the last workday in March will be reflected on the agent's April Collection and Accounting Alert Report.

(16) Updating a payment plan. An agent or monitor, using a form DPP-COL-1:

(a) Shall recalculate an offender's payment plan after a violation hearing for nonpayment is held;

(b) May recalculate an offender's payment obligation at any time to account for arrearages;

(c) Shall effect the updates in OBSCIS II in accordance with subsection N.

(17) Intermediate supervisor's duty to review and respond. An intermediate supervisor shall:

(a) Review all of the supervisor's quarterly C & A alert reports within the supervisor's span of control to identify cases that should have been but were not corrected or updated in the prior three months;

(b) Direct and ensure that the identified cases are fully corrected or updated; and

(c) Submit evaluation and action plans to the:

- (i) Director of Community Supervision Support;
- (ii) Regional Community Supervision Directors; and
- (iii) Regional Executive Directors.

(18) The Directors identified in paragraph 17(c) of this section shall review the evaluations and action plans received for purposes of:

- (a) Identifying problematic trends among particular agents, offices, or spans of control; and
- (b) Developing and instituting corrective action plans.

E. Payments.

(1) **Exclusive forms of payment.** An agent or monitor shall instruct each offender payor to remit payment only by:

- (a) Money order; or
- (b) Cashier's check.

(2) **Prohibition against an employee's accepting payment.** Except as provided in paragraph (3) of this subsection, an employee may not accept payment in any form from an offender or from any other person on an offender's behalf.

(3) If an agent or monitor is ordered by a judge in open court to accept a money order or cashier's check from an offender, the agent or monitor shall accept the payment.

(4) On the same business day that an agent or monitor accepts a money order or cashier's check as permitted under paragraph (3) of this subsection, the agent or monitor shall:

- (a) Enter a case note to record the:
 - (i) Identifying number of the money order or cashier's check;
 - (ii) Amount of the money order or cashier's check; and
 - (iii) Name of the judge who ordered that the payment be accepted by the agent or monitor;
- (b) Place the money order or cashier's check in a blue payment envelope;

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(c) On the face of the blue payment envelope, write the agency case number to which the payment is to be applied;

(d) Seal the envelope;

(e) Forward or deliver the sealed envelope to the agency's Finance Office; and

(f) Notify the immediate supervisor that steps (a) through (e) were taken and enter a case note to that effect.

Note: If a payment is received by mail at an agent's or a monitor's office, the agent or monitor shall follow the procedures set forth in paragraph (5)(a)(i) and (ii), and (b) through (e), and remind the sender that payments are not to be sent to the agent or monitor.

(5) **Direct payments.** Occasionally, an offender who is to make payments through the agency bypasses the agency's payment system and remits payment directly to a payee. When this occurs, or an offender claims that this occurred, an agent or monitor shall take the steps set forth in paragraphs (6) through (8) of this subsection.

(6) An agent or monitor shall prevent disbursement of collected money by placing the case on hold (code "C"), using form DPP-COL-53A.

(7) An agent or monitor shall contact the payee to whom payment was reportedly made and ask whether a direct payment was received. If the payee states that direct payment was received, ask the payee to put the amount received and date or dates of receipt in a signed statement. If the payee is unwilling to provide a written statement:

(a) Document the payee's answers and, if possible, quote the payee; and

(b) Advise the payee that the amount of restitution to be collected by the agency will be reduced by the amount of the direct payment.

(8) If a direct payment is confirmed, determine whether an over-disbursement will result if the payments received by the agency are disbursed to the payee, in view of the direct payment. If an over-disbursement will result, the agent or monitor shall inform the immediate supervisor of the situation before taking the steps set forth in paragraph (11) of this subsection.

(9) **Supervisor.** If, after reviewing the pertinent documentation and OBSCIS II data, the immediate supervisor agrees that an over-disbursement will occur as a result of a direct payment credit, the supervisor shall:

(a) Consult with the manager of the Collection and Accounting Unit to determine the action to be taken;

(b) In a case note, document the action to be taken; and

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(c) Inform the agent or monitor of the action to be taken.

Note: An employee *may not* authorize or effect a refund to an offender as a result of an over-disbursement to a payee.

(10) An agent or monitor shall take the steps set forth in the next sentence only after the requirements contained in paragraphs (9) and (10) have been met. Using form DPP-COL-53A, enter the following:

(a) Payee name;

(b) Amount of direct payment;

(c) Date of direct payment;

(d) Name of employee who confirmed that a direct payment was received by the payee; and

(e) If a “C” hold was placed on the case, delete the “C”.

(11) After completing form DPP-COL-53A as set forth in the preceding paragraph, the agent or monitor shall submit the DPP-COL-53A to the immediate supervisor for review and approval.

(12) A supervisor who receives a completed form DPP-SUP-53A shall:

(a) Review the form for accuracy and completeness;

(b) Initial the form when approved; and

(c) Ensure that a copy of the form is placed in the case file.

(13) **2% fee and direct payments.** A 2% collection fee may not be reduced as a result of a direct payment to a payee.

F. Form DPP-COL-1 (“Payment Instructions”).

(1) An agent or monitor shall ensure that a payment schedule for satisfaction of an offender’s total payment obligation is placed on form DPP-COL-1.

(2) Unless an offender’s supervision order specifies otherwise, the employee who completes the DPP-COL-1 shall:

(a) Except as set forth in the paragraph (3) of this subsection, ensure that the offender’s payment obligation is scheduled to be fully satisfied not later than 90 days before the offender’s case is due to expire; and

(b) Schedule monthly installments as set forth in paragraph (5) of this subsection.

(3) An agent or monitor shall exclude an offender's monthly supervision or DDMP program fee from the 90-day requirement set forth in paragraph (2)(a) of this subsection. (e.g., An offender whose case expires during April shall have paid all of the offender's payment obligations 90 days before the expiration date except, as applicable, the offender's supervision or DDMP program fee for February, March, and April.)

(4) Calculating an offender's total payment obligation. An offender's total payment obligation shall be calculated as follows:

(a) Total the amounts of the individual payment obligations listed on the offender's supervision order;

(b) If restitution is one of the offender's payment obligations, add 2% of the restitution amount to the total under (a);

(c) If the offender is being monitored, add the DDMP monthly program fee of \$45 for offenders placed before June 1, 2009, and \$55 for those placed on or after that date;

(d) If the offender is subject to:

(i) Alcohol testing, add the fee of \$1.00 per month;

(ii) A drug testing schedule, add the one-time fee of \$100.00; and

(iii) Random drug testing, add the applicable fee per test.

Note: An offender who progresses from a testing schedule to random testing may not be charged a per-test fee. Under this circumstance, the offender's \$100.00 one-time drug testing fee includes random tests.

(e) In order to determine an offender's total payment obligation, unless the offender's supervision fee is noted as waived on the supervision order, multiply the amount of the offender's monthly supervision fee by the number of months the offender is to be supervised or monitored; ~~or~~ and

(ii) Add the product reached under (e)(i) to the totals reached under (a) through (d).

(5) Calculating an offender's monthly payment obligation. An offender's monthly payment obligation shall be calculated by:

(a) Subtracting the offender's supervision or monthly DDMP program fee from the total payment obligation;

(b) Dividing the remainder by the number of months, less three, that the offender is to supervised under the applicable supervision order; and

(c) Adding to that amount the offender's monthly DDMP or supervision fee.

