



IMPACT OF THE COVID-19 PANDEMIC ON DELIVERY OF CHILD SUPPORT SERVICES

This document has been written by the Policy and Practice Committee of the National Council of Child Support Directors (NCCSD) to provide information on the impact of the COVID-19 pandemic on child support services provided to families and to analyze potential legislative and administrative ways to restore and strengthen those services during and after the pandemic. NCCSD is a nonpartisan organization comprised of the directors of the 54 state and territorial child support programs in the United States. Unless clearly expressed otherwise, this document is for informational purposes only.

Background¹

Starting in early March 2020, a significant portion of employees who provide child support services under Title IV-D of the Social Security Act were sent home on short notice for public health reasons. Existing business processes and computer connectivity were not well suited to sudden telework; many employees were sent home without a work computer or any way to resume delivery of services from home. Those working from home often had no access to paper case files to guide ongoing activity. Maintaining confidentiality of customer information in a telework environment raised many questions and challenges that needed to be resolved.

Child Support offices were not the only ones closed to the public during the pandemic. Vital records agencies and courts were also closed or working on a smaller-scale virtual basis. In many states, these agencies are key partners for Child Support in establishing and modifying paternity and child support obligations, and several months later courts are now just re-opening and only on a limited basis. With the backlog of jury trials and other criminal matters, one could expect in many cases a delay of five months or longer in holding a court hearing or obtaining a judicial decision in a child support case as a result of the pandemic. In many jurisdictions, the backlog will last well into 2021. Further, in-hospital paternity acknowledgment programs have been suspended in many areas due to restrictions on entry to hospitals and competing medical priorities. Similar closures occurred at locations used for genetic testing.

Customer Service

States responded immediately to maintain or resume the mission-critical functions of receiving and disbursing child support payments and providing ways for customers to communicate with child support. This included communication with recipient parents,

¹ See also [Resolution for Necessary Child Support Legislation Due to COVID-19 Program Impacts](#), National Child Support Enforcement Association, April 30, 2020.

parents who owe child support, employers, and others who regularly communicate with Child Support. Particularly in states where the Child Support program is administered at the county level, it was not unusual for services to be available in some parts of a state but not in others. States updated their websites with pandemic-related FAQs and reminders of electronic ways that customers could communicate with Child Support. States experienced significant increases in contact from customers during the pandemic, which posed challenges due to social distancing and telework. Customer service continues to be hampered because, as of July 21, 2020, many Child Support offices remain closed to the public.

Establishment and Enforcement Efforts

In response to the pandemic, many states stopped sanctioning recipients of public assistance benefits for failure to cooperate with child support because parents and Child Support workers were unable to exchange the necessary information to move the case forward. Paternity testing was suspended almost everywhere. Almost immediately, many states stopped or significantly limited new enforcement actions in recognition of widespread furloughs and unemployment. As Congress debated the Economic Impact Payments (EIP), states weighed whether parents who owed support should receive their EIP or if the EIP should be offset and applied to the parent's child support obligation. From prior similar payments, states knew that if an EIP offset was treated like a federal income tax refund, federal law provided that most states would need to apply the offset amount to past-due support owed to the federal and state government before the money could be disbursed to the family.²

States asked the federal Office of Child Support Enforcement (OCSE) if states had any discretion under current law or regulations to report parents as being delinquent in payments if the delinquency did not exist prior to the pandemic. Customer interest peaked at this time as parents wanted to know who could expect to receive an EIP payment on behalf of the parent who owed child support. However, the CARES Act was enacted and the offsets of the EIP were provided to states before states received a response from OCSE (ultimately, OCSE advised that states were required to report all delinquent parents for offset). The offset information provided by IRS does not distinguish the EIP from a federal income tax refund, making customer service difficult in trying to explain the status of a parent's EIP.

The interest of many states in having flexibility over whether to submit parents for federal offset stems from the recognition that, in today's complex families, both parents must be self-sufficient in order to provide emotional and financial support to their children.

There are many deadlines and timeframes in federal law and regulation regarding establishment and enforcement actions states must take. None of these deadlines or timeframes currently includes an exception for emergencies. At the end of May, OCSE

² Due to the operational and customer service issues from applying tax refund collections to current support for the month when the offset occurs but waiting to disburse the collection for up to six months for a refund under a joint return, only four states at the time had previously selected the option under federal law to distribute tax refund offset collections to the family first before satisfying assigned arrears. A fifth state adopted this approach after enactment of the CARES Act.

adopted a process under the Stafford Act where states can request waivers of some of the deadlines and timeframes for as long as the state's emergency declaration remains in place.

During the pandemic, states have seen a decline in collections from employee wage withholding, but an increase in collections from unemployment benefits. Some states could not withhold child support from the CARES Act unemployment benefits because of the limitations of antiquated state unemployment insurance computer systems. In general, based on EIP offsets and CARES Act unemployment benefits, many states report collections over the last few months that have been consistent with pre-pandemic levels, although both sources of collections are not expected to continue in the future.

Program Expenses

Many states were able to use CARES Act funding to pay for the costs related to moving to a telework environment for child support employees. Child Support is now experiencing an increase in caseloads due to single-parent families who are out of work. Yet, case management is more difficult because many of these parents are not able to cooperate with genetic testing or other requirements during the pandemic. The Child Support program needs to be more vigilant and careful about initiating a collection action against a parent who owes child support but is out of work.

