

Module 6

Military Establishment Procedures

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 6-1: Module 6** (title slide).
2. Ask participants if there are any remaining questions from earlier modules. When there are no further questions, proceed to **Module 6**.
3. Explain to participants that this module involves IV-D actions to establish parentage and/or a child support order when the alleged father or NCP is a service member.
4. Explain to participants that the material in this establishment module is also directly applicable to modification actions. IV-D offices may need to expedite support order modifications in those cases where reservists or National Guard members experience a reduction in their income, or an increase in expenses, as a result of being called to active duty.
5. Review the module's goals and objectives with participants.

What you need to know

1. This module will take approximately 1.5 hours to complete.
2. Listed below are the equipment, handouts, and PowerPoint slides for the module.

Equipment/Supplies:

- Personal computer with PowerPoint program
- LCD projector and screen
- Flipchart stand with two pads of paper or whiteboard
- Markers (permanent, dry-erase, and wet erase)
- Masking tape
- Trainer Guide
- Participant Guides (including Appendix with Handouts)

PowerPoint Slides:

- 6-1: **Module 6** (title slide)
- 6-2: Federal Regulation re: Paternity Establishment
- 6-3: Federal Reg re: Establishment of Support Obligations
- 6-4: Federal Statute re: Establishment of Medical Support Obligations
- 6-5: Paternity at Issue
- 6-6: Commander's Assistance when Paternity is Admitted
- 6-7: Medical Support for Military Family Members
- 6-8: TRICARE Enrollment Flow Chart
- 6-9: Types of Military Pay
- 6-10: Special Skills Pay and Bonuses
- 6-11: Summary

Handouts:

- 6-1: LES Exercise
- 6-2: Review Exercises

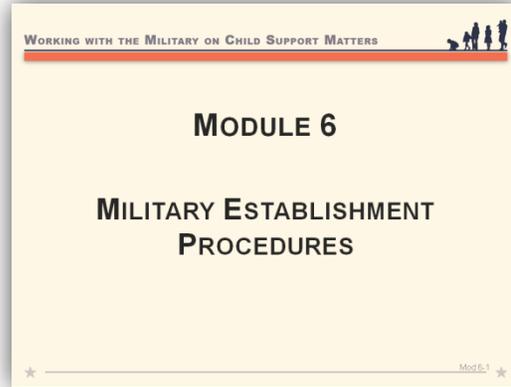
MODULE 6: MILITARY ESTABLISHMENT PROCEDURES

Time: 1.5 hours

6.1 MILITARY ESTABLISHMENT PROCEDURES

6.1.1 Learning Goal

Each participant will learn successful strategies for establishing paternity and/or a child support order in cases involving a member of the military.



6.1.2 Learning Objectives

- Given an interactive lecture, participants will correctly identify the basic requirements of the federal regulations governing paternity and order establishment.
- Given an interactive lecture and exercise, participants will understand and explain the military policies and rules governing the chain of command's involvement in a IV-D paternity and support order establishment case.
- Given an interactive lecture and exercise, participants will correctly explain the process for obtaining TRICARE coverage for a child born to unwed parents.
- Given an interactive lecture and examination of relevant handout materials, participants will explain how to establish an accurate child support obligation by obtaining complete earnings information for an individual in the military.
- Given an interactive lecture and examination of relevant handout materials, participants will correctly interpret the military's *Leave and Earnings Statement*.

TRAINING NOTES

What you need to say/do

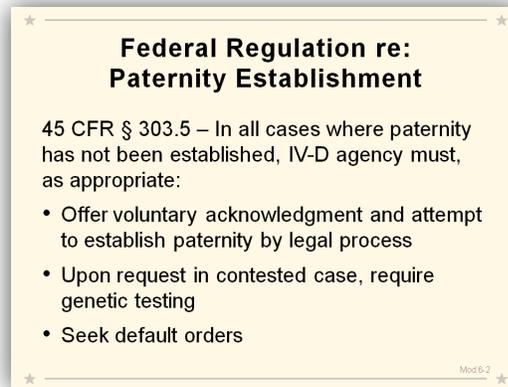
1. Display **PowerPoint Slide 6-2: Federal Regulation re: Paternity Establishment**. Remind participants that federal regulations are available on-line at <http://www.acf.hhs.gov/programs/css/policy>.
2. Refer the participants to **Module 4: The Servicemembers Civil Relief Act** for information explaining when and how a tribunal can enter a default order in an action involving a member of the military.

What you need to know

1. The U.S. Department of Health and Human Services (HHS) issues the federal regulations governing IV-D paternity and child support order establishment procedures. All state IV-D programs must comply with their requirements and timeframes.
2. This section of the module reviews highlights of the federal paternity regulation in order to lay the foundation for later discussions of military paternity establishment procedures.
3. “Good Cause” (appropriate refusal by a public assistance recipient to cooperate with the IV-D agency to establish paternity and/or support) applies to military and non-military cases alike.

6.2 APPLICABLE FEDERAL LAWS, REGULATIONS AND TIMEFRAMES

6.2.1 Paternity Regulation



The federal *Establishment of Paternity* regulation appears at 45 C.F.R. § 303.5. The regulation requires the IV-D office to establish paternity in one of two ways – by offering the alleged father the opportunity to voluntarily acknowledge paternity or by bringing a legal action (before a court or an administrative forum) to establish paternity in accordance with state law. The IV-D office does not pursue paternity establishment in public assistance cases where *good cause* exists. “Good cause” is an exception to the public assistance recipient’s obligation to cooperate with the IV-D office in its efforts to establish paternity. In a nutshell, a finding of good cause means that IV-D efforts to establish paternity, or to establish and enforce a child support obligation, cannot proceed without a risk of harm to the custodial parent (or caretaker relative) and child.

