

CRS Report for Congress

Received through the CRS Web

Child Support Enforcement: Program Basics

Carmen Solomon-Fears
Specialist in Social Legislation
Domestic Social Policy Division

Summary

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act) to help strengthen families by securing financial support for children from their noncustodial parent on a consistent and continuing basis and by helping some families to remain self-sufficient and off public assistance by providing the requisite CSE services. Over the years, CSE has evolved into a multifaceted program. While cost-recovery still remains an important function of the program, its other aspects include service delivery and promotion of self-sufficiency and parental responsibility. In FY2004, the CSE program collected \$21.9 billion in child support payments and served 15.9 million child support cases. However, the program still collects only 18% of child support obligations for which it has responsibility and collects payments for only 51% of its caseload. This report will be updated to reflect new data or program developments.

Background

The CSE program, Part D of Title IV of the Social Security Act, was enacted in January 1975 (P.L. 93-647). The CSE program is administered by the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS), and funded by general revenues. All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands operate CSE programs and are entitled to federal matching funds.¹ Families receiving Temporary Assistance to Needy Families (TANF) benefits (Title IV-A), foster care payments, or Medicaid coverage automatically qualify for CSE services free of charge. Other families must apply for CSE services, and states must

¹ States were historically required to provide CSE services to Indian tribes and tribal organizations as part of the CSE caseloads. The 1996 welfare reform law (P.L. 104-193) allowed direct federal funding of tribal CSE programs at a 90% federal matching rate. Currently, nine Indian Tribes or tribal organizations operate CSE programs. They are the Chickasaw Nation, Navajo Nation, Puyallup Tribe, Sisseton-Wahpeton Sioux Tribe, Lac du Flambeau Tribe, Menominee Tribe, Port Gamble S'Klallam, Lummi Nation, and the Forest County Potawatomi.

charge an application fee that cannot exceed \$25.² Child support collected on behalf of nonwelfare families goes to the family, usually through the state disbursement unit. Collections on behalf of families receiving cash TANF block grant benefits are used to reimburse state and federal governments for TANF payments made to the family.

Between FY1978 and FY2004, child support payments collected by CSE agencies increased from \$1 billion in FY1978 to \$21.9 billion in FY2004, and the number of children whose paternity was established or acknowledged increased from 111,000 to 1.606 million. However, the program still collects only 18% of child support obligations for which it has responsibility³ and collects payments for only 51% of its caseload. OCSE data indicate that in FY2004, paternity had been established or acknowledged for about 80% of the 10 million children on the CSE caseload without legally identified fathers. The CSE program is estimated to handle at least 50% of all child support cases; the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between the parents.

Child Support Data — FY2004 (Preliminary)

Total CSE caseload	<i>Total</i> , 15.9 million; <i>TANF</i> , 2.6 million; <i>former-TANF</i> , 7.3 million; <i>never-TANF</i> , 5.9 million
Total CSE collections	<i>Total</i> , \$21.861 billion; <i>TANF</i> families, \$1.105 billion (plus \$1.9 billion on behalf of Medicaid-only families); <i>former-TANF</i> , \$9.359 billion; <i>never-TANF</i> , \$9.505 billion
Payments to families	<i>Total</i> , \$19.7 billion; <i>TANF</i> , \$179 million (plus \$1.9 billion on behalf of Medicaid-only families); <i>former-TANF</i> , \$8.1 billion; <i>never-TANF</i> , \$9.5 billion
Federal share of TANF collections	\$1.147 billion
State share of TANF collections	\$927 million
Medical support payments	\$111 million
Total CSE expenditures	\$5.322 billion; <i>federal share</i> , \$3.519 billion, <i>state share</i> , \$1.803 billion
Incentive payments to states	\$361 million (estimate); maximum statutory amount \$454 million
Paternities established and acknowledged	1,606,303
Support orders established	1,181,012 (includes only new orders; excludes modifications)
Collections made	For 8,133,646 <i>total</i> families; <i>TANF</i> families, 781,188; <i>former-TANF</i> families, 3,852,255; <i>never-TANF</i> families, 3,500,203

Source: Table prepared by the Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Note: Some totals are imprecise because of rounding.

