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Child Support Enforcement: Program Basics

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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 FY2012, the CSE program collected \$27.7 billion in child support payments and served nearly 15.7 million child support cases. However, the program still collects only 63% of current child support obligations for which it has responsibility and collects payments for only 59% of its caseload.

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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 for Needy Families (TANF) benefits (Title IV-A of the Social Security Act), foster care payments (Title IV-E of the Social Security Act), or Medicaid coverage (Title XIX of the Social Security Act) automatically qualify for CSE services free of charge.² Collections on behalf of families receiving cash TANF block grant benefits are used, in part, to reimburse state and federal governments for TANF payments made to the family. Other families must apply for CSE services, and states must charge an application fee that cannot exceed \$25.³ Child support collected on behalf of nonwelfare families goes to the family, usually through the state disbursement unit.

Between FY1978 and FY2012, child support payments collected by CSE agencies increased from \$1 billion in FY1978 to \$27.7 billion in FY2012, and the number of children whose paternity was established or acknowledged increased from 111,000 to 1.658 million. However, the program still collects only 19% of child support obligations for which it has responsibility if arrearage payments are taken into account (otherwise, 63%)⁴ and collects payments for only about 59% of its caseload. OCSE data indicate that in FY2012, paternity had been established or acknowledged for 95% of the 11.1 million children on the CSE caseload without legally identified fathers.⁵ The CSE program is estimated to handle 50%-60% of all child support cases; the remaining cases are handled by private attorneys, collection agencies, or through mutual agreements between the parents.

¹ States were historically required to provide CSE services to Indian tribes and tribal organizations as part of their CSE caseloads. In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, pursuant to the 1996 welfare reform law (P.L. 104-193), the CSE program provides direct federal funding equal to 100% of approved and allowable CSE expenditures during the start-up period, provides 90% federal funding for approved CSE programs operated by tribes or tribal organizations during the first three years of full program operation, and provides 80% federal funding thereafter. As of June 2013, 51 Indian tribes or tribal organizations operated comprehensive tribal CSE programs and 9 Indian tribes or tribal organizations operated start-up tribal CSE programs (<http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20Program%20Directory.pdf>). For additional information, see CRS Report R41204, *Child Support Enforcement: Tribal Programs*, by Carmen Solomon-Fears.

² In addition, families who are required by the state Supplemental Nutrition Assistance Program (SNAP) to cooperate with the CSE agency automatically qualify for CSE services free of charge.

³ P.L. 109-171, effective October 1, 2006, requires families who 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). For more information on the CSE annual user fee, see CRS Report RS22753, *Child Support Enforcement: \$25 Annual User Fee*, by Carmen Solomon-Fears.

⁴ In FY2012, \$148.3 billion in child support obligations (\$33.7 billion in current support and \$114.6 billion in past-due support) was owed to families receiving CSE services, but only \$28.9 billion was paid (\$21.2 billion current, \$7.7 billion past-due).

⁵ For more information regarding FY2012 data on the CSE program, see <http://www.acf.hhs.gov/programs/css/resource/fy2012-preliminary-report#tables>.

Table I. Child Support Data—FY2012 (Preliminary)

Total CSE caseload	<i>Total</i> , 15.8 million; <i>TANF</i> , 1.9 million; <i>former-TANF</i> , 6.8 million; <i>never-TANF</i> , 7.0 million
Total CSE collections	<i>Total</i> , \$27.719 billion; <i>TANF</i> families, \$0.961 billion; <i>former-TANF</i> , \$8.889 billion; <i>never-TANF</i> , \$11.759 billion (plus \$6.111 billion on behalf of Medicaid-only families)
Payments to families	<i>Total</i> , \$25.6 billion; <i>TANF</i> , \$164 million; <i>former-TANF</i> , \$7.8 billion; <i>never-TANF</i> , \$11.6 billion (plus \$5.9 billion on behalf of Medicaid-only families)
Federal share of TANF collections	\$923 million
State share of TANF collections	\$640 million
Medical support payments	\$423 million
Total CSE expenditures	\$5.661 billion; <i>federal share</i> , \$3.407 billion, <i>state share</i> , \$2.254 billion
Incentive payments to states (estimated)	\$450 million
Paternities established and acknowledged	1,658,287
Support orders established	1,204,644 (includes only new orders; excludes modifications)
Collections made	For 9,215,021 <i>total</i> families; <i>TANF</i> families, 659,678; <i>former-TANF</i> families, 3,934,848; <i>never-TANF</i> families, 4,620,495

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.

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 child support orders, (5) collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support.⁶

⁶ 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. 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 required 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 for a child. (For additional information on medical child support, see CRS Report R43020, *Medical Child Support: Background and Current Policy*, by Carmen Solomon-Fears.)

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.⁷ The federal directories consist of information from the state directories and federal agencies (located in the Federal Parent Locator Service, or 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.⁸ Federal law requires that a designated state agency, directly or by 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.⁹ Automation is critical to the operation and success of the CSE program.¹⁰

Paternity Establishment

Legally identifying the father is a prerequisite for obtaining a child support order. Federal law requires TANF applicants and recipients to cooperate in establishing paternity or obtaining

⁷ 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. (For additional information, see CRS Report RS22889, *The National Directory of New Hires*, by Carmen Solomon-Fears.)