(6) The employee who completes a form DPP-COL-1 shall:

(a) Have the offender sign and date the form; and

(b) Provide the offender with a copy of the completed form.

(7) Whenever an offender's payment schedule is to be updated, an agent or monitor shall:

(a) Complete a form DPP-COL-1;

(b) Staple all forms DPP-COL-1 together (i.e., the original and subsequent forms DPP-COL-1);

(c) Retain the forms in the case folder; and

(d) Effect updates in OBSCIS II in accordance with subsection N.

G. Disbursement Priority

(1) Unless otherwise authorized by court order, money paid by an offender shall be disbursed only in the order set forth in paragraph (2) of this subsection.

(2) Except as provided in paragraph (3) of this subsection, an agent's or monitor's supervisor shall ensure that an offender's payment obligations are correctly entered into OBSCIS II and receive the following priority codes:

(a) Priority code 0 for restitution;

~~(a) Priority code 1 (zero) if the offender is to pay:~~

~~—(i) A monthly program fee; or~~

~~—(ii) Restitution to multiple victims and the court ordered one victim to be paid before another;~~

(b) Priority code 1 if the offender is to pay a monthly program fee;

~~(b) Priority code 1 for restitution;~~

(c) Priority code 2 for a fine;

- (d) Priority code 3 for court costs;
- (e) Priority code 4 for public defender fee;
- (f) Priority code 5 for a 2% collection fee;
- (g) Priority code 6 for a testing fee; and
- (h) Priority code 7 for a supervision fee.

(3) If a court directs that a restitution payee receive a higher priority than other restitution payees, an agent or monitor shall, using form DPP-COL-53A, change the disbursement priority to ensure that disbursement will occur in accordance with the court order.

(4) Disbursement hold ("H") code. When code "H" is entered into OBSCIS II:

- (a) Disbursement of funds collected for a particular payee cannot occur;
- (b) A payee cannot be referred to the State Central Collection Unit; and
- (c) The "H" will remain in OBSCIS II until it is removed.

(5) When a case has multiple payees and an "H" is entered for a payee, disbursement is prevented for:

- (a) That payee; and
- (b) Any other payee whose disbursement priority code is lower than that payee's.

(6) An "H" will cause a case to appear or remain as open on the Collection and Accounting Alert Report.

(7) Disbursement frequency codes "R" and "F". Disbursement frequency code:

- (a) "R" is pre-programmed and allows partial disbursement; and
- (b) "F" permits disbursement only upon receipt of payment in full.

(8) To be determined ("TBD") code. Code "TBD" can be entered for:

- (a) One or more payees;
- (b) Restitution;
- (c) 2% fee;
- (d) Fines;

- (e) Court costs;
- (f) Supervision fee;
- (g) Public defender fee; and
- (h) Drug testing fee.

(9) Code "TBD":

- (a) Will remain in OBSCIS II until it is removed; and
- (b) Prevents the disbursement of money to a payee with a lower priority code.

(10) When a court order includes restitution that is "TBD" and the payee is unknown, there is a risk that money collected will be disbursed to a lower priority than restitution. To prevent this from occurring, an agent or monitor shall ensure that a code "C" is entered in the OBSCIS II legal screen and remains there until the restitution information (i.e., payee's identity or amount of restitution) is entered into OBSCIS II.

(11) In a case where there is more than one payee but one payee's restitution is to be determined, OBSCIS II will automatically disburse all collected money to only the payee whose restitution amount is known, until the payee is paid in full. If the offender is to pay other fees, such as costs, these will be paid next. To prevent this from occurring, the agent or monitor shall enter a "C" in the "Appeal/Case Hold" field of the OBSCIS II legal data screen.

(12) If a court orders a specific amount of restitution and an additional amount to be determined, collected money will be disbursed up to the specific amount entered into OBSCIS II. When the additional amount of restitution is entered into OBSCIS II, disbursements will resume.

(13) **Payee information.** An agent or monitor shall ensure that:

- (a) For restitution, the amount due, first address line, city, state, and zip code are correct; and
- (b) For fines, court costs, 2% fee, public defender fee, and STARS account, the amount due is complete and correct.

(14) Disbursement of funds cannot occur if the information listed in the preceding paragraph, as applicable to a particular case, is not entered into OBSCIS II.

(15) **Cases on appeal.** When an offender appeals a supervision order that requires the offender to pay money through the agency, the agent or monitor shall enter an "A" in the "Appeal/Case Hold" field of the OBSCIS II legal data screen. If the appeal

decision rescinds the offender's supervision, any payment obligations -- except a supervision or program fee -- remitted to the agency by the offender shall be refunded to the offender.

(16) Case hold: code "C". When a circumstance arises that justifies holding all disbursements in a case, an agent or monitor shall enter a "C" to prevent disbursements.

(17) Disbursement minimum amount. OBSCIS II is programmed to disburse funds in amounts of \$1 or more. An agent or monitor may request that a lesser amount be disbursed by contacting the agency's Collection and Accounting Unit by electronic mail.

(18) Multiple restitution payees with equal priority. OBSCIS II automatically calculates disbursement amounts when multiple restitution payees are due different amounts. The calculation is a percentage each payee is due of the total restitution ordered. If the total restitution to be collected is \$1000, with \$700 due to Payee Jones and \$300 to Payee Smith, payments received will be disbursed with 70% to Jones and 30% to Smith.

H. Restitution.

(1) Restitution: an essential element of victim assistance. The primary purpose served by restitution is to compensate a victim for an economic loss suffered as a result of an offender's crime. Victims may not receive restitution for punitive damages. However, many victims derive consolation from knowing that the offender who did them harm is obligated to make reparation to them through the act of paying restitution. Consequently, the effort made by each agent and monitor to collect restitution is a critical element of the agency's commitment to assist victims.

(2) If a court order requires the agency to determine the amount of restitution due to a victim through the agency, the agent or monitor shall:

(a) In consultation with the agent's or monitor's supervisor, take the steps necessary to acquire the information needed, such as obtaining supporting documentation from a victim or a victim's representative for losses or damages suffered by the victim as a result of the offender's crime;

(b) If the victim and offender agree on the amount of restitution, complete and file with the court form DPP-COL-7 ("Petition for Modification of Restitution"), as set forth in paragraph (5) of this subsection;

(c) If the victim and offender disagree on the amount of restitution, submit a report to the court that:

(i) Details the disagreement regarding the amount; and

(ii) Requests that the matter be set in for a hearing;

(d) If, despite the agent's or monitor's efforts to establish the amount of restitution, the amount cannot be determined submit a report to the court that:

(i) Specifies why the amount cannot be determined; and

(ii) Requests that the matter be set in for a hearing;

(e) Enter into the case notes the steps taken to determine the amount of restitution;

(f) Place and retain in the case folder all documentation related to establishing the amount of restitution; and

(g) Take the applicable steps listed in items (a) through (f) of this paragraph not later than 30 days after the court's order is received.

(3) If a court order requires the agency to determine the amount of restitution due to a victim through the agency and the amount is not established within the 30-day time limitation set forth in paragraph (2)(g), the agent or monitor shall document in the case notes the specific reason why the time limitation was not met.