If any party to a contested paternity case requests genetic testing, the federal regulation requires the IV-D agency to compel all parties to submit to such testing. Finally, the federal paternity establishment regulation requires the IV-D agency to seek the entry of a default order in a case where the defendant has failed to respond after being served with the appropriate case paperwork (i.e., summons and petition seeking paternity establishment). Before a tribunal enters a default paternity order in a case involving a military member, compliance with the Servicemembers Civil Relief Act is critical. See **Module 4**.

TRAINING NOTES

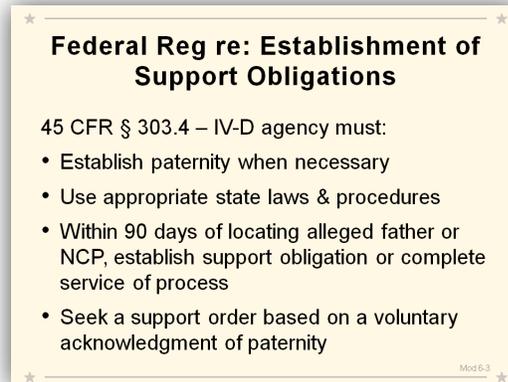
What you need to say/do

Display PowerPoint Slide 6-3: Federal Reg re: Establishment of Support Obligations.

What you need to know

1. This section of the module highlights sections of the federal regulation governing Establishment of Support Obligations in order to lay the foundation for later discussions of establishment procedures in cases involving the military.
2. The federal regulation specifying the procedures related to establishing a child support order in voluntary acknowledgment cases appears at 45 C.F.R. § 302.70(a)(5).
3. Once a support order is established, federal regulations require the periodic review and adjustment of that order. This is particularly important in cases involving National Guardsmen or reservists as their income may change when they are called from civilian employment into active duty.

6.2.2 Establishment of Support Obligations Regulation



The federal *Establishment of Support Obligations* regulation appears at 45 C.F.R. § 303.4. The federal regulation requires the IV-D agency to establish paternity when necessary. The federal regulation requires the use of local law and procedures in establishing a support order. That is, the IV-D agency bringing the action to establish a support order uses its local laws, procedures, and child support guidelines to establish the support order. Also, the IV-D agency uses these local laws and procedures to decide whether to bring the action before a court or an administrative forum.

Within 90 calendar days of locating the alleged father or noncustodial parent, the federal regulations require the establishment of a support order or, at a minimum, the service of process needed to begin the order establishment process. If service of process cannot be obtained within this timeframe, the IV-D agency must document that it has made a diligent effort to serve process, in compliance with state IV-D guidelines.

Finally, in a case where the parties acknowledge paternity, the regulation requires the IV-D agency to obtain a support order based upon that acknowledgment.

Once an order is established, 45 C.F.R. § 303.4(c) requires the periodic review and adjustment of that order.

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 6-4: Federal Statute re: Establishment of Medical Support Obligations**.
2. Review federal law governing the establishment of a medical support obligation.
3. After summarizing federal law, begin the discussion of paternity establishment in military cases.
4. Stress to participants that IV-D actions to establish paternity against a member of the military always begin with direct contact with the service member/alleged father. The caseworker should only request assistance from the military member's chain of command when direct contact with the military member proves unsuccessful.
5. Refer participants to **Module 3** for questions related to the service of process.

What you need to know

1. The federal regulation relating to health care obligations appears at 45 C.F.R. § 303.31. It includes the following definitions:
 - (1) Cash medical support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance.
 - (2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage which is available to either parent, under which medical services could be provided to the dependent child(ren).
 - (3) Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines adopted in accordance with § [302.56\(c\)](#) of this chapter. In applying the five percent or alternative State standard for the cost of private health insurance, the cost is the cost of adding the child(ren) to the existing coverage or the difference between self-only and family coverage.
2. In the civilian sector, health care coverage for a child is potentially available through either of the parents' employers, public coverage, or the [Health Insurance Marketplace](#). (The Health Insurance Marketplace is sometimes known as the health insurance "exchange." Open enrollment for the Marketplace begins on October 1, 2013.) Children of active or retired military members also have access to the military TRICARE program. See discussion in later sections of this module.

6.2.3 Federal Law Governing the Establishment of Medical Support Obligations

Current federal law requires that every child support order must include a provision for health care coverage for the dependent children. In the civilian sector, health care coverage for a child is potentially available through either of the parents' employers, public coverage, or the [Health Insurance Marketplace](#).



Children of active or retired military members also have access to the military TRICARE program. Medical support can take several forms. The court or administrative agency may order the custodial or noncustodial parent to:

- Provide health insurance if available to the parent at a reasonable cost;
- Pay for health insurance (health care coverage) premiums or reimbursement to the custodial parent for all or a portion of the costs of health care coverage obtained by the custodial parent; and/or
- Pay cash medical support to cover a portion of ongoing medical bills or as reimbursement for uninsured medical costs.

6.3 PATERNITY ESTABLISHMENT IN MILITARY CASES

This portion of **Module 6** reviews the military regulations and procedures governing the family support arena. It also identifies the role of the military chain of command in the paternity establishment process. For the purpose of this module, assume that you have successfully served the service member *and* you are only contacting the member's chain of command when direct contact with the member has failed to advance the case.