² P.L. 109-171, effective October 1, 2006, requires families that have never been on TANF to pay a \$25 annual user fee when child support enforcement efforts on their behalf are successful (i.e., at least \$500 annually is collected on their behalf).

³ In FY2004, \$130.3 billion in child support obligations (\$28.0 billion in current support and \$102.4 billion in past-due support) was owed to families receiving CSE services, but only \$23.2 billion was paid (\$16.5 billion current, \$6.7 billion past-due).

Program Elements

The CSE program provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of support orders, (5) collection of support payments, (6) distribution of support payments, and (7) establishment and enforcement of medical support.⁴

Locating Absent Parents. To improve the CSE agency's ability to locate absent parents, states are required to have automated registries of child support orders that contain records of each case in which CSE services are being provided and all new or modified child support orders. The state registry includes a record of the support owed under the order, arrearages, interest or late penalty charges, amounts collected, amounts distributed, the child's date of birth, and any liens imposed; and also includes standardized information on both parents, such as name, Social Security number, date of birth, and case identification number. States also must establish an automated directory of new hires containing information from employers, including federal, state, and local governments and labor organizations, for each newly hired employee, that includes the name, address and Social Security number of the employee and the employer's name, address, and tax identification number. This information generally is supplied to the state new hires directory within 20 days after the employee is hired. Moreover, federal law required the establishment of a federal case registry of child support orders and a national directory of new hires.⁵ The federal directories consist of information from the state directories and federal agencies, and are located in the Federal Parent Locator Service (FPLS).

Federal law allows all states to link up to an array of databases, and permits the FPLS to be used for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; and enforcing child custody or visitation orders.⁶ Federal law requires that a designated state agency, directly or by

⁴ Medical child support can take several forms. A noncustodial parent may be ordered to provide health insurance if available through his or her employer, pay for private health insurance premiums, or reimburse the custodial parent for all or a portion of the costs of health insurance obtained by the custodial parent. Federal law requires every child support order to include a provision for health care coverage. States are required to include provisions for health care coverage in their child support guidelines, and the CSE program is required to pursue private health care coverage when such coverage is available through a noncustodial parent's employer at a reasonable cost. P.L. 109-171 requires that medical support for a child be provided by either or both parents and that it must be enforced. It authorizes the state CSE agency to enforce medical support against a custodial parent whenever health care coverage is available to the custodial parent at reasonable cost. Moreover, it stipulates that medical support may include health care coverage (including payment of costs of premiums, co-payments, and deductibles) and payment of medical expenses incurred on behalf of a child.

⁵ Within three business days after receipt of new hire information from the employer, the state directory of new hires is required to furnish the information to the national directory of new hires.

⁶ P.L. 104-193 permitted both custodial and certain noncustodial parents to obtain information from the FPLS. P.L. 105-33, however, prohibited FPLS information from being disclosed to noncustodial parents in cases where there is evidence of domestic violence or child abuse, and the local court determines that disclosure may result in harm to the custodial parent or child.

contract, conduct automated comparisons of the Social Security numbers reported by employers to the state directory of new hires and the Social Security numbers of CSE cases that appear in the records of the state registry of child support orders. Federal law requires the HHS Secretary to conduct similar comparisons of the federal directories.⁷ Automation is critical to the operation and success of the CSE program.⁸