(4) **Setting amount of restitution is for court.** Only a court may set the amount of restitution. Consequently, an agent or monitor shall enter a restitution amount into OBSCIS II only after a court establishes the amount of restitution to be paid by an offender.

Note: If the Criminal Injuries Compensation Board pays a victim's claim, the amount of restitution due to the victim through the agency may be reduced by the amount paid to victim by the Criminal Injuries Compensation Board. If the amount is to be reduced, the Criminal Injuries Compensation Board will furnish the agency with a new order reflecting the new amount to be paid to the victim through the agency. Absent such an order, an agent or monitor may not reduce a victim's restitution entitlement.

(5) **DPP-COL-7 ("Petition for Modification of Restitution").** When, pursuant to paragraph (2)(a) of this subsection, an agent or monitor determines the amount of restitution and neither the victim nor the offender disputes the amount, the agent or monitor shall:

(a) Complete form DPP-COL-7;

(b) Obtain the offender's signature on the form;

(c) Submit the signed form to the court; and

(d) When the form is signed and returned by the court, provide the victim and the offender with a copy of the form.

(6) **Restitution and parole.** If, at sentencing, an offender was committed to the Division of Correction and was ordered to pay restitution, the offender's parole order will contain a condition to pay the restitution which was ordered at sentencing. If the order does not specify the amount of restitution or the victim to whom the restitution is to be paid, the agent shall:

(a) Determine the amount or victim through court records;

(b) Ensure that the payment obligation is not already entered into OBSCIS II under a probation order arising from a split sentence;

(c) Enter into the field notes or case record the steps taken to determine the amount of restitution; and

(d) Place and retain in the case folder all documentation related to establishing the amount of restitution.

(7) **Priority among restitution payees.** If an offender is ordered by a court or the Parole Commission to make restitution to more than one individual victim, the agent or monitor shall ensure that each individual victim:

(a) Receives payment before a government agency or third-party payee; and

(b) Is entered into OBSCIS II with a priority code of "0", as set forth in G(2)(a)(ii).

Example: A defendant is ordered to pay restitution to an individual victim in the amount of \$500, restitution to a health insurance company in the amount of \$1,000, and restitution to the Criminal Injuries Compensation Board in the amount of \$1,500. The agent shall assign a priority code of "0" to the individual victim and "1" to the health insurance company (third-party payor) and the Criminal Injuries Compensation Board (government agency).

(8) Except as provided in subsection G(2) of this section, if an offender is ordered by the court to pay restitution to more than one individual victim, the agent or monitor shall ensure that all individual victims receive the same priority code. (Please see example immediately below.)

Example: A defendant is ordered to pay restitution to individual victim "A" in the amount of \$500, restitution to individual victim "B" in the amount of \$500, restitution to a health insurance company in the amount of \$1,000, and restitution to the Criminal Injuries Compensation Board in the amount of \$1,500. An agent shall assign a priority code of "0" to individual victims "A" and "B" and "1" to the health insurance company (third-party payor) and the Criminal Injuries Compensation Board (government agency).

(9) **Priority among individual restitution payees.** If an offender is ordered by the court to pay restitution to more than one individual victim and the court further orders that one individual victim receive payment before another individual victim, the agent or monitor shall:

(a) Ensure that the individual victim to whom payment is the first priority receives a priority code higher than that of the other individual victims; and

(b) Modify the remainder of the priority codes accordingly.

Example: A defendant is ordered to pay restitution to individual victim “A” in the amount of \$500, restitution to individual victim “B” in the amount of \$500, restitution to a health insurance company in the amount of \$1,000, and restitution to the Criminal Injuries Compensation Board in the amount of \$1,500. The court further orders that restitution to victim “A” occurs before victim “B” receives any restitution. An agent shall assign a priority code of “0” to individual victim “A,” a priority code of “1” to individual victim “B,” and a priority code of “2” to the health insurance company (third-party payor) and the Criminal Injuries Compensation Board (government agency).

(10) **Joint and several liability.** When a court orders more than one offender to make restitution to the same payee, the offenders are usually held jointly and severally liable for the restitution. Joint and several liability is indicated on a probation order, parole order, or mandatory release certificate by the:

(a) Words “Jointly and severally;” or

(b) Abbreviation “J & S.”

(11) When offenders are jointly and severally liable for restitution, each offender is responsible for the entire amount of the restitution and the 2% collection fee but the total amount disbursed may not exceed the amount of the restitution ordered to be paid.

Example: Defendants “A” and “B” are ordered to pay \$500 in restitution to a victim. Each defendant is responsible for the total amount of \$500. If defendant “A” pays the total amount due to the victim, \$500, the restitution obligation of both defendants to the victim is met.

(12) **Assignment of offenders with joint and several liability.** Multiple offenders with joint and several liability shall be assigned to the same agent or monitor if the offenders:

(a) Are obligated to make restitution to the same victim; and

(b) Will be supervised or monitored at the same agency office.

Note: The requirement set forth in paragraph (12) may be deemed by a regional or program administrator to be inapplicable when, in the judgment of the administrator, multiple offenders with joint and several liability should be assigned to different agents or monitors in the same office.

(13) Points to note regarding joint and several liability.

(a) An offender can be a co-payor without also being a co-defendant. This results when multiple individuals are tried separately for the same crime and they receive sentences which include joint and several responsibility for restitution.

(b) Please see the example immediately following paragraph (11) above. The fact that defendant "A" paid the entire restitution obligation is a private matter between "A" and "B" that does not involve the agency.

(14) An agent or monitor shall ensure that, at Intake, the following steps were taken for jointly and severally cases:

(a) A "Y" for jointly and severally was entered on the legal data screen in OBSCIS II;

(b) A "C" Hold was entered in the "Appeal/Case Hold" field of the legal data screen (This action prevents disbursement of collected money until all payees and amounts due to them are certain. When all payees and amounts due are certain, the "C" Hold is to be removed.);

(c) "TBD" was entered after the amount of restitution and the 2% collection fee (This action places the case on the Collection and Accounting Alert Report as a jointly and severally case.);

(d) "Jointly and severally" and the case number of each additional payor were entered into the miscellaneous field for each restitution recipient and the 2% collection fee (If there was insufficient space, the entry will read "See file".);

(e) The 2% collection fee was calculated according to each payor's assessed share; and

(f) The dollar amount the offender will pay if all co-payors pay their assessed shares.

(15) For multiple offenders who are not supervised or monitored by the same agent or monitor, each agent or monitor shall:

(a) Be responsible for checking monthly on the payment compliance of all of the offenders.

(b) Determine the legal status and supervising agent or monitor of all co-defendants who are co-payors;

(c) In consultation with the co-defendant's supervising agent or monitor, ensure that each co-defendant has been assigned an equal portion of the total amount of restitution due; and

(d) Not later than 90 days before the expiration of the offender's period of supervision, verify that the offender and all co-defendants have paid their assessed share of the restitution or that the restitution has been paid in full.