TRAINING NOTES

What you need to say/do

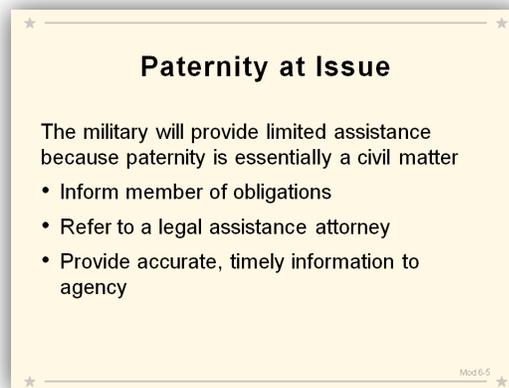
At the appropriate time, display **PowerPoint Slide 6-5: Paternity at Issue.**

What you need to know

An example of military regulations limiting the ability of a commander to become involved in a civil (paternity) action is Army Regulation 608-99, paragraph 3-7 (2003). All branches of the military have similar regulations. The Air Force regulation is SECAF INST. 36-2906, Personal Financial Responsibility. The Marine Corps policy is stated in U.S. Marine Corps, Order P5800.16A Marine Corps Manual for Legal Administration (LEGALADMIN), cha. 15 (Dependent Support and Paternity). The Navy policy is stated in U.S. Dept of Navy, Navy Military Personnel Manual (MILPERSMAN) art. 1754-030 (Support of Family Members), art. 5800-10 (Paternity Complaints). The Coast Guard policy is stated in U.S. Coast Guard Commandant Instruction (COMDTINST) M1600.2, Chapter 2.E (Sept. 2011)(Supporting Dependents).

6.3.1 Military Policy and Regulations Regarding Paternity Establishment

Paternity establishment is probably the one area of family support where the IV-D worker can expect the least amount of assistance from the military. This is *not* because the military views non-marital children as less deserving of support, but rather because, absent a legal paternity determination, there is simply little a military commander can officially do to assist the IV-D agency.



Military regulations strictly limit the ability of a commander to become involved in civil matters. This is particularly true in civil matters like paternity establishment where no order exists. In paternity establishment cases, a commander's roles are limited to:

- Informing a service member of the claim;
- Informing the member of his legal and moral obligations, if any;
- Referring the member to a military legal assistance attorney if the member has questions about his legal rights.
- Urging the member to provide financial support to the child if, after legal consultation, the member admits paternity; and
- Providing complete, accurate, and timely information to the person or agency bringing the paternity action.

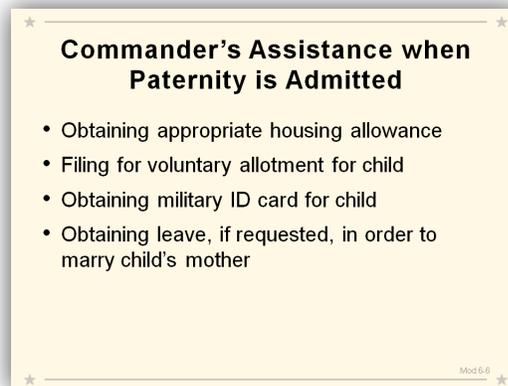
TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 6-6: Commander's Assistance when Paternity is Admitted.**
2. Explain to participants that if a IV-D office is asking the commanding officer to encourage the military member to initiate a voluntary allotment, the IV-D office must include the necessary information (i.e., case number and SDU address).

What you need to know

The military policy cited in section 6.3.1 is from Army Regulation 608-99, paragraph 3-7 (2003). All branches of the military have similar policies: The Air Force regulation is SECAF INST. 36-2906, Personal Financial Responsibility. The Marine Corps policy is: U.S. Marine Corps, Order P5800.16A Marine Corps Manual for Legal Administration (LEGALADMIN), cha. 15 (Dependent Support and Paternity). The Navy policy is: U.S. Dept of Navy, Navy Military Personnel Manual (MILPERSMAN) art. 1754-030 (Support of Family Members), art. 5800-10 (Paternity Complaints). The Coast Guard policy is: U.S. Dept of Homeland Security, U.S. Coast Guard Commandant Instruction (COMDTINST) M1600.2, Chapter 2.E (Sept. 2011)(Supporting Dependents). The Army, Navy, and Marine Corps policies implement federal regulatory requirements to support dependents: 32 C.F.R. § 584.2 (Department of the Army); 32 C.F.R. § 733.3 (Department of the Navy).



In cases where the member admits paternity to the commander and agrees to provide financial support, the commander will assist the member in:

- Obtaining the appropriate available housing allowance;
- Understanding what he needs to do to complete a voluntary allotment for the child;
- Obtaining a military identification card for the child; and
- Obtaining leave, if requested, in order to marry the mother of the child.

The military member may also be entitled to additional allowances for the support of the child, depending on the allowances to which the member is already entitled.

In cases where the military member verbally admits paternity but refuses to provide financial support, the role of the commander with respect to the subordinate is limited to referring that individual to a legal assistance attorney.

TRAINING NOTES

What you need to say/do

1. Explain to participants that it is a **best practice** to include a copy of their state's paternity acknowledgment form in any letter to the commander requesting assistance in the military member's completion of this form.
2. Explain to participants that the Leave and Earnings Statement (LES) of a member in the Army, Air Force, Navy, or Marines may have information that is helpful in establishing paternity because it includes a field (Field 51) containing codes that identify the type of dependents that the member claims for BAH purposes. Inform participants that later they will see an example of the LES when completing **Handout 6-1: LES Exercise**.
3. If the member will not voluntarily produce his or her LES, the agency attorney may serve the member with a Request for Production of Documents. The attorney may also send a FOIA request to the appropriate Defense Finance and Accounting Service Center (DFAS) office.

What you need to know

1. To receive a copy of the LES of a service member in the Army, Air Force, Navy, or Marines, the caseworker may send a FOIA request or a subpoena, signed by a judge, to the appropriate Defense Finance and Accounting Service Center (DFAS) office. However, use of a subpoena is not recommended as it is cumbersome and puts a heavy burden on DFAS. For DFAS address information, see **Module 5: Obtaining Evidence from the Military**. DFAS will provide a copy of the requested LES; however, the bank routing numbers will be redacted.
2. The U.S. Coast Guard will also respond to individual, written FOIA requests for LES information, such as whether the person is receiving BAH with dependents. Send the FOIA to the U.S. Coast Guard Pay and Personnel Center. For address information, see **Module 5: Obtaining Evidence from the Military**.