Paternity Establishment. Legally identifying the father is a prerequisite for obtaining a child support order. Under federal law TANF block grant applicants and recipients are required to cooperate in establishing paternity or obtaining support payments. Moreover, a penalty for noncooperation exists — if it is determined that an individual is not cooperating and the individual does not qualify for any good cause or other exception, then the state must reduce the family's TANF benefit by at least 25% and may remove the family from the TANF program. Federal law also (1) requires that paternity be established for 90% of the CSE cases needing such a determination, (2) requires a simple civil process for establishing paternity, (3) requires a uniform affidavit to be completed by men voluntarily acknowledging paternity and entitles the affidavit to full faith and credit in any state, (4) stipulates that a signed acknowledgment of paternity be considered a legal finding of paternity unless it is rescinded within 60 days, and thereafter may be challenged in court only on the basis of fraud, duress, or material mistake of fact, (5) provides that no judicial or administrative action is needed to ratify an acknowledgment that is not challenged, and (6) requires all parties to submit to genetic testing in contested paternity cases. (See CRS Report RL31467, *Paternity Establishment: Child Support and Beyond*, by Carmen Solomon-Fears.)

Establishment of Child Support Orders. A child support order legally obligates noncustodial parents to provide financial support for their children and stipulates the amount of the obligation (current monthly obligation plus arrearages, if any) and how it is to be paid. A child support order is usually established at the time of divorce or when a welfare case is initiated. The 1988 child support amendments (P.L. 100-485) required states to use their state-established guidelines in establishing child support orders. States decide child support amounts based on the noncustodial parent's income or based on both parents' income; other factors include the age of child, whether a stepparent is in the home, whether the child is disabled, and the number of siblings.

⁷ When a match occurs, the state directory of new hires is required to report to the state CSE agency the name, date of birth, Social Security number of the employee, and the employer's name, address, and identification number. Within two business days, the CSE agency then instructs appropriate employers to withhold child support obligations from the employee's paycheck, unless the employee's income is not subject to income withholding.

⁸ Federal CSE law requires suspension of all federal CSE payments to the state when its CSE plan, after appeal, is disapproved. Moreover, states without approved CSE plans could lose funding for the TANF block grant. P.L. 105-200 imposed substantially smaller financial penalties on states that failed to meet the automated data systems requirements. The HHS Secretary is required to reduce the amount the state would otherwise have received in federal child support funding by the penalty amount for the fiscal year in question. The penalty amount percentage is 4% in the case of the first year of noncompliance (FY1998); 8% in the second year (FY1999); 16% in the third year (FY2000); 25% in the fourth year (FY2001); and 30% in the fifth or any subsequent year.

Review and Modification of Support Orders. Without periodic modifications, child support obligations can become inadequate or inequitable. Under current law, states generally must review child support orders every three years to determine if the order should be adjusted to reflect the parent's financial circumstances.⁹

Enforcement. Collection methods used by state CSE agencies include income withholding,¹⁰ intercept of federal and state income tax refunds, intercept of unemployment compensation, liens against property, reporting child support obligations to credit bureaus, intercept of lottery winnings, sending insurance settlement information to CSE agencies, authority to withhold or suspend driver's licenses, professional licenses, and recreational and sporting licenses of persons who owe past-due support, and authority to seize assets of debtor parents held by public or private retirement funds and financial institutions. Moreover, federal law authorizes the Secretary of State to deny, revoke, or restrict passports of debtor parents. All jurisdictions also have civil or criminal contempt-of-court procedures and criminal nonsupport laws. In addition, federal criminal penalties may be imposed in certain cases. Federal law also requires states to enact and implement the Uniform Interstate Family Support Act (UIFSA), and expand full faith and credit procedures. Federal law also provides for international enforcement of child support.¹¹

Financing. The federal government reimburses each state 66% of the cost of operating its CSE program. However, it reimburses states at a higher 90% matching rate for the laboratory costs of establishing paternity.¹² In addition, the federal government pays states an incentive payment to encourage them to operate effective programs.¹³ Federal law requires states to reinvest CSE incentive payments back into the CSE program or related activities.¹⁴

⁹ If a noncustodial parent cannot pay his or her child support payments because of unemployment, imprisonment, etc., then the noncustodial parent must immediately contact the court in order to have the child support order modified. Pursuant to federal law, the court will not be able to retroactively reduce the back payments (i.e., arrearages) that the noncustodial parent owes.