(16) An agent or monitor:

(a) May not close a jointly and severally case if less than the total amount of restitution due has been paid;

(b) Shall request a summons or subpoena to initiate a violation proceeding for nonpayment, even if the offender paid the offender's assessed share of the restitution;

(c) Shall communicate with each co-defendant's agent or monitor to ensure that violation proceedings are being requested for all co-defendants; and

(d) If a jointly and severally case closes with one payor's assessed share of restitution unpaid, the agent or monitor shall notify all remaining payors' agents or monitors of the closure and the reason for it (e.g., offender died, or the court ordered the case to be closed).

(17) An agent or monitor who receives the notification described in (16)(d) shall:

(a) Inform the remaining payors that they are responsible for the full restitution balance due;

(b) Complete a revised form DPP-COL-1; and

(c) Ensure that, if needed, OBSCIS II is updated to reflect the remaining payors' revised payment obligation.

(18) Examples of circumstances that need to be brought to the court's attention. If an agent or monitor finds one of the following circumstances to exist, the agent or monitor shall promptly report the circumstance to the sentencing court and seek clarification or recommend action, as appropriate:

(a) Offenders are ordered to pay the same amount of restitution to the same victim, arising from the same crime, but the probation order of only one offender requires the restitution to be paid jointly and severally;

(b) Offenders are ordered to pay different amounts of restitution jointly and severally to the same victim, arising from the same crime; or

(c) Any other circumstance involving joint and several liability that leaves an agent or monitor, and the supervisor of the agent or monitor, in doubt as to who is to pay what amount of restitution through the agency.

(19) Overpayments. If an overpayment occurs in a jointly and severally case, the agent or monitor shall:

(a) Determine whether the offender whose payment resulted in an overpayment has a payment obligation in another agency case or owes a 2 % collection fee in any other case, including a case assigned to the State Central Collections Unit;

(b) If the offender has a payment obligation in another agency case, ensure that the overpayment is credited to that other case; and

(c) If the offender has no other agency case or no other agency case with an open payment obligation, ensure that the overpayment is refunded to the offender, without regard to whether the offender paid the offender's assessed share.

I. Supervision Fees.

(1) Probation supervision Fees. A probationer shall pay a monthly supervision fee as ordered by the court, if the probationer's supervision order requires the offender to pay a supervision fee.

(2) An offender's monthly supervision may be waived only by:

(a) A court, if the offender is a probationer; or

(b) The Maryland Parole Commission, if the offender is a parolee or mandatory supervisee.

(4) Multiple cases. If an offender has more than one supervision or release order requiring the offender to pay a supervision fee, the agent or monitor shall request that the supervision fee be waived in the case or cases with the lower monthly supervision fee.

(5) Under *Maryland Code Annotated*, Criminal Procedure Article, § 6-226, unless the sentencing court exempts an offender from paying a supervision fee, the court shall impose the fee.

(6) If exemption from payment of a supervision fee is not indicated on a supervision order, the supervision fee shall be collected.

(7) Parole and mandatory release supervision fees. An offender paroled or mandatorily released from incarceration shall pay a monthly supervision fee of \$50.

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J. DDMP Monthly Program Fee.

(1) **Scope.** This subsection applies only to monitored probationers.

(2) Unless an exemption has been requested, approved, and processed pursuant to subsection L of this section, **or a case has been abated**, and in addition to any other fee ordered, an offender who is being monitoring by the Drinking Driver Monitoring Program shall pay a monthly program fee of \$55.

Note: An offender who was placed with the program before June 1, 2009 shall pay a monthly program fee of \$45, in addition to any other fee ordered.

(3) The monthly program fee applies to an offender regardless of the date that the offender was originally placed with the Drinking Driver Monitoring Program.

(4) **Multiple cases.** When a monitored offender has multiple cases assigned to the Drinking Driver Monitoring Program, the Drinking Driver Monitor Program shall apply and collect the program fee for only one of the offender's cases at a time.

(5) The Drinking Driver Monitor Program shall apply the monthly program fee to the case whose expiration is nearest.

(6) The procedures set forth in paragraphs (8) through (13) of this subsection this section apply only when:

(a) A judge orders that an offender pay restitution by a specified date or within a specified time frame that is earlier than the legal expiration date of the probationary term; and

(b) The offender is to pay a monthly program fee. (Please see example immediately below.)

Example: Defendant is placed on probation for a term of two years and the judge orders that the defendant pay a specified amount of restitution through the agency "within 60 days." The offender is also to pay a monthly program fee.

(7) Except as permitted under this section, an employee may not change a payment obligation priority disbursement code from zero ("0").

(8) Under the circumstance described in paragraph (6) of this subsection, the offender's agent or monitor shall:

(a) Complete a form DPP-COL-53A to change the restitution disbursement priority code to zero ("0"); and

(b) Submit the completed form and the relevant case file to the immediate supervisor.

(9) A monitor shall ensure that a hardcopy of all correspondence sent and received regarding a priority code disbursement is placed in the case folder.

(10) **Immediate Supervisor.** Upon receiving a form DPP-COL-53A that changes a disbursement priority code to zero ("0") for restitution, a monitor supervisor I shall:

(a) Determine whether the circumstance set forth in paragraph (6) of this subsection exists; and

(b) If it does exist, send an electronic mail message to the manager of the agency's Collections and Accounting Unit, that:

(i) Specifies the amount and due date of the restitution;

(ii) Identifies the court (e.g., Circuit Court for Baltimore County) and court docket number for the case for which a disbursement priority code is to be changed;

(iii) References this subsection as the authority for changing the disbursement priority code; and

(iv) Requests that the restitution disbursement priority code be changed from "1" to zero ("0").

(11) A monitor supervisor I shall forward to the monitor:

(a) The electronic mail message described in (10)(b); and

(b) The reply and any subsequent electronic mail messages regarding the request to change a priority code disbursement.

(12) A monitor who receives an electronic mail message regarding a change to a priority disbursement code shall place a hard copy of the message in the appropriate case folder.

(13) **Time limitation.** The procedures set forth in this section shall be met promptly and not later than ten days after a monitor receives a probation order which meets the circumstance described in paragraph (6) of this subsection.

(14) **Collections and Accounting Unit.** The Collections and Accounting Unit manager shall, not later than five workdays after the electronic mail message described in paragraph (10)(b) of this section is received:

(a) Ensure that the restitution disbursement priority code is changed; and

(b) Notify the monitor supervisor I by electronic mail when the change is made.

(15) Abated cases. Notwithstanding any other policy provision to the contrary, an abated case is not subject to the DDMP monthly program fee.

K. Drug and Alcohol Testing Fees.

(1) **Drug testing fees.** An offender who is subject to a drug testing schedule shall pay a flat fee of \$100.00, regardless of the:

- (a) Duration of supervision; or
- (b) Number of tests to which the offender is subjected.

(2) **Random testing.** An offender who is subject to random testing shall pay a fee of \$6.00 per test.

Note: An offender who progresses from a testing schedule to random testing may not be charged a per-test fee. Under this circumstance, the offender's \$100.00 one-time drug testing fee includes random testing.

(3) **DDMP's alcohol testing fee.** A monitor shall ensure that, at Intake, an alcohol testing fee of \$1.00 per month was assessed for each offender who was court ordered to undergo alcohol testing. If the fee was not assessed at Intake, the monitor shall, in consultation with the monitor's immediate supervisor, add the fee and give the offender notice of the fee by completing, respectively, forms:

- (a) DPP-COL-53A; and
- (b) DPP-COL-1.