In cases where the military member denies paternity, a commander cannot force a member to cooperate with a IV-D office in its efforts to establish paternity. However, military policy requires individual members to manage their personal affairs honorably and to comply with lawful orders. It may be helpful for a IV-D office to call upon this policy when appropriate.

For example, when direct contact with the military member is unsuccessful, a IV-D office can request that the commander speak with the member to encourage the member to comply with an order for genetic testing. This request should be in writing and explain the consequences of a failure to appear for the testing. It is important to remember that, even in military cases, the local tribunal has authority to force compliance with its order. Although the military commander cannot force a subordinate to appear for genetic testing, a court can use its contempt powers to enforce an order requiring the member to appear for genetic testing.

In addition to genetic test results, the military member's Leave and Earnings Statement (LES) can provide information that may be relevant to proving paternity. The LES has 78 separate fields that include, among other things, the type(s) of dependents (e.g., spouse and/or child) that the member claims for BAH purposes; see field 51 of the LES in **Handout 6-1**. If the member will not voluntarily provide a copy of his or her LES, the IV-D attorney can serve the member with a Request for Production of Documents. In addition, the agency can seek a copy of the LES by sending a written Freedom of Information Act (FOIA) request to the appropriate Defense Finance and Accounting Service (DFAS) office. See **Module 5** for address information.

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 6-7: Medical Support for Military Family Members.**
2. Explain that a legal dependent of an active or a retired military member is entitled to military healthcare benefits under TRICARE. To enroll a child in TRICARE, the child must be registered in the Defense Enrollment Eligibility Reporting System (DEERS). DEERS maintains information on the military service person, known as the “sponsor,” and the sponsor’s dependents. A sponsor is automatically registered in DEERS, but it is the sponsor’s responsibility to enroll family members. If the child was born to unmarried parents, there must be a legal determination of parentage. Point out that a military member can enroll a child without a court order adjudicating paternity, so long as there is a signed acknowledgment of paternity.

What you need to know

1. TRICARE Prime is a managed care option offering the most affordable and comprehensive coverage for military families. It is available in the United States in designated Prime Service Areas. Other Prime options are available for active duty service members and their families in remote U.S. areas and overseas. The sponsor must sign a completed enrollment form and submit the form to the regional contractor or local TRICARE Service Center. Under certain circumstances, the custodial parent may enroll the child in TRICARE Prime. In some cases, there are premium payments, depending on the military member’s status (for example, quarterly premiums for family members of retirees). This program is similar to a civilian health maintenance operation (HMO) policy. There is no deductible, but some services require a co-payment.
2. TRICARE Standard and Extra is a fee-for-service plan that is available to all non-active duty beneficiaries throughout the United States. TRICARE Standard and Extra allow a non-active duty beneficiary to manage his or her own health care by seeking service from any TRICARE-authorized provider. There are no enrollment forms or fees, but there is an annual deductible for outpatient services and cost-shares for most services. Coverage is automatic as long as the information is current in DEERS. For more information, see www.tricare.mil.
3. The Real-Time Automated Personnel Identification System (RAPIDS) refers to the application process through which individuals receive ID cards.
4. In the case of a child born to unwed parents, a support order is not sufficient proof of dependency unless it also includes a finding of paternity.

6.3.2 Medical Support for Military Family Members

A legal dependent of an active or retired military member is eligible for services through the military health system. This is true regardless of whether the dependent resides with the member, but options are limited to military medical facilities or services obtained through TRICARE – the health care program serving uniformed service members, retirees, and their families.

Medical Support for Military Family Members

- Services through military medical facilities (if available) or through TRICARE – health care program serving military members, retirees, and their families
- Available to legal dependents of active or retired military member regardless of whether dependent resides with member
- Requires enrollment in Defense Enrollment Eligibility Reporting System (DEERS)

Mod 6.7

To be enrolled in TRICARE, the child must be registered in the Defense Enrollment Eligibility Reporting System (DEERS). The database maintains information on the service member, known as the “sponsor,” and the sponsor’s dependents. DEERS is the database used to confirm eligibility for military benefits including health care. A sponsor is automatically registered in DEERS, but it is the sponsor’s responsibility to enroll family members. Children born to unmarried parents, when at least one of the parents is a military member, are entitled to military healthcare and enrollment in DEERS if there is a legal determination of paternity. A court order establishing parentage is one way to legally determine dependency status. Service members can also use a voluntary paternity acknowledgment form to establish dependency for health care benefits. Both parents must sign the form, in the presence of a notary, but they do not have to sign at the same time. Because each state has its own acknowledgment form, the parents must use the form from the state where the child was born. In order for the child’s birth certificate to officially note the paternity determination, the acknowledgment must be filed with the state office of vital records or equivalent office.

TRAINING NOTES

What you need to say/do

1. Continue to display **PowerPoint Slide 6-7: Medical Support for Military Family Members**.
2. The easiest way to enroll the child in DEERS is to have the service member/sponsor enroll the child. Explain the process.
3. If the service member does not enroll the child in DEERS, the custodial parent may do so. Explain the steps the custodial parent must follow in order to establish that the child is a dependent of the service member/sponsor.
4. Emphasize that members need to know that in order for the child's birth certificate to officially note the paternity determination, the acknowledgment of paternity must be filed with the Office of Vital Records, or equivalent office.