¹⁰ There are three exceptions to the immediate income withholding rule: (1) if one of the parties demonstrates, and the court (or administrative process) finds that there is good cause not to require immediate withholding, (2) if both parties agree in writing to an alternative arrangement, or (3) at the HHS Secretary's discretion, if a state can demonstrate that the rule will not increase the effectiveness or efficiency of the state's CSE program.

¹¹ The CSE program has reciprocating agreements regarding the enforcement of child support with 10 countries: Australia, Canada, Czech Republic, Ireland, Netherlands, Norway, Poland, Portugal, Slovak Republic, and Switzerland.

¹² P.L. 109-171 stipulates that the 90% federal matching rate for laboratory costs associated with paternity establishment is to be reduced to 66% beginning October 1, 2006.

¹³ The CSE incentive payment — which is based in part on five performance measures related to establishment of paternity and child support orders, collection of current and past-due child support payments, and cost-effectiveness — was statutorily set by P.L. 105-200. In the aggregate, incentive payments to states may not exceed \$458 million for FY2006, \$471 million for FY2007, and \$483 million for FY2008 (to be increased for inflation in years thereafter).

¹⁴ P.L. 109-171, effective October 1, 2007, prohibits federal matching of state expenditure of federal CSE incentive payments. This means that CSE incentive payments that are received by states and reinvested in the CSE program are not eligible for federal reimbursement.

Collection and Disbursement. All states are required to have a centralized automated state collection and disbursement unit to which child support payments are paid and from which they are distributed. Federal law generally requires employers to remit to the state disbursement unit (SDU) income withheld within seven business days after the employee’s payday. Further, the SDU is required to send child support payments to custodial parents within two business days of receipt of such payments.

Distribution of Support. Distribution rules determine which claim is paid first when a child support collection occurs. The order of payment of the child support collection is important because in many cases arrearages are never fully paid. While the family receives TANF cash benefits, the states and federal government retain any current support and any assigned arrearages collected up to the cumulative amount of TANF benefits paid to the family. While states may pay their share of collections to the family, they must pay the federal government the federal government’s share of child support collections collected on behalf of TANF families. This means that the state, and not the federal government, bears the entire cost of any child support passed through to families (and disregarded by the state in determining the family’s TANF cash benefit).¹⁵

States must distribute to former TANF families the following child support collections first before the state and the federal government are reimbursed (the “family-first” policy): (1) all current child support, (2) any child support arrearages that accrue after the family leaves TANF (these arrearages are called never-assigned arrearages), plus (3) any arrearages that accrued before the family began receiving TANF benefits. An exception to this rule occurs when child support arrearages are collected via the federal income tax refund offset program — those collections are divided between the state and federal government.¹⁶ (Any child support arrearages that accrue during the time the family is on TANF belong to the state and federal government.)

Visitation Grants and Responsible Fatherhood Initiatives

Historically, Congress has agreed that visitation and child support should be legally separate issues, and that only child support should be under the purview of the CSE program. Both federal and state policymakers have maintained that denial of visitation rights should be treated separately, and should not be considered a reason for stopping child support payments. However, in recognition of the negative long-term consequences for children associated with the absence of their father P.L. 104-193 (enacted in 1996) provided \$10 million per year for grants to states for access and visitation programs, including mediation, counseling, education, and supervised visitation. P.L. 109-171 (enacted February 8, 2006) provides \$50 million per year for five years in competitive grants for responsible fatherhood initiatives to states, territories, Indian tribes and tribal organizations, and public and nonprofit organizations, including religious organizations.

¹⁵ P.L. 109-171 helps states pay for the cost of their CSE pass-through and disregard policies by requiring the federal government to share in the costs of the entire amount of child support collections passed through and disregarded by states.

¹⁶ P.L. 109-171 gives states the option of distributing to former TANF families the full amount of child support collected on their behalf (i.e., both current support and all child support arrearages — including arrearages collected through the federal income tax refund offset program).