L. Exemptions from Payment Obligations.

(1) If a court or the Parole Commission imposes a payment obligation upon an offender, only the court or the Parole Commission may exempt the offender from the payment obligation. If an offender requests an exemption from a payment obligation that was imposed by a court or the Parole Commission, the agent or monitor:

- (a) Shall inform the offender that the agency is without authority to exempt the offender from the payment obligation; and
- (b) May advise the offender to consult with legal counsel regarding requesting an exemption from the court or Parole Commission.

(2) If an offender, or the offender's legal representative, requests an exemption from the sentencing court, the court may direct the offender's agent or monitor to investigate the offender's financial situation. If this occurs, the agent or monitor shall:

- (a) Comply with the court's directive; and

(b) Except as set forth in the next paragraph, omit a recommendation from the agent's or monitor's report.

(3) If a court asks an agent or monitor to recommend for or against the granting of an offender's requested exemption, the agent or monitor shall recommend that the payment obligation be referred to the State Central Collection Unit for future collection.

(4) If, as authorized by law, the agency imposes a payment obligation upon an offender, only the agency may exempt the offender from the payment obligation. These payment obligations are:

(a) DDMP monthly program fee;

(b) 2% collection fee; and

(c) Except as set forth in paragraph (5) of this subsection, drug or alcohol testing fee.

(5) If a court order specifies that an offender is to pay a drug or alcohol testing fee, only the court may exempt the offender from the fee. If the court order requires drug or alcohol testing but does not specify that the offender is to pay for the testing, the agency may exempt the offender from the fee.

(6) **Exemption criteria.** An exemption from paying a fee listed in paragraph (4) of this subsection may be granted only to an offender who:

(a) Requests an exemption; and

(b) Evidences a permanent disability that precludes the offender from obtaining employment.

(7) **Procedures.** If an offender requests an exemption from a fee listed in paragraph (4) of this subsection and claims to have a permanent disability that precludes the offender from obtaining employment, the offender's agent or monitor shall instruct the offender to submit a letter from the offender's physician or the Social Security Administration that states that the offender's disability renders the offender permanently unable to work.

(8) Not later than seven workdays after the agent or monitor receives the documentation described in the preceding paragraph, the agent or monitor shall:

(a) Note the offender's exemption request on form DPP-COL-53A; and

(b) Submit the form and the supporting documentation to the agent's or monitor's immediate supervisor.

(9) Not later than seven workdays after the immediate supervisor receives the form DPP-COL-53A and supporting documentation, the supervisor shall:

(a) Review the material; and

(b) If the documentation is sufficient, forward it and the DPP-COL-53A to the field supervisor II or monitor supervisor II, as applicable.

(10) Not later than seven workdays after the date that the field supervisor II or monitor supervisor II receives the exemption request material, the supervisor shall:

(a) Approve or deny the offender's request;

(b) Note the approval or the denial on the DPP-COL-53A;

(c) Sign and date the DPP-COL-53A; and

(d) Return the DPP-COL-53A and the accompanying documentation to the agent or monitor, through the agent's or monitor's supervisor.

(11) When an approved exemption is entered into OBSCIS II, the agent's or monitor's immediate supervisor shall initial a hardcopy of the transaction screen and ensure that the initialed hardcopy is placed in the offender's case file.

(12) **Mandatory exemption at case closing.** The State Central Collection Unit will not accept referred debts of less than \$30. Consequently, if at case closing an offender's aggregate payment obligations total less than \$30, the agent or monitor shall exempt the offender from the payment obligation.

M. Entering Payment Obligations into OBSCIS II.

(1) An agent or monitor shall ensure that all of an offender's payment obligations are accurately and completely entered into OBSCIS II.

(2) **Payee information.** For each payment obligation, the agent or monitor shall ensure that all of the following are correct and current:

(a) Total amount of money owed; and

(b) Payee's mailing address, including:

(i) The payee's first and last name;

(ii) A complete street address, including house or apartment number, if applicable; and

(iii) City, state, and complete zip code.

(3) If the information contained on the probation order, parole order, or mandatory release certificate is incorrect or incomplete, the agent or monitor shall take reasonable measures to correct or complete the information. Reasonable measures may include:

- (a) Reviewing the offender's file in the office of the clerk of the sentencing court;
- (b) Contacting the Office of the State's Attorney; and
- (c) Contacting the payee by telephone.

(4) If the amount due to the payee is not included on the probation order, parole order, or mandatory release certificate, the agent or monitor shall enter "TBD" in OBSCIS II next to the payee's name until the correct amount can be determined pursuant to paragraph (3) of this subsection.

(5) **Disbursement frequency.** Unless otherwise authorized by the court, the disbursement of money owed to a payee shall occur:

- (a) At regular intervals; and
- (b) If at least \$1.00 has accrued for payment.

(6) **Victim-reported address change.** If a victim contacts an agent or monitor to report a change in address, the agent or monitor:

- (a) Shall document the information provided by the victim;
- (b) Promptly update the payee information in OBSCIS II.

N. Adding or Changing Data in OBSCIS II.

(1) **DPP-COL-53A ("Payment Obligations-Intake and Update").** An agent or monitor shall use only form DPP-COL-53A ("Payment Obligations-Intake and Update") to initiate data changes in OBSCIS II.

(2) After an agent or monitor enters the changes or additions on form DPP-COL-53A ("Payment Obligations-Intake and Update") that are to be made in OBSCIS II, the agent or monitor shall:

- (a) Sign and date the form; and
- (b) Submit the form to the immediate supervisor.

(3) An immediate supervisor who receives a completed form DPP-COL-53A ("Payment Obligations-Intake and Update") containing a change or addition to an offender's payment obligation shall:

- (a) Review the:
 - (i) Case file; and
 - (ii) Entries on the form; and
- (b) When the form is approved, initial and date the form; and
- (c) Submit it to the appropriate employee for OBSCIS II entry.

(4) After the changed or additional data is entered into OBSCIS II, the employee who entered the data will make a hard copy of the relevant OBSCIS II screen and submit the hard copy to the supervisor who signed the form DPP-COL-53A ("Payment Obligations-Intake and Update".)

(5) A supervisor who receives a hard copy of an OBSCIS II screen as set forth in paragraph (4) of this subsection shall:

- (a) Review the hard copy for correctness;
- (b) If a data-entry error was made, correct the error;
- (c) If the data was entered correctly, initial and date the hard copy; and
- (d) Give the hard copy to the agent or monitor who initiated the change or addition to OBSCIS II.

(6) An agent or monitor who receives a hard copy as described in the preceding paragraph shall place and retain the hard copy in the appropriate case folder.

(7) **DPP-COL-53B "Payment Obligations - Payee Supplement"**. An agent or monitor shall use DPP-COL-53B ("Payment Obligations - Payee Supplement") when there are more than two payees in a single case.

O. Responses to an Offender's Failure to Meet Payment Obligations.

(1) **Exclusive reporting method.** An agent or monitor shall use only the DPSCS Reporting System to:

- (a) Report an offender's nonpayment; and
- (b) Request a subpoena or summons that is based upon an offender's nonpayment.

Note: If a "Payment Violation Report" is generated by OBSCIS II, the agent or monitor may not forward this report to a court or the Parole Commission. Instead, if a report is due to a court or the Parole Commission regarding an offender's non-payment of a payment obligation, the agent or monitor shall generate the report using the DPSCS Reporting System.