What you need to know

1. The Form DD 1172-2, Application for Identification Card/DEERS Enrollment, must be signed in one of three ways: by the sponsor in front of the verifying official, by the sponsor in front of a notary, or by a person who is signing using a general Power of Attorney. For more information, see <http://www.cac.mil/uniformed-services-id-card/getting-your-id-card/>.
2. Additional information on obtaining medical support from military personnel is available in "*Working with the Military as an Employer*," which you can access through the OCSE website: <http://www.acf.hhs.gov/programs/css/resource/working-with-the-military-as-an-employer>

The easiest way to enroll a dependent into DEERS is to have the military member (sponsor) enroll the child. The military member can go to the nearest military installation with a RAPIDS ID Card Issuing Facility (RAPIDS is the acronym for the Real-Time Automated Personnel Identification Card System). The member can go to any installation; the installation does not have to be specific to the member's service branch. The member can also enroll the child during pre-deployment processing programs.

If the child was not born during marriage, the military member needs to bring a copy of the paternity order or paternity acknowledgment in order to establish the child's dependent status. As the sponsor, the member will sign an Application for Identification/DEERS Enrollment form (see Form DD1172-2, <http://www.cac.mil/assets/pdfs/dd1172-2.pdf>). Once the military technician validates the documents establishing dependency, the documents are scanned into the DEERS database and the child is automatically enrolled to receive TRICARE coverage.

However, if the military member does not enroll the child in DEERS, the custodial parent can enroll the child by going to a RAPIDS ID Card Issuing Facility and presenting the appropriate documents to the official who verifies dependent status. Location of the RAPIDS ID Card Issuing Facilities may be found via the internet at <http://www.dmdc.osd.mil/rsl/owa/home>. If internet access is not available, the custodial parent may contact the DMDC Support Office Monday through Friday between 9:00 am and 6:30 pm ET at 800-538-9552.

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slide 6-8: TRICARE Enrollment Flow Chart**.
2. Review the paperwork that the custodial parent must bring to establish dependency. Note that genetic test results are not considered adequate documentation of paternity. In the case of a child born to unwed parents, there must be documents establishing a legal determination of parentage.
3. It is also possible for the custodial parent to enroll the child without physically travelling to an installation. However, after enrollment is approved, depending upon the age of the child, she will need to take the child to the nearest RAPIDS ID Card Issuing Facility in order to get a military ID for the child. If the child does not live with the military member, DoD highly recommends that the child have an ID to ensure proper and timely medical treatment.

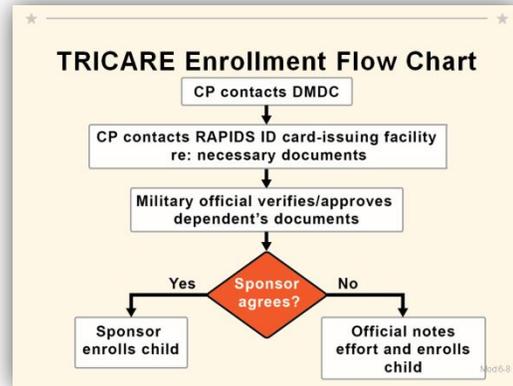
What you need to know

If the child was born abroad, an acceptable document is a Consular Report of Birth Abroad. See <https://www.dmdc.osd.mil/rsi/html/RequiredDocuments.html>.

The custodial parent will need to present the following documents to the verifying official:

- The child's birth certificate (usually a certified copy)
- If the child was born to unmarried parents, a legal determination of paternity (e.g., a court-ordered paternity finding, an administrative paternity order, a notarized voluntary acknowledgment of paternity signed by both parents)
- If applicable, a court or an administrative order showing the sponsor has an obligation to provide support for the child
- Any forms required by the local installation.

If this is a case where the sponsor will not sign the enrollment paperwork, the verifying official can sign on the sponsor's behalf, provided all of the required documents are present. The official will document the failed efforts to obtain the sponsor's signature. The sponsor may not decline coverage of his or her dependent child.



A custodial parent wishing to enroll a child in DEERS by mail should contact a military installation with a RAPIDS ID Card Issuing Facility. The installation should be the same service branch as that of the NCP. The custodial parent will need to provide documentation to prove dependency. One requirement for enrollment is the Social Security number (SSN) of the noncustodial parent/military member. If the custodial parent does not know the noncustodial parent's SSN, the child support caseworker can obtain the noncustodial parent's SSN and complete all the required paperwork to initiate the enrollment.

TRAINING NOTES

What you need to say/do

1. Continue to display **PowerPoint Slide 6-8: TRICARE Enrollment Flow Chart**.
2. After completing the discussion of DEERS enrollment for the purpose of TRICARE, begin the discussion of establishment of a financial support obligation when one of the parents is a service member.
3. Explain to participants that each branch of the military has regulations requiring support for a member's dependents. In the absence of a support order, these regulations (see note 4, below) apply.
4. Explain to participants that, in cases where no support order exists but paternity is not in issue, the amount of support that is considered adequate varies, depending upon the service branch. The Army's support requirements, without a support order, are tied to its Basic Allowance for Housing (BAH) and the specific amount depends on a variety of factors, including number of dependents, other child support orders, etc. In the absence of a support order, the Marine Corps support amounts range from \$200 per supported family member up to a maximum of 1/3 gross pay/per month. The Air Force simply requires "adequate support." The Navy uses a percentage of gross pay (spouse and minor child is 1/2 of gross pay; one minor child is 1/6 of gross pay). The Coast Guard sets its support for one child at 1/6 of the member's basic pay or, for a spouse and one child, at the BAH difference plus 25% of the member's basic pay.

What you need to know

The caseworker can fax or mail the paperwork to the appropriate RAPIDS ID Card Issuing Facility. Once the paperwork is completed and approved, the custodial parent may need to take the child to the ID Card Issuing Facility to get a military ID card for the child. Children who are at least 10 years old must have an ID card. Children under the age of 10 also need a personal ID card when in the custody of a parent who is not eligible for TRICARE benefits or who is not the custodial parent after a divorce.

