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Child Support Enforcement: \$25 Annual User Fee

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Summary

P.L. 109-171, the Deficit Reduction Act of 2005, required states to impose a \$25 annual user fee for Child Support Enforcement (CSE) services provided to families with no connection to the welfare system. The user fee is to be assessed if the state CSE agency collects at least \$500 in child support payments on behalf of the family in a given fiscal year. The law gives the states four options on how to obtain the user fee. According to an examination of the CSE program profiles of the 54 jurisdictions with CSE programs, 18 jurisdictions pay the fee with state funds, 4 jurisdictions get the fee from the noncustodial parent, 2 jurisdictions impose the user fee directly on the custodial parent, 29 jurisdictions impose the fee indirectly on the custodial parent by retaining the fee from the family's child support payment (after \$500 per year has been collected on behalf of the family), and 1 jurisdiction imposes the fee on both the noncustodial parent and the custodial parent via the family's child support payment.

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Background

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act). The CSE program helps 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.

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 child support. Collection methods used by state CSE agencies include income withholding, 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.

All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands operate CSE programs and are entitled to federal matching funds. The federal government and the states share CSE program costs at the rate of 66% and 34%, respectively. Families receiving Temporary Assistance to Needy Families (TANF) assistance (Title IV-A), foster care payments (Title IV-E), Medicaid coverage (Title XIX), or food stamp recipients who, at state option, are required by law to cooperate with the CSE agency, automatically qualify for CSE services free of charge.¹ Other families must apply for CSE services, and states must charge an application fee that cannot exceed \$25.²

¹ In FY2013, of the 15.6 million CSE cases, 11.5% (1.8 million) were in the TANF program, 43.2% (6.7 million) had formerly been in the TANF program, and 45.3% (7.1 million) had never been in the TANF program.

² The CSE program enacted in 1975 (P.L. 93-647) at first permitted, and then in 1984 (P.L. 98-378) required, the CSE agency to charge a one-time application fee for families not on welfare. In 1975, the law required that the application fee be reasonable, as determined by federal regulations. In 1984, the law specified that the fee could not exceed \$25. The CSE agency may charge this fee to the applicant (i.e., the custodial parent) or the noncustodial parent, or pay the fee out of state funds. In addition, a state may at its option recover costs in excess of the application fee. Such recovery of costs may be either from the custodial parent or the noncustodial parent. Although the application fee is mandatory, federal law allows the state to charge an amount that can range from 1 cent to \$25. Many of the states that charge a \$1 or less application fee do so to maximize non-TANF clients' access to CSE services. Many state CSE officials view application fees as a barrier to clients who do not have the financial means to apply for services. They also claim that fees and other charges may discourage clients from seeking services, because the fee is paid regardless of whether any child support is collected on behalf of the family. Others view application fees for non-TANF families as a way to reduce CSE program costs. The legislative history of P.L. 98-378 (S. Rept. 98-387, p. 30-31; April 9, 1984) says: "The Committee believes that this minimal fee requirement represents a reasonable way to help defray some of the costs incurred in processing the application and in providing support enforcement services. This fee would still be significantly less costly to the non-AFDC applicant than the cost of pursuing support enforcement through a private attorney."

Annual CSE User Fee

P.L. 109-171 (Section 7310), the Deficit Reduction Act of 2005 (enacted February 8, 2006), required families that have never been on the TANF program to pay a \$25 annual user fee when the CSE program collects at least \$500 in child support annually (from the noncustodial parent) on their behalf.³

P.L. 109-171 provides the state with four options on how to collect the fee. The \$25 user fee may be (1) retained by the state from child support collected on behalf of the family (but the \$25 cannot be part of the first \$500 collected in any given federal fiscal year); (2) paid by the custodial parent; (3) recovered/recouped from the noncustodial parent; or (4) paid by the state out of state funds.⁴

The intent of the \$25 user fee is to recoup in part the costs of the CSE program to the federal and state governments by decreasing CSE program expenditures.⁵ The \$25 user fee (from custodial and noncustodial parents) is considered income to the CSE program. The federal and state governments share income to the CSE program (sometimes referred to as cost recovery) at the same rate that they share program costs (i.e., 66% federal and 34% state). The Congressional Budget Office (CBO) estimated that the \$25 CSE annual user fee provision would save the federal government \$405 million and the state governments \$215 million over the nine-year period FY2007-FY2015.⁶

After the \$25 user fee was enacted, there was a lot of interest in how it would be implemented. Most of the arguments about the user fee (for and against) concerned the option that permitted states to charge the custodial parent.

