

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF ECONOMIC SUPPORT
ADMINISTRATOR'S MEMO SERIES

NOTICE 99-05

ISSUE DATE: 03/11/99
DISPOSAL DATE: Ongoing

RE: CHILD SUPPORT
PERFORMANCE AND
INCENTIVE ACT OF 1998

To: Child Support Agencies
County Board Chairpersons
County Departments of Human Services Directors
County Departments of Social Services Directors
County Economic Support Managers/Lead Workers/Supervisors
Tribal Chairpersons/Human Services Facilitators
Tribal Economic Support Directors
W-2 Agencies
DES Bureau/Office Directors
Area Administrators/Assistant Area Administrators
Section Chiefs

From: J. Jean Rogers /s/
Administrator

The purpose of this *Administrator's Memo* is to inform all agencies of the Child Support Performance and Incentive Act of 1998 (CSPIA). CSPIA provides an alternative penalty procedure for states that fail to meet federal child support data processing requirements, creates a new methodology for calculating federal incentive payments based on child support performance, establishes a National Standardized Medical Support Notice, and makes minor changes to the financial institution data matching program, the maintenance of New Hire Directory information, and administrative enforcement in interstate cases. Additional information on the new methodology for calculating federal incentive payments and the National Medical Support Notice will be provided in separate *Child Support Bulletins*.

CHILD SUPPORT DATA PROCESSING

The Child Support Performance and Incentive Act of 1998 provides a specific penalty for failure to meet the statewide data system certification requirements deadline of October 1,

1997, and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) requirements due October 1, 2000. Only 17 states met the October 1, 1997, deadline. Wisconsin was among those states that received no penalty.

Wisconsin is still in the process of implementing the PRWORA requirements. If the PRWORA system modifications are not in place by October 1, 2000, the federal government will reduce the state's IV-D funding by a prescribed amount.

The penalty is calculated by taking the amount of federal reimbursement for basic program costs for the previous year and multiplying it by the applicable percentage. The applicable percentage increases each year the state fails to meet the requirements. In the first year the percentage is 4 percent; in the second year it is 8 percent; in the third year it is 16 percent; in the fourth year it is 25 percent; and, in each subsequent year it is 30 percent.

CSPIA also provides states with the ability to waive the requirement that a single statewide child support enforcement data system be established. This provision applies to states that have encountered insurmountable difficulties in meeting the single statewide data system requirement. The waiver is primarily available to states that operate a county-based child support program, have heavy local court involvement in child support, or both, and have encountered resistance at the local level that has prevented them from meeting the system certification deadlines. These states may develop locally linked systems, which meet the federal requirements, and provide seamless case processing for interstate cases and coordinated case processing for intrastate cases.

INCENTIVE PAYMENTS TO STATES

Under current law, a state's child support incentive payment from the federal government depends on the amount of its collections in Temporary Assistance for Needy Families (TANF) cases and non-TANF cases, and the cost effectiveness of its child support operations. The total incentive payment that a state receives is capped by the incentive payment for TANF collections.

The Child Support Performance and Incentive Act of 1998 eliminates the TANF collection cap on incentive payments, and awards incentives based on how a state's overall collections and five performance measures which include: paternity establishment, order establishment, current support collections, arrearage collections, and cost effectiveness (compare to the overall collections and performance of other states). Under the new formula in 42 U.S.C. 658A, states will be competing with each other based on performance for a share of an incentive payment pool. The incentive payment pool is a capped amount available to all states for incentives each federal fiscal year. The methodology for calculating a state's portion of the incentive payment pool will be outlined in an upcoming *Child Support Bulletin*.

The new federal incentive formula will be phased in over a three-year period. In Federal Fiscal Year (FFY) 2000, states will receive one-third of the amount calculated under the new incentive formula, and two-thirds of the amount calculated under the current incentive formula. In FFY 2001, states will receive two-thirds of the amount calculated under the new incentive formula, and one-third of the amount calculated under the current incentive formula. Federal incentive payments made in FFY 2002, will be based entirely on the new incentive formula.

ESTABLISHING AND ENFORCING MEDICAL SUPPORT

The Child Support Performance and Incentive Act of 1998 requires the U.S. Department of Health and Human Services (DHHS) to work with the U.S. Department of Labor to develop a National Standardized Medical Support Notice for states to use to enforce medical support orders, formulate procedures for sending the National Medical Support Notice to employers, and establish a Medical Child Support Working Group. The Medical Child Support Working Group is to identify obstacles to effective enforcement of medical support and to recommend appropriate measures to address such obstacles.

CSPIA also requires the U.S. Department of Health and Human Services to promulgate the following regulations regarding the use of the National Standardized Medical Support Notice:

- Regulations outlining the appropriate procedures for transmitting the National Medical Support Notice to employers by state IV-D agencies;
- interim regulations providing for the National Medical Support Notice by May 1999; and,
- with the U.S. Department of Labor, final regulations providing for the National Medical Support Notice no later than May 2000.