6.4 SUPPORT ORDER ESTABLISHMENT IN MILITARY CASES

Similar to its position in paternity cases, the military views the establishment of a child support order as a matter for the civilian courts. Where no support order exists in the case, there is little a commanding officer can do to compel a subordinate to contribute financial support to his/her family when that subordinate denies owing a support obligation.

6.4.1 Military Policy and Regulations Regarding Support Order Establishment

It is important to note at the outset that all branches of the military maintain regulations that require service members to support their families. In the absence of a support order or an agreement between the parties on the support amount, the branches vary with regard to the amount of support that is considered adequate. Where the regulations specify a particular amount, it is generally less than the amount called for under most state child support guidelines.

Accordingly, the best practice is to establish a support order in accordance with your state laws and procedures at the earliest opportunity.

In broad statements of policy, all branches of the military prohibit their members from using their military duty to avoid providing financial support to their families.

TRAINING NOTES

What you need to say/do

Explain to participants that, in a married but separated/non-support order scenario, the ability of a commanding officer to punish a subordinate for failing to provide the amount of support established by the military regulations varies by branch.

What you need to know

1. The military policy quoted in subsection 6.4.1 appears in Army Regulation 608-99, paragraph 1.5.
2. In the absence of a court or an administrative support order, a service member can set up a voluntary allotment, asking that DFAS remove the money from his or her paycheck and send it to the custodial parent. Because it is a voluntary allotment, the member can terminate it at any point.

In support order establishment situations, each branch of the military provides additional policy and regulations defining the roles of service members and their commanding officers. For example, Army policy requires that soldiers provide “adequate financial support to their family members” to make certain that “their financial needs and welfare do not become official matters of concern for the Army.” But what assistance can a IV-D office expect to receive from the military chain of command should an individual member violate this policy by failing to provide adequate support for his/her family?

In cases where the military member is not cooperating with the order establishment process *and* not providing financial support for his/her dependents, it is appropriate for a IV-D office to notify the member’s commanding officer of the alleged financial nonsupport. In response to this notification, the commanding officer must meet with the member to determine the validity of the allegation. As part of the inquiry, the commanding officer may take steps to stop the member’s receipt of any dependent-based pay (e.g., BAH) that the member is not using to meet the needs of these dependents. The commanding officer may also advise the member to consult with a legal assistance attorney.

After the commanding officer meets with the member to discuss the allegation of nonsupport, the commanding officer’s responsibilities vary depending upon the service branch. The Army requires the officer to respond to the IV-D office and explain whether the member admits that he/she owes a financial support obligation to his/her family and, if not, why not. If the member admits that he/she has failed to provide this financial support, the commander will provide the IV-D office with a summary of any of the member’s reasons and detail the immediate steps the member will take to provide this financial support in the future. For example, the service member can establish a voluntary allotment, by asking DFAS to withhold money from his or her paycheck and send it to the custodial parent. However, because it is a voluntary allotment, the member can terminate it at any point.

TRAINING NOTES

What you need to say/do

1. Display **PowerPoint Slides 6-9: Types of Military Pay and 6-10: Special Skills Pay and Bonuses**, as you list some of the types of pay that a service member may receive. This information is provided on a member's Leave and Earnings Statement (LES).
2. Explain to participants that current military pay and allowance information is available on-line at www.dfas.mil.

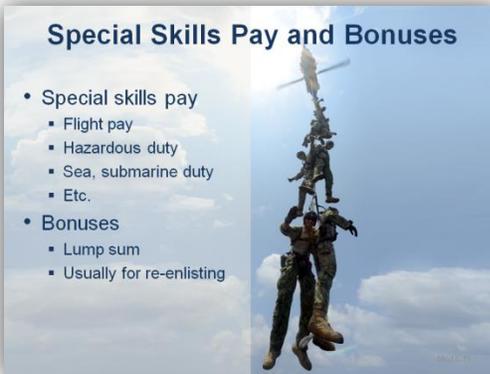
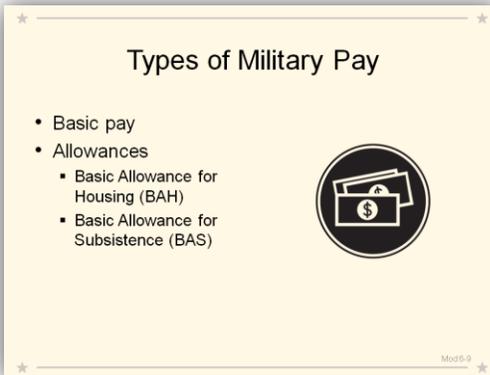
What you need to know

A service member receives several types of Pay (Military Compensation "Pay" section, <http://militarypay.defense.gov/>.)

- **Basic Pay** is the fundamental component of military pay. All members receive it and typically it is the largest component of a member's pay. A member's grade (usually the same as rank) and years of service determine the amount of basic pay the member receives.
- **Allowances** are the second most important element of military pay. Allowances are moneys provided for specific needs, such as food or housing. Monetary allowances are provided when the government does not provide for that specific need. For example, the quantity of government housing is not sufficient to house all military members and their families. Those who live in government housing do not receive full housing allowances. Those who do not live in government housing receive allowances to assist them in obtaining commercial housing. The most common allowances are Basic Allowance for Subsistence (BAS) and Basic Allowance for Housing (BAH). A majority of the force receives both of these allowances and, in many cases, these allowances comprise a significant portion of the member's total pay. Most allowances are not taxable, which is an additional imbedded benefit of military pay.
 - Basic Allowance for Housing (BAH) is an allowance to offset the cost of housing when there is no government-provided housing. BAH depends upon the member's location, pay grade, and number of dependents (if any). BAH rates are set by surveying the cost of rental properties in each geographic location. Therefore, BAH rates in high-cost areas will be much greater than those in low-cost areas. BAH rates are published on the Per Diem Committee web page, <http://militarypay.defense.gov/pay/ALLOWANCES/bah.aspx>.
 - Basic Allowance for Subsistence (BAS) offsets costs for a member's meals. This allowance is not intended to offset the costs of meals for family members. All enlisted members get full BAS, but must pay for the meals they buy in places such as dining halls (including those provided by the government). Because BAS is intended to provide meals for the service member, its level is linked to the price of food. Therefore, each year it is adjusted based upon the increase of the price of food as measured by the USDA food cost index. This is why the increase to BAS will not necessarily be the same percentage as that applied to the increase in the pay table, as annual pay raises are linked to the increase of private sector wages, <http://militarypay.defense.gov/pay/ALLOWANCES/bas.aspx>.