(2) **Arrearage notices.** A notice of arrearage is automatically sent to an offender who fails to make required payment obligations for:

- (a) Two months; and
- (b) Three months.

Note: The issuance of an arrearage notice does not substitute for or relieve an agent or monitor from the ongoing obligation to verify an offender's compliance with a payment obligation. Nor does the issuance of an arrearage notice substitute for or relieve an agent or monitor of the responsibility for continuing efforts to encourage the offender to make full and timely payments.

(3) A copy of an arrearage notice will be sent to the offender's agent or monitor only if the notice to the offender is returned as undeliverable.

(4) **Notices returned as undeliverable.** If an agent or monitor receives an arrearage notice marked undeliverable, the agent or monitor shall, not later than ten workdays after the notice is received by the agent or monitor:

- (a) Make an entry in the case notes regarding the returned notice;
- (b) Determine why the notice was undeliverable;
- (c) If the reason for delivery failure was an incorrect address, obtain the correct address and ensure that it is entered into OBSCIS II as set forth in D(14) of this section;
- (d) If the intended recipient of a returned check cannot be located and payments are on hold, the agent's or monitor's immediate supervisor must send an e-mail to the Collection and Accounting Unit manager requesting that the money be transferred to the suspense account for victim abandoned property.
- (e) Unless the offender has absconded or is deceased, ensure that the offender receives the notice.

(5) **Nonpayment reports.** An agent or monitor shall prepare and submit to the court or Parole Commission, as appropriate, a Payment Violation Report when:

- (a) An offender's probation or release order requires the offender to pay money through the agency; and
- (b) The offender fails to remit payments as specified on the offender's:
 - (i) Probation or release order; or
 - (ii) Agency payment plan.

(6) Except as set forth in paragraph (8) of this subsection, when a payment violation report is based upon paragraph (5)(b)(i), an agent or monitor shall submit the report not later than 30 days after an offender fails to pay as specified on the probation or release order.

(7) **Restitution.** As set forth in paragraph H(1) of this section, the collection of restitution is a critical element of the agency's commitment to assist crime victims. Accordingly, an agent or monitor shall diligently encourage each offender whose payment obligations include restitution to meet the restitution payment schedule.

(8) **Restitution nonpayment.** If an offender whose payment obligations include restitution fails to meet the restitution payment schedule and an arrearage results, an agent or monitor:

(a) May at any time request a summons or subpoena for the offender's appearance at a violation or revocation hearing; and

(b) Shall request a summons or subpoena not later than ten workdays after:

(i) The victim who is due restitution requests that a violation or revocation hearing be initiated; or

(ii) The offender's restitution arrearage equals four monthly payments.

(9) When an agent or monitor requests a summons or subpoena as a result of an offender's nonpayment, the agent or monitor shall include the offender's payment history in the report.

(10) **Victim notification required.** When a summons or subpoena is issued in response to a request that is based upon an item listed in paragraph (8) of this subsection, the agent or monitor shall send to the victim notification of the date, time and place of the hearing, using DPP-VNL-002. An agent or monitor shall meet this requirement whether or not the victim requested victim notification.

(11) An agent or monitor may not request a summons, subpoena, or warrant for an offender whose sole violation is failure to make scheduled payments except:

(a) As set forth in paragraph (8) of this subsection; or

(b) When a court or the Parole Commission directs the agent or monitor to submit a request for a summons, subpoena, or warrant, in which case the agent or monitor shall submit the request not later than ten workdays after the court's directive is received.

(12) If an offender is continued on parole or probation after a violation hearing for nonpayment, the agent or monitor shall revise the offender's monthly payment plan to ensure that if payments are made as scheduled, the offender's debt will be paid at least 90 days prior to the case expiration date.

(13) **Arrearages that do not involve restitution.** When an offender's payment obligation arrearage equals four monthly payments and the arrearage does not involve restitution, an agent or monitor shall submit a Payment Violation Report to the sentencing court that:

(a) Specifies the arrearage amount; and

(b) Includes this paragraph:

The Maryland Community Supervision agency will continue its collection efforts in this matter. Unless the court directs otherwise, no additional reports regarding this or a future arrearage will be made to the court. When this case reaches its expiration date or is closed for any other reason, any unpaid payment obligation will be referred to the State Central Collection Unit for continued collection efforts.

(14) If, 90 days prior to the expiration of an offender's parole or probation term, an offender's restitution or court costs are unsatisfied and unresolved, an agent or monitor shall submit a Request for Summons or Request for Subpoena, as applicable, unless a prior report which contains the paragraph set forth in (13)(b) was accepted by the court. (By "accepted" is meant that the report was received by the court, whether or not the report was acknowledged by the court.)

Note: An offender's money obligation is unsatisfied but resolved if the court previously ruled that the unpaid money be referred to the State Central Collection Unit.

(15) If an offender's probation or parole ends before the original legal expiration date is reached and the offender was obligated to pay a monthly supervision fee, an agent or monitor shall:

(a) Provide the offender with written notice (e.g., COL-1) of the amount due; and

(b) Inform the offender that if payment is not received by the agency within 30 days, the unpaid supervision fee balance will be forwarded to the Central Collection Unit for collection.

Note: A supervision fee may not be prorated. Accordingly, an offender shall be charged a monthly supervision fee for all months that the offender's case was legally open. For example, an offender who is placed on supervision on the last day of a month shall be charged a supervision fee for that month. Similarly, an offender whose case closes on the first day of a month shall be charged a supervision fee for that month.

(16) If an offender fails to satisfy the offender's supervision fee obligation as set forth in (15)(b) and the offender's unpaid supervision fee balance is at least \$30, the agent or monitor:

(a) Shall base the amount of the uncollected supervision fee to be referred to the State Central Collection Unit upon the number of months the offender was under supervision; and

(b) May not base the amount of the uncollected supervision fee to be referred to the State Central Collection Unit upon the number of months the offender was to have been under supervision.

P. Disposition of Payment Obligation Balances at Case Closing.

(1) **Definition.** In this subsection, the term "L(4) fees" means the fees listed in subsection L(4) of this section.

(2) An agent or monitor may not request or recommend that a judge deem uncollectible the balance of an offender's payment obligation.

(3) If, at case closing, an offender's unpaid payment obligation totals at least \$30, the agent or monitor shall refer the debt to the State Central Collection Unit, in accordance with paragraph (4) of this subsection.

Note: "Case closing" includes closure by death of the offender. If an offender dies and there exists unpaid restitution, the unpaid restitution shall be referred to the State Central Collection Unit.

(4) **Deemed uncollectible.** If a judge deems uncollectible the balance of an offender's payment obligation, the agent or monitor shall, at case closing:

(a) If there are no L(4) fees:

(i) Complete form DPP-SUP-43, placing a "D" in the appropriate field to designate the non-L(4) fees uncollectible; and

(ii) Submit the completed form to the immediate supervisor;

(b) If there are only L(4) fees:

(i) Exclude the L(4) fees from the judge's order; and

(ii) Complete form DPP-SUP-43 to refer the L(4) fees to the State Central Collection Unit for collection; and

(c) If there are both L(4) and non L(4) fees:

(i) Complete form DPP-COL-53A to place on hold the non L(4) payment obligations that were deemed uncollectible (Use "H" for Hold);

(ii) Complete form DPP-SUP-43 to refer the unpaid L(4) fees to the State Central Collection Unit (Use "R" for Refer); and

(iii) Enter the words "Deemed Uncollectible" in the miscellaneous field on the payee screen.