Persons in favor of the mandatory \$25 annual user fee maintain that it will, to a limited extent, compensate the federal government and the states for operating a CSE program. They claim that even on top of the CSE application fee, the CSE program is still a bargain for custodial parents. They argue that there is no comparison between the nominal fees that the CSE program charges and the much higher fees that a private attorney or collection agency would charge for obtaining child support payments. They say that unlike the CSE application fee, it only applies to those who have received a certain amount of child support payments. They also point out that 71% of custodial parents had income above the poverty level (2011 Census data)⁷ and thereby could

³ Provision of a mandatory \$25 annual user fee for non-welfare CSE families has been discussed for many years. Such a proposal was included in the George H. W. Bush Administration's FY1992 budget proposals and in the George W. Bush Administration's FY2003 budget proposals. For additional information, see *States' Practices and Perspectives for Assessing Fees for Child Support Services to Applicants not Receiving Aid to Families with Dependent Children*, U.S. Department of Health and Human Services, Office of Inspector General, July 8, 1992 <http://oig.hhs.gov/oas/reports/region6/69100048.pdf>. Also see *Feasibility of Collecting Fees for Child Support Services*, by Carol Welch, Washington State, Department of Social and Health Services, Division of Child Support, Fiscal Management, June 2001, <http://www1.dshs.wa.gov/pdf/esa/dcs/reports/feestudy.pdf>.

⁴ If the \$25 annual user fee is paid by the state out of state funds, it is not considered an administrative cost of the CSE program and thus is not eligible for 66% federal matching funds.

⁵ In FY2013, CSE program expenditures amounted to nearly \$5.6 billion; child support payments collected from noncustodial parents by CSE agencies totaled \$28.0 billion.

⁶ Congressional Budget Office, *Cost Estimate of S. 1932 (Deficit Reduction Act of 2005)*, January 27, 2006, p. 55 and p. 60.

⁷ U.S. Census Bureau, *Custodial Mothers and Fathers and Their Child Support: 2011*, by Timothy S. Grall, P60-246, (continued...)

probably afford to pay the user fee without it negatively affecting their standard of living. In addition, they assert that it is normal practice to charge a fee or user charge for services rendered.

Persons opposed to the mandatory \$25 annual user fee (that is imposed on the custodial parent) contend that it treats similarly situated families in an unequal manner. They argue that a low-income custodial parent who has not had to go on welfare needs child support just as much as a custodial parent who formerly was on welfare (i.e., the TANF program). They contend that the \$25 annual fee would impose a new surcharge on working poor families who were previously successful in remaining self-sufficient. They contend that fees generally take away funds that otherwise could be available to the child and the family. They also point out that because the \$25 user fee is considered CSE program income, the state gets 34% of the \$25 fee (\$8.50) and the federal government gets the remaining 66% (\$16.50). They claim that the administrative cost of reprogramming a state's automated computer system to account for the fee would outweigh the financial benefit of the fee's increased income to the state. They also say that the financial benefit, if any, to the federal government would be negligible.⁸

According to the Lewin Group/ECONorthwest report entitled *Anticipated Effects of the Deficit Reduction Act Provisions on Child Support Program Financing and Performance Summary of Data Analysis and IV-D Director Calls* (July 20, 2007):

Many directors noted potential benefits of the fee, including program revenue and instilling a sense of ownership in one's child support case. Directors, though, identified more drawbacks to the fee. All directors expected the cost of programming the statewide automated system would exceed the revenue generated from the fee, at least in the short-term. This occurs at a time when they are already facing budget cuts or foregoing other project enhancements. Some expressed concern that it will take money from low-income families; others fear it will drive customers—largely consistent payers—from the program, hurting not only child support program performance but families as well. One-fourth of the surveyed directors stated that their programs would not charge the fee and would pay the federal share out of program resources.⁹

The final regulation pertaining to the \$25 CSE annual user fee includes the following comment from OCSE:

The Federal Government continues to pay 66 percent of State costs to operate child support enforcement programs. This is a generous matching rate, exceeding the administrative matching rate of other programs such as Medicaid and Food Stamps. Therefore, we do not believe that the annual fee amounts to direct compliance costs on States and local governments, nor does it have a federalism impact.¹⁰

(...continued)

October 2013, p. 4.

⁸ National Child Support Enforcement Association (NCSEA), *Resolution on \$25 Annual Fee*, June 17, 2002, see <http://www.ncsea.org/files/Resolution-AnnualFee.pdf>.

⁹ See http://www.nccsd.net/documents/nccsd_final_report_revised_2_437782.pdf.

¹⁰ *Federal Register*, vol. 73, no. 237, U.S. Department of Health and Human Services, Office of Child Support Enforcement, Final Rules, December 9, 2008, pp. 74913-74914 (<http://www.gpo.gov/fdsys/pkg/FR-2008-12-09/pdf/E8-28660.pdf#page=1>).