6.4.2 Determining “Income” for a Member of the Military

It remains important for the IV-D office to promptly initiate appropriate support order establishment procedures because the military chain of command is limited in its ability to provide assistance in initiating the payment of child support. For all states, the establishment of an appropriate support obligation relies upon a full disclosure of the member’s income. In the military, a member’s basic pay is frequently neither a full nor a complete picture of that person’s income.



Military pay is comprised of basic pay, available allowances (e.g., Basic Allowance for Housing (BAH), Basic Allowance for Subsistence or Separate Rations (BAS or Sep Rats)), special skill pay (e.g., flight pay), and bonuses (e.g., reenlistment). For all branches of the military, this information is provided on the member’s Leave and Earnings Statement (LES).

TRAINING NOTES

What you need to say/do

1. Caseworkers can review a member's Leave and Earnings Statement (LES) for detailed information. Direct the participants to the DFAS website. DFAS publishes a guide to understanding each of the service branch's active duty LES. See <http://www.dfas.mil/militarymembers.html>.
2. When discussing the LES, refer the participants to **Module 4: The Servicemembers Civil Relief Act (SCRA)**. The LES provides current leave balances that are important in determining whether the member may be able to attend a hearing.
3. Explain that some special skills and hazardous duty pay may be for a limited time.
4. Explain to participants that military allowances like BAH and BAS/Sep Rats are not taxable so, if the state guideline includes both allowances as income, they should be removed from any calculation that reduces *gross* earnings to *net* or *disposable* earnings. In other words, include the entire military allowance in the guideline calculation, as none of the allowance is lost to taxes.

What you need to know

1. The LES also identifies the member's state of domicile for income tax purposes. This information can be helpful in determining jurisdiction. See **Module 3: Service of Process on Military Personnel**.
2. In two situations (serving in a combat zone and performing "qualified hazardous duty"), the earnings of the service member are tax-free. This is important in those cases where the support obligation is determined from an individual's *net* income.
3. The LES reflects pay increases and bonuses paid to the member of the military. However, most bonuses are paid at the field level and are not processed by DFAS. As a result, the bonus is noted on the LES retroactively. This means that the bonus generally does not appear in the earnings for the active pay period (line #33) but can be identified using the year-to-date earnings (line #34).
4. Because it is available income, a tribunal may consider bonuses for the purpose of establishing a support obligation or an arrearage payback amount. However, bonuses paid in the field are usually not attachable for the purpose of enforcing a support order since DFAS learns of the bonus only after the military member has received it. On the other hand, some bonuses are paid in installments and DFAS receives notification of the scheduled payments. As long as the member actually receives the bonus payment on the date it is scheduled, DFAS can enforce a withholding order against that lump sum bonus payment. Therefore, if a caseworker knows that a member will be receiving a lump sum bonus payment and there is an arrearage, it is advisable to send an income withholding order to DFAS.

6.4.3 The Leave and Earnings Statement

The LES is a comprehensive document that provides a wealth of information that is critical to the order establishment process. The LES has 78 separate fields that include, among other things, the following information:

- Member's name and Social Security number [fields 1 – 2]
- All pay the member receives (Base, Special, Incentive, and Bonus) [field 19]
- All allowances and entitlements the member earns [field 10]
- Member's leave balances [fields 25 – 32]
- Type(s) of dependents the member claims [field 51]
- Member's declared state of domicile [field 44]

The IV-D worker must understand how to decipher the LES information in order to determine accurately a military member's complete income. DFAS provides an excellent source of information at <http://www.dfas.mil/militarymembers.html>. For each service, DFAS has published a guide to understanding an active duty LES for that branch. Note that the various types of income are reported for the current pay period and for year-to-date. The LES also identifies whether a given source of income is taxable. Review the LES carefully to determine the true "net" or "disposable" income available to the member. For example, some allotments are voluntary (e.g., deductions for retirement accounts) and may not be appropriate reductions from gross earnings for the purpose of support guideline calculations. A caseworker should review at least six months of pay in order to get a complete financial picture.

TRAINING NOTES

What you need to say/do

1. Income tax returns are another important source of information regarding a service member's income. Remind participants that a portion of military pay (e.g., BAS, BAH) is not taxable. Therefore, although tax records may include income not reported on the member's military pay stubs, the pay stubs will report income that does not appear on the member's tax return. Emphasize the importance of reviewing *both* documents to ensure an accurate picture of the member's income.
2. Discuss the federal resources available through the FPLS and FPLS State Services Portal for obtaining military pay information.

What you need to know

The DoD Entitlement application, available through the FPLS State Services Portal, decreases the need for a caseworker to use other time-consuming methods for obtaining financial information on a service member, such a FOIA request or a subpoena. Under those methods, to obtain a copy of a member's LES, the caseworker must direct a FOIA request, or a subpoena, which has been signed by a judge, to the appropriate Defense Finance and Accounting Service Center (DFAS) office. See **Module 5** for address information. However, use of a subpoena is not recommended as it is cumbersome and puts a heavy burden on DFAS.