(5) If, at case closing, an offender's unpaid payment obligations total less than \$30, the agent or monitor shall:

(a) Place a "T" in the appropriate field of DPP-SUP-43; and

(b) Submit the DPP-SUP-43 to the immediate supervisor.

(6) An agent or monitor shall:

(a) Document in the case notes each transaction related to an offender's payment obligation, including a:

(i) Payment obligation that is deemed uncollectible; and

(ii) Referral of a debt to the State Central Collection Unit; and

(b) Place and retain in the case folder a copy of each form that was completed regarding an offender's payment obligations.

Q. Appeals and Bankruptcies.

(1) **Appeals.** An offender's appeal of a conviction from which a payment obligation arose does not affect the payment obligation unless the offender's entire sentence or the payment obligation portion of it has been stayed by an order of a court.

(2) If an offender claims that a stay as described in the preceding paragraph was granted by a court, the offender's agent or monitor shall:

(a) Instruct the offender to submit to the agent or monitor a true-test copy of the order; and

(b) Inform the offender that until the true-test copy is received, the offender remains obligated to remit payments toward satisfaction of the payment obligation.

(3) When an offender's claimed stay is verified, the agent or monitor shall:

(a) Close the offender's case by completing form DPP-SUP-43 ; and

(b) Enter a "Y" (Stayed) in the "FCR Outcome" section of the form.

(4) **Bankruptcy.** Payment obligations, including restitution, court fines, court costs, supervision fees, drug testing fees, and DDMP monthly program fees are not dischargeable in bankruptcy. Consequently, an employee may not change data regarding those debts in OBSCIS II based solely upon an offender's successful bankruptcy petition.

R. Wage Garnishment.

(1) **Scope.** This subsection applies only when an offender being supervised or monitored by the agency:

(a) Owes restitution;

(b) Is employed; and

(c) Fails to meet the payment schedule established by the:

(i) Sentencing court; or

(ii) Agency.

(2) **Wage garnishment explained.** Wage garnishment is a legal procedure in which a portion of a debtor's wages is withheld by the debtor's employer, pursuant to an earnings withholding order, for payment to a creditor. When a court orders an offender to pay money through the agency, the agency is a creditor and collection of the debt through wage garnishment is available to it. The agency is statutorily required, under Criminal Procedure Article, §11-607, to initiate garnishment of an offender's wages:

(a) If garnishment was not ordered by the court at sentencing; and

(b) The offender meets the conditions set forth in paragraph (1) of this subsection.

(3) **Procedure.** If, at sentencing, an offender's wages are ordered to be garnished, an agent or monitor shall complete the applicable section of form DPP-COL-41 and:

(a) Send the signed original to the clerk of the sentencing court; and

(b) Place a copy of the form in the case folder.

(4) If an offender changes employers after wage garnishment is ordered, an agent or monitor shall:

(a) Complete the applicable section of form DPP-COL-41;

(b) Sign the form;

- (c) Send the signed original to the clerk of the sentencing court; and
- (d) Place a copy of the form in the case folder.

SEE APPENDICES A AND B BELOW

Appendix A

Collections and Accounting Alert Report

This appendix is specific to the Collections and Accounting Report, which is to be viewed monthly by the agent, monitor and the agent's or monitor's supervisor. Cases cited in the report are to be corrected prior to the generation of the next C&A Alert report.

A. The Collection and Accounting Alert Report alerts an agent or monitor to obtain or to correct information that is missing or incorrect. Among the reasons for report entries are:

- (1) Missing data;
- (2) An address was entered on the wrong line;
- (3) Holds -- Case hold (C), Appeal hold (A) or Hold on individual payees (H);
- (4) A check was returned as undeliverable;
- (5) An item is listed as TBD (To Be Determined);
- (6) There are negative holdings, due to an overpayment or over-disbursements; and
- (7) A case was closed with disbursement pending (CDP).

B. Examples of commonly missing or incorrect information are:

- (1) Street address;
- (2) Zip code;
- (3) Payee's name; and
- (4) Amount of 2% fee.

C. Not later than 30 days after a Collections and Accounting Alert Report is required to be accessed, an agent or monitor shall:

- (1) Obtain the information indicated as missing on the Collection and Accounting Alert Report;
- (2) Correct the information indicated as incorrect on the Collection and Accounting Alert Report; and
- (3) Ensure that complete and correct information is entered into OBSCIS II.

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D. When OBSCIS II Changes Will Appear. A change that is effected in OBSCIS II prior to the end of a calendar month will be included in the next month's Collection and Accounting Alert Report.

Example: An agent is issued a Collection and Accounting Alert Report on March 13. Although the agent has thirty days to effect the necessary changes to OBSCIS II, only the changes that are submitted and entered into OBSCIS II before the last workday in March will be reflected on the agent's April Collection and Accounting Alert Report.

E. Rules for "To Be Determined" Cases.

(1) Do not remove a TBD from a Jointly and Severally case until the entire amount of restitution ordered for each payee has been paid in full.

(2) Do not remove a TBD until the total amount due has been determined.

(3) When restitution is not a fixed amount (e.g., there is ongoing medical or counseling care and the amount of restitution therefore changes), the TBD must remain to prevent disbursement of money to priority codes lower than restitution.

(4) In the situation described in (3), leave TBD on the 2% fee because the final amount due will not be determined until the total amount of restitution is known.

F. Common Alerts and Responses to Them.

(1) **Incorrect address entry on money screen.** An address must be entered on address line one of the payee screen in order for disbursement to occur. If a payment is to be sent "c/o" or to someone's attention, enter this party's full address on line two. **Note:** If an address is entered on line two and there is no address entered on line one, the check will not be disbursed.

(2) **Finding correct addresses.** For checks returned as undeliverable because the address was wrong or the intended recipient moved, use all available resources to determine the correct or new address. These resources include: Dashboard, MD Judiciary Case Search, OCMS, MVA, District Court of Maryland Criminal System Inquiry Related Persons Display in JIS, States Attorneys Office, Internet or telephone directories, and OBSCIS. Once the intended recipient's correct or new address is learned, contact the recipient to verify that this is the party to whom payment is to be sent and, if verified, ensure OBSCIS II data is updated.

(3) If the intended recipient of a returned check cannot be located and payments are on hold, the agent's or monitor's immediate supervisor must send an e-mail to the Collection and Accounting Unit manager requesting that the money be transferred to the suspense account for victim abandoned property.

(4) **Negative holding due to overpayments.** If the hold amount on a Collection and Accounting Alert Report is a negative amount, there was an overpayment. Check to be sure ordered amounts are correct. Then check OBSCIS II to determine whether the offender owes money in any other case and:

(a) If the offender has no other case in which money is owed, an e-mail is to be sent to Collection and Accounting with instructions to refund the overpayment to the offender; and

(b) If the offender owes money in another case, an e-mail is to be sent to Collection and Accounting by a supervisor with instructions to transfer the overpayment to the other case. Note: If money is owed in multiple cases, credit the payment based on priority codes.