The Child Support Performance and Incentive Act of 1998 amends the Employee Retirement Income Security Act of 1974 (ERISA) to declare the National Standardized Medical Support Notice a qualified medical child support order with which a plan administrator of a group health plan or church health plan must comply. The effective date of this provision is May 1999. In addition, the Act directs the U.S. Secretary of Labor to report to certain congressional committees, by September 16, 2000, any recommendations for legislation to improve the effectiveness and enforcement of qualified medical child support orders under ERISA.

CSPIA also requires states to have statutory procedures under which all child support orders include child health care coverage that is enforced by using the National Standardized Medical Support Notice and that enrolls the child in the health care coverage of the noncustodial parent's employer. Wisconsin has statutory language that meets this requirement.

The National Medical Support Notice, and procedures for using the notice, will be provided in an upcoming *Child Support Bulletin*.

USE OF NEW HIRE INFORMATION

The Child Support Performance and Incentive Act of 1998 provides penalties for misuse of New Hire Directory information by federal employees, and limits the time data may be retained in the Directory. It also requires the Secretary of the U.S. Department of Health and Human Services to report to Congress on the purposes for which directory information will be used, and to seek approval from Congress for any future changes in the use of information in the Directory.

There are no provisions in this section that specifically change or direct operations at the state or local level.

HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT IN INTERSTATE CASES

42 U.S.C. 666 (a)(14) requires states to use high-volume automated administrative enforcement (HVAAE), to the same extent as used for intrastate cases, in response to a request from another state to enforce a child support order; and to report the results of HVAAE promptly to the requesting state. In the Balanced Budget Act of 1997, high-volume automated administrative enforcement was defined as the use of automatic data processing to search various state databases, including license records, employment service data, and state new hire registries, to determine whether information is available about a child support payer submitted by a requesting state. The Child Support Performance and Incentive Act of 1998 narrows the definition of high-volume automated administrative enforcement to mean the use of automated data matches with financial institutions and other entities where assets may be found to locate the assets of a payer submitted by a requesting state, and the seizing of those assets through levy or other appropriate processes.

DATA MATCHING WITH MULTISTATE FINANCIAL INSTITUTIONS

42 U.S.C. 666 (a)(17)(A) requires states to enter into agreements with financial institutions operating within the state to develop and operate, in coordination with such financial institutions, a data match system to locate the financial accounts of payers owing past-due support. The Child Support Performance and Incentive Act of 1998 addresses negotiating agreements to perform a data match when a financial institution is operating in two or more states. States are required to have procedures for entering into agreements with multistate financial institutions (MSFIs) within the state to develop and operate a data match system using the Federal Parent Locator Service (FPLS). The Office of Child Support Enforcement (OCSE) may help state IV-D agencies and multistate financial institutions reach agreements about receiving data, and transferring it to the state IV-D agencies, through FPLS. The Bureau of Child Support has designated OCSE as its agent for negotiating data match agreements with MSFIs.

According to the Right to Financial Privacy Act of 1978, the federal government may access or obtain copies of information contained in the financial records of any customer of a financial institution only in limited circumstances. For example, a financial institution must disclose financial record information in accordance with any federal statute or rule. The Child Support Performance and Incentive Act of 1998 specifies that a disclosure to FPLS is considered a disclosure pursuant to a federal statute. Therefore, the federal government may obtain account information from MSFIs.

CSPIA also extends the nonliability provisions in 42 U.S.C 669A to financial institutions that supply record information to FPLS. In addition to nonliability for providing record information to a state child support agency, financial institutions are not liable under any federal or state law to any person for disclosing to FPLS any financial record of an individual subject to the establishment, modification, or enforcement of a child support obligation, notwithstanding any other provision of federal or state law.

DATA REPORTING

The Child Support Performance and Incentive Act of 1998 changes the requirements for data collection by the Secretary of the U.S. Department of Health and Human Services. As a result of changes to 42 U.S.C. 652(a)(10), the Secretary is no longer required to provide the administrative costs of providing locate services, establishing paternity and orders, enforcing support orders, or distributing collections in the annual report to Congress.

Before to the changes in CSPIA, the Secretary was required to track the number of IV-D cases in which services are needed, and the number of those cases in which service is actually provided, in the areas of paternity establishment; location of a noncustodial parent for the purpose of establishing, modifying, or enforcing a child support order; and support order establishment. CSPIA narrows the data that the Secretary must track to the number of IV-D cases in which services are needed, and the number of those cases in which service is actually provided, in the areas of paternity establishment and support order establishment.

ACTION SUMMARY STATEMENTS: The Child Support Performance and Incentive Act of 1998 provides an alternative penalty procedure for States that fail to meet federal child support data processing requirements, creates a new methodology for calculating federal incentive payments based on child support performance, establishes a National Standardized Medical Support Notice, and makes minor changes to the financial institution data matching program, the maintenance of New Hire Directory information, and administrative enforcement in interstate cases.

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