You should also request the member's tax returns. Many service members supplement their basic pay with investment income or second jobs. Keep in mind, however, that a portion of military pay (e.g., BAS, BAH) is not taxable. Therefore, although tax records may include income not reported on the member's military pay stubs, the pay stubs will report income that does not appear on the member's tax return. It is important to review both documents to ensure an accurate picture of the member's income.

6.4.4 Federal Resources for Obtaining Military Income Information

Payroll data about active and reserve service members and National Guardsmen is provided to the Federal Parent Locator Service (FPLS) through DoD's quarterly wage reporting to the National Directory of New Hires. Such information is then reported back to the states. In addition, caseworkers may have access to income information through the FPLS State Services Portal (SSP). The FPLS SSP is a secured internet application that provides direct access to FPLS data. One of the applications available through the SSP is the DoD Entitlement Application. This application provides monthly base pay, bonuses, and entitlement pay information. Using the application reduces the need to submit a Freedom of Information Act (FOIA) request or a subpoena if a member refuses to provide the IV-D office with a copy of a current and complete LES. Under those more time-consuming methods, the caseworker must direct the FOIA request or subpoena to the appropriate Defense Finance and Accounting Service Center (DFAS) office. See **Module 5: Obtaining Evidence from the Military**.

TRAINING NOTES

What you need to say/do

1. Lead participants through a group discussion of **Handout 6-1: LES Exercise**.
 2. When discussing 6.5, direct participants to **Module 3** for information concerning where to file the paternity and/or order establishment action in cases involving the military.
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What you need to know

1. In a nutshell, “jurisdiction” is the legal authority of a tribunal (court or administrative agency) over a person or thing. “Venue” is the particular county or city in which a tribunal with jurisdiction may hear and determine a case.
2. Long arm jurisdiction is based upon the existence of sufficient “minimum contacts” between an out-of-state individual and a state so that is fair to make the nonresident subject to the power of that state’s tribunals. An example of long arm jurisdiction occurs when a nonresident has intercourse in a state and a child may have been conceived as a result of that act of intercourse. In this example, the act of intercourse within the state is sufficient “minimum contact” on the part of the nonresident to make that person subject to the jurisdiction of that state’s tribunals.

6.4.5 LES Exercise

Refer to **Handout 6-1: LES Exercise**, which is in the Appendix. The trainer will facilitate a group discussion of this exercise.

6.5 WHERE TO FILE CHILD SUPPORT ORDER ESTABLISHMENT PROCEEDINGS

The decision regarding where to file the establishment action in a case involving a member of the military is governed by the same legal rules that apply to cases not involving the military. These legal rules are “jurisdiction” and “venue.”

Jurisdiction is discussed in **Module 3**. Venue is the specific subdivision in a state where a proceeding may be filed.

In most cases, when the military member is living and working inside the United States, there are at least two states with personal jurisdiction over the member for the purpose of a support establishment proceeding. These two states are the member’s state of legal domicile (noted on the member’s LES at field 44) and the state where the military member is currently living and working. In cases when the member is living and working outside of the United States, the rules of jurisdiction and venue continue to decide where to file the establishment action. In a case where the member is assigned to an overseas duty station, a state will need to assert personal jurisdiction upon some factor other than physical residence. The Uniform Interstate Family Support Act (UIFSA) is the law in every state. It lists a number of acts that can provide the basis for a state to assert long arm jurisdiction over a nonresident. If a state has long arm jurisdiction over a military member, a tribunal can legitimately require the member -- who does not reside within that state — to “appear” before the tribunal (note that appearance does not necessarily require physical appearance and SCRA protections may apply). Because this decision is a legal one, a IV-D program attorney should resolve any questions regarding where to file an establishment action.

TRAINING NOTES

What you need to do/say

1. Direct participants to **Handout 6-2: Review Exercises**. Divide them into groups of four and allow them 15-20 minutes to complete the exercises. At the end of that time, facilitate a group discussion of the exercises.
 2. After completion of the exercises, display **PowerPoint Slide 6-11: Summary**.
 3. Respond to any remaining questions.
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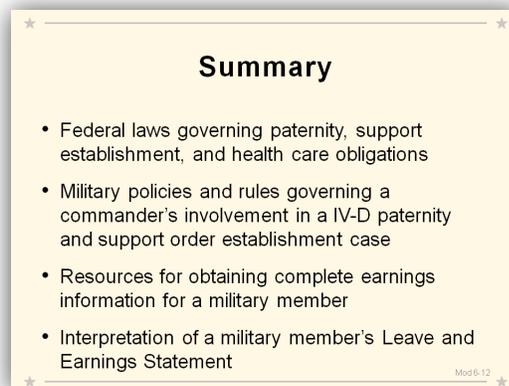
What you need to know

The specific laws, procedures, and child support guidelines that apply in an establishment action (in both military and non-military cases alike) are those of the forum state, the state that is conducting the establishment action. This is true in both intrastate and interstate fact patterns.

6.6 EXERCISES

The trainer will facilitate a discussion of **Handout 6-2: Review Exercises**.

6.7 SUMMARY OF MODULE 6



In this module, we discussed:

- federal regulations governing paternity establishment, order establishment, and health care obligations,
- military policies and rules governing a commander's involvement in a IV-D paternity and support order establishment case,
- resources for obtaining complete earnings information for a military member, and
- interpretation of a military member's *Leave and Earnings Statement*.

TRAINING NOTES

What you need to do/say

Inform participants of the topics that **Module 7** will explore.

What you need to know

6.8 PREVIEW OF MODULE 7

In the next module, we will discuss the following topics:

- federal child support enforcement regulations,
- military policies and rules governing a commander's involvement in the enforcement of financial and medical child support obligations,
- laws and procedures for attaching military income (active duty, reserve duty, and retired), and
- termination of enforcement activity when the support obligation terminates.