⁸ 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.

⁹ When a match occurs, the state directory of new hires is required to report to the state CSE agency the name, address, and 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.

¹⁰ Federal law requires suspension of all federal CSE funding 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 CSE 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.

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 eliminate it entirely. 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 an 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.

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 and how it is to be paid. It is usually established at the time of divorce or when an unmarried couple dissolves their relationship or when a welfare case is initiated. 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.

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.¹¹

Enforcement

Collection methods used by state CSE agencies include income withholding,¹² 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,

¹¹ If a noncustodial parent cannot pay his or her child support payments because of unemployment, imprisonment, and so forth, then the noncustodial parent should immediately contact the court in order to have the child support order modified. Pursuant to federal law (Section 466(a)(9) of the Social Security Act), the court will not be able to retroactively reduce the back payments (i.e., arrearages) that a noncustodial parent owes.

¹² 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.

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.¹³

Financing¹⁴

The federal government reimburses each state 66% of the cost of operating its CSE program.¹⁵ In addition, the federal government pays states an incentive payment to encourage them to operate effective programs.¹⁶ Federal law requires states to reinvest CSE incentive payments back into the CSE program or related activities.¹⁷

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 arrearages¹⁸ collected up to the

¹³ The CSE program has reciprocating agreements regarding the enforcement of child support with 15 countries: Australia, Canada, Czech Republic, El Salvador, Finland, Hungary, Ireland, Israel, Netherlands, Norway, Poland, Portugal, Slovak Republic, Switzerland, and the United Kingdom of Great Britain and Northern Ireland.

¹⁴ For additional information on the financing of the CSE program, see CRS Report RL33422, *Analysis of Federal-State Financing of the Child Support Enforcement Program*, by Carmen Solomon-Fears.

¹⁵ P.L. 109-171 stipulated that the 90% federal matching rate for laboratory costs associated with paternity establishment would be reduced to 66% beginning October 1, 2006.

¹⁶ 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). Aggregate incentive payments to states are capped at \$526 million for FY2012 and estimated to amount to \$465 million. For additional information on CSE incentive payments, see CRS Report RL34203, *Child Support Enforcement Program Incentive Payments: Background and Policy Issues*, by Carmen Solomon-Fears.

¹⁷ P.L. 109-171, effective October 1, 2007, prohibited federal matching of state expenditure of federal CSE incentive payments. However, P.L. 111-5 required HHS to temporarily provide federal matching funds (in FY2009 and FY2010) on CSE incentive payments that states reinvest back into the CSE program. Thus, CSE incentive payments that are received by states and reinvested in the CSE program are no longer eligible for federal reimbursement.

¹⁸ The child support assignment covers any child support that accrues while the family receives cash TANF benefits, as well as any child support that accrued before the family started receiving TANF benefits. Pursuant to P.L. 109-171 (effective October 1, 2009, or at state option, October 1, 2008), the assignment only covers child support that accrues while the family receives TANF.

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. 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 (up to \$100 per month for one child; up to \$200 per month for two or more children) of child support collections passed through and disregarded by states in determining the family's TANF cash benefit. Based on February 2012 data, 19 states and the District of Columbia have a CSE pass-through and disregard policy and 31 states (and the 3 territories of Guam, Puerto Rico, and the Virgin Islands) do not.¹⁹

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.²⁰ (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 Programs

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 provided an annual entitlement of \$10 million from the federal CSE budget account for grants to states for access and visitation programs, including mediation, counseling, education, and supervised visitation.

P.L. 109-171 provided \$50 million per year for five years (FY2006-FY2010) in competitive grants (under Title IV-A of the Social Security Act) for responsible fatherhood programs to states, territories, Indian tribes and tribal organizations, and public and nonprofit organizations, including religious organizations.

P.L. 111-291 (enacted December 8, 2010) extended funding for the Title IV-A Healthy Marriage and Responsible Fatherhood grants through FY2011. For FY2011, P.L. 111-291 appropriated \$75 million for awarding funds for healthy marriage promotion activities and \$75 million for awarding funds for activities promoting responsible fatherhood. The result is that the Title IV-A

¹⁹ National Conference of State Legislatures, *State Policies Regarding Pass-Through and Disregard of Current Month's Child Support Collected for Families Receiving TANF-Funded Cash Assistance*, Updated February 2012.

²⁰ 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). This provision took effect on October 1, 2009, or October 1, 2008, at state option.

Healthy Marriage and Responsible Fatherhood grants, which were funded at \$150 million annually from FY2006 through FY2010, were funded for an additional year (FY2011) on an equal basis. Since then, several appropriation laws have extended funding for the Healthy Marriage and Responsible Fatherhood grant programs (\$150 million annually divided equally between the two programs). P.L. 113-76 (enacted January 17, 2014), extended funding for the Healthy Marriage and Responsible Fatherhood grant programs (at their FY2013 funding level) through the end of FY2014. (For more information on responsible fatherhood programs, see CRS Report RL31025, *Fatherhood Initiatives: Connecting Fathers to Their Children*, by Carmen Solomon-Fears.)

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