(5) **Negative holding due to over disbursements** - Negative holdings due to over disbursements appear on the Collection and Accounting Alert Report as a negative balance due to a payee. This occurs when a direct payment is entered after money has been disbursed to a payee or when the amount due a payee is reduced and money has already been disbursed.

G. Holds.

(1) Check for Holds (H, C, A). Determine if the situation that necessitated the hold has been resolved. If so, remove the hold. If not, determine the appropriate action needed.

(2) **"TBD"** - Check for TBDs. Determine if the situation that necessitated the TBD has been resolved. If so, remove the TBD. If not, determine the appropriate action needed.

(3) **Incomplete/incorrect address** - Enter the complete address for all payees. Ensure that address line one is entered.

(4) **Hold amount less than \$1.00** - Send an e-mail to Collection and Accounting with instructions to disburse it to a payee or to the suspense account. If the money being held is due to an overpayment or over disbursement it must be resolved as previously noted.

(5) **Closed-Disbursement Pending (CDP).** A "CDP" must be resolved and removed no later than 60 days from the date it first appeared on the Collections and Accounting.

(6) Disbursements to the courts occur in the months of June and December. As a result, there will be an increase number of CDP cases on the July and January C&A Alert Reports.

(7) **Removal of a hold.** Remove a Hold only after the reason for the hold is resolved or no longer exists.

APPENDIX B

DISBURSEMENT OF PAYMENTS

A. Entering payee information.

- (1) Since the payee information will be used for mailing purposes, each entry should include a first name, last name, complete street address, city, state, and zip code.
- (2) Each payee entry must include the amount of money owed by the offender, as listed on the probation order. If the amount of money owed is unknown at the time of intake, the code “TBD” should be entered next to the payee’s information. If jointly and severally, this will be the prorated amount due to each payee from the offender. Enter a “TBD” after the amount due.
- (3) When entering a STARS payee, please use the appropriate STARS codes listed below:

DET = Division of Employment and Training (Unemployment)

DSS = Department of Social Services

HMH = Department of Health & Mental Hygiene

TES = Drug/Alcohol Testing

FEE = Supervision Fee

B. Disbursement Priority.

Unless otherwise authorized by court order, disbursement of money paid by an offender will occur in the following order and will receive the following codes:

0 - Restitution

1 – DDMP Program Fee and/or top priority restitution payee(s) [see Section D (3) thru (6)].

2 – Fines

3 – Court costs

4 – Public defender fee

5 – 2% collection fee

Published December 3, 2007

Revised June 11, 2009

Revised July 26, 2011

Revised June 3, 2013

Revised June 2, 2014

Revised October 7, 2015

Revised March 28, 2017

6 – Testing fee

7 – Supervision fee

Example: Defendant A has been ordered by the court to pay the following monetary obligations:

Restitution to victim in the amount of \$500
The defendant owes \$500 to the public defender
The defendant owes \$1000 in criminal fines

Response: Victim should receive a priority code of “1,” indicating that Victim is the first to be paid. Fines owed by the defendant should receive a priority code of “2,” indicating that the defendant’s obligation to pay fines will be paid following full payment of restitution. The public defender fees should receive a priority code of “3,” indicating that the public defender is the last payee to receive payment.

C. Disbursement frequency codes.

Disbursement of payments to a payee will occur at regular intervals as long as there is at least \$3.00 accrued for payment to any recipient. The following are the codes to be used to indicate the frequency of disbursements:

R – Disbursement to that payee is scheduled to occur at regular intervals until the total amount due to the recipient is paid. Regular disbursement is the default code.

F – Disbursement to that payee is scheduled to occur only one time, when the total amount of money due to one recipient is paid in full. This should only be used with supervisory approval.

H – Disbursement to that payee is prohibited. A “hold” code will be placed on disbursement if the Division is unable to locate or verify information on the payee. Placing a “hold” code on payment to a payee will prohibit disbursement to the payee but disbursement will continue to other payees.

D. Restitution.

(1) **Priority of restitution.** Disbursement of restitution to the victim (or restitution payee) is the first priority of the Division. Offenders who have been ordered by the court to pay several monetary obligations, e.g. court costs, fines, testing fees, and restitution, must pay restitution first.

(2) **Priority among restitution payees.** If an offender has been ordered to pay restitution to more than one payee, the Division will disburse the payments in the following priority by assigning the following priority code:

0 – Individual victim

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Revised July 26, 2011

Revised June 3, 2013

Revised June 2, 2014

Revised October 7, 2015

Revised March 28, 2017

- 1 – Governmental agency, e.g. Department of Health and Mental Hygiene,
Baltimore City Police Department
- 1 – Third-party payor, e.g. insurance companies

Example: Defendant A has been ordered by the court to pay the following monetary obligations:

Fees to the public defender in the amount of \$500
Restitution to Victim in the amount of \$500
Supervision fees to the Division in the amount of \$1,000
Criminal fines in the amount of \$2,000
Restitution to Health Insurance Company in the amount of \$1,000
Restitution to the Baltimore City Police Department in the amount of \$1,500

Response: Assign the following priority codes:

- 0 – Victim 1
- 1 – Baltimore City Police Department
- 1 – Health Insurance Company
- 2 – Fines
- 4 – Public defender
- 7 – Supervision fees

(3) **Priority among individual victims.** Unless the court orders otherwise, if an offender has been ordered to pay restitution to more than one individual victim, the Division must pay all victims equally, by using the same priority code for each victim payee.

Example: Defendant A has been ordered by the court to pay the following monetary obligations:

Restitution to Victim in the amount of \$500
Restitution to Victim 2 in the amount of \$500
Supervision fees to the Division in the amount of \$1,000
Criminal fines in the amount of \$2,000
Restitution to Health Insurance Company in the amount of \$1,500
Restitution to Baltimore City Police Department in the amount of \$1,000

Response: Assign the following priority codes:

Published December 3, 2007
Revised June 11, 2009
Revised July 26, 2011
Revised June 3, 2013
Revised June 2, 2014
Revised October 7, 2015
Revised March 28, 2017

0 – Victim

0 – Victim 2

1 – Baltimore City Police Department

1 – Health Insurance Company

2 – Fines

7 – Supervision fees

(4) Joint and several liability among offenders. A court may order more than one offender to pay restitution to a victim or a restitution payee “jointly and severally.” Joint and several liability means that each offender is responsible for the entire amount of the restitution ordered. If one offender pays more money than another offender, it is the responsibility of the offender who paid more money to recover money from the other responsible offenders; it is not the responsibility of the Division.

If a probation order specifies that restitution is to be paid “jointly and severally,” enter the payee information in accordance with section A of this Appendix and enter the “TBD” code next to each payee.

Example: Defendants A and B have been ordered by the court to pay \$500 to Victim “jointly and severally.” Additionally, each defendant has been ordered to pay \$500 in court costs.

Response:

For Defendant A, enter the prorated amount of \$250 restitution followed by “TBD.”

For Defendant B, enter the prorated amount of \$250 restitution followed by “TBD.”

The 2% fee is calculated on the prorated amount due (\$250 in this example). The offender would then pay the entire amount of any other fines or costs due.