According to a Government Accountability Office (GAO) report:

Some CSE officials we interviewed stated that their states absorbed the \$25 service fee due to concerns that the fee would be a burden, while others said that they charged the fee to custodial parents because their states couldn't afford to absorb the fee due to budgetary constraints. Some of the latter told us that the reason they charged the service fee to custodial, rather than noncustodial, parents was because it was easier administratively. A few also reported that families affected by the fee had voiced little opposition to it.¹¹

Implementation of CSE User Fee

The provision mandating a \$25 annual user fee became effective on October 1, 2006. However, some states had to enact the provision into state law before they could impose the mandatory \$25 user fee. The proposed regulations on the user fee were published in January 2007.¹² The final regulations were published on December 9, 2008, and became effective on February 9, 2009.¹³

Table 1 is based on an examination of the CSE program profiles of the 54 jurisdictions with CSE programs.¹⁴ As of July 2014, of the 54 jurisdictions with CSE programs, 18 jurisdictions pay the fee with state funds, 4 jurisdictions get the fee from the noncustodial parent, 2 jurisdictions impose the user fee directly on the custodial parent, 29 jurisdictions impose the fee indirectly on the custodial parent by retaining the fee from the family's child support payment (after \$500 per year has been collected on behalf of the family), and 1 jurisdiction imposes the fee on both the noncustodial parent (directly) and the custodial parent (indirectly) via the family's child support payment.

Table 1. Method By Which \$25 CSE Annual User Fee Is Imposed

State	Fee Paid by State Out of State Funds	Fee Paid by Noncustodial Parent	Fee Paid by Custodial Parent	Fee Paid Out of Child Support Payment
Alabama				X
Alaska	X			
Arizona				X
Arkansas			X	
California				X
Colorado				X
Connecticut				X

¹¹ U.S. Government Accountability Office, *Child Support Enforcement: Departures from Long-term Trends in Sources of Collections and Caseloads Reflect Recent Economic Conditions*, GAO-11-196, January 2011, p. 24.

¹² *Federal Register*, vol. 72, no. 15, January 24, 2007, Child Support Enforcement Program, pp. 3093-3102. The proposed regulations can be found at <http://www.acf.dhhs.gov/programs/cse/pol/AT/2007/at-07-01.htm>.

¹³ *Federal Register*, vol. 73, no. 237, Department of Health and Human Services, Office of Child Support Enforcement, Final Rules, December 9, 2008, pp. 74898-74921 (<http://www.gpo.gov/fdsys/pkg/FR-2008-12-09/pdf/E8-28660.pdf#page=1>).

¹⁴ These state/jurisdiction profiles are provided by the states/jurisdictions to the federal Office of Child Support Enforcement (OCSE).

State	Fee Paid by State Out of State Funds	Fee Paid by Noncustodial Parent	Fee Paid by Custodial Parent	Fee Paid Out of Child Support Payment
Delaware				X
District of Columbia	X			
Florida	X			
Georgia ^a		X		X
Guam	X			
Hawaii				X
Idaho				X
Illinois	X			
Indiana		X		
Iowa				X
Kansas	X			
Kentucky				X
Louisiana				X
Maine				X
Maryland ^b	X			
Massachusetts	X			
Michigan	X			
Minnesota				X
Mississippi		X		
Missouri		X		
Montana	X			
Nebraska				X
Nevada				X
New Hampshire				X
New Jersey	X			
New Mexico	X			
New York				X
North Carolina				X
North Dakota				X
Ohio		X		
Oklahoma				X
Oregon				X
Pennsylvania ^c	X			
Puerto Rico	X			
Rhode Island	X			
South Carolina			X	

State	Fee Paid by State Out of State Funds	Fee Paid by Noncustodial Parent	Fee Paid by Custodial Parent	Fee Paid Out of Child Support Payment
South Dakota	X			
Tennessee				X
Texas				X
Utah				X
Vermont	X			
Virgin Islands				X
Virginia				X
Washington				X
West Virginia	X			
Wisconsin				X
Wyoming				X

Source: Table prepared by the Congressional Research Service on July 28, 2014, based on data from the Office of Child Support Enforcement website (Intergovernmental Reference Guide (IRG)—<https://ocsp.acf.hhs.gov/irg/profileQuery.html>).

- a. Georgia requires \$13 from the noncustodial parent (to be paid in monthly installments) and \$12 from the child support payment (after the \$500 threshold has been met) at a rate of \$1 per month.
- b. Maryland pays the \$25 CSE annual user fee out of state funds for cases in which the annual child support collection is between \$500 and \$3,499.99. If the annual child support collection is \$3,500 or more, the \$25 annual CSE user fee is retained from child support payments.
- c. Pennsylvania pays the \$25 CSE annual user fee out of state funds for cases in which the annual child support collection is between \$500 and \$1,999.99. If the annual child support collection is \$2,000 or more, the \$25 annual CSE user fee is retained from child support payments.

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