Moving forward, Child Support can expect to be responsible for more cases, with uncertain productivity in a telework environment, longer delays in establishing and modifying child support obligations, and more negotiation with parents who owe child support about what can be paid and what the parent needs to be self-sufficient. The child support computer systems in many states are as old or older than the unemployment insurance systems and not easily changed nor easily adaptable to internet-based interfaces. Operating costs will increase as Child Support offices reopen to ensure staff, customers and our partners are protected in the best way possible, particularly since genetic testing requires close contact between the customer and the Child Support worker.

Ironically, states are also facing a potential increased cost in the form of a penalty under federal law for failing to achieve a paternity establishment percentage of at least 90%, which is a high threshold considering that courts have been closed or had limited access for more than three months in many states and in-hospital paternity acknowledgment processes have been interrupted.

Program Funding

Under the Child Support Performance and Incentive Act of 1998, states receive an allocation from a pool of incentive funds based on their respective performance on five federal measures, assuming the state passes a data reliability audit. The pool of funds for the most recent year was \$575,000,000. Since the Deficit Reduction Act of 2005, these incentive funds have no longer been eligible for federal match, which significantly reduced funding for the program. Under the current performance incentive system, any state with

a disproportionate decline in performance and loss of collections due to the pandemic would expect to receive less in federal incentives to maintain the program.

Incentive funds must be re-invested in the Child Support program unless a waiver is granted by OCSE. States are also required to charge fees in certain cases to offset program expenses. The remaining eligible program expenses are covered by 66% federal financial participation, which means that 34% of program expenses net of incentives and fees must be paid by state and local funds. Currently, the cost of programs to help parents who owe child support find employment is not considered an eligible program expense, although federal legislation was proposed this year before the pandemic to expand state flexibility in this area.

Collections of assigned support are shared between the state and the federal government based on the applicable FMAP rate; unfortunately, the increase of the FMAP rate in the CARES Act has been interpreted by OCSE to mean that states are allowed to keep less of these collections effectively increasing their costs.

Many states are already furloughing employees and not filling vacant positions, which exacerbates the challenge of a rising caseload and declining employment rates of parents who owe support. Federal regulations require Child Support programs to meet “minimum organizational and staffing requirements” as sufficient to carry out the requirements of the program, but do not define what the appropriate minimum level might be.³ States can ill afford much-needed updates or replacements to their aging computer systems to implement changes in program administration. Examples of these system modernizations include stronger information security, changes in distribution of child support collections to better support families, transferring electronic documents and information through websites and on-line portals, improving communication with customers by email and text, and using predictive analytics and other techniques to be more selective and timely with case-specific enforcement actions.

Items for Consideration

NCCSD understands that enactment of legislation often requires a balance among competing demands and priorities, with an interest not only in solving immediate challenges but also reducing the risk of similar challenges in the future. Child Support is one of the largest income support and anti-poverty programs for families and is uniquely positioned to reduce or avoid increases in demand for other public assistance programs.⁴ Child Support reaches more children than any other federally funded program with the exception of Medicaid and SNAP. In 2019, 14.3 million children were served by Child Support with collections totaling \$32.4 billion

The following list contains items that NCCSD supports and offers for consideration in making informed legislative decisions:

³ 45 CFR 303.20.

⁴ https://www.acf.hhs.gov/sites/default/files/programs/css/sbtn_csp_is_a_good_investment.pdf

- Required timeframes in federal law and regulation should be governed by a “good faith” standard, with extensions of time provided during a declared emergency and potentially for a recovery period after such an emergency when a state cannot meet the timeframes despite its best efforts.
- States should have more flexibility over the distribution of future EIP offsets or federal tax refund offsets to place priority for families to meet immediate needs over reimbursement to the federal and state governments. The pandemic has highlighted the limitations of existing distribution options and the need to clarify that states holding offsets from a joint return are able to apply the offset to current support owed in the month when the funds are disbursed to the family instead of the month when the offset occurs.
- States should have more flexibility to decide whether to submit parents who owe child support for EIP offset or future similar payments based on the federal income tax refund process. Parents who are cooperating with states and are unemployed for reasons outside their control can therefore receive such payments to meet their immediate needs and improve their long-term ability to pay child support. This is similar to the existing discretion states have for administrative offsets of federal payments other than federal tax refunds.
- States should have the option of providing employment services as a child support program expense using federal incentive dollars or federal financial participation, if not available through TANF or Workforce Innovation and Opportunity Act funding.
- The rate of federal financial participation for computer system changes should be raised from 66% to 90% for a temporary period, as has been done before, for states to replace or update their computer systems in light of the lessons learned during the pandemic.
- Federal incentives for 2020 and 2021 should be based on 2019 levels of state performance and incentive funds, so states hardest hit by the pandemic or experiencing one-time aberrations in performance do not lose funds as a result. The portion of the incentive pool representing the inflationary increases for 2020 and 2021 should be distributed according to actual performance so states who have increased performance despite the pandemic can receive an increased share of incentives. Alternatively, states should be able to choose between their 2019 performance or performance in 2020 or 2021 for purposes of drawing their share of incentive funds.
- Considering the avoidance of costs to other government assistance programs when child support is collected and disbursed to families, the rate of federal financial participation should be temporarily increased for the next few years to help maintain adequate funding for the child support program. Alternatively, incentive match should be restored, as was done during the previous economic downturn.
- Any temporary increase in FMAP to help support states should not be undermined by an increase in the federal share of collections of assigned support; rather, FMAP for reimbursement purposes should be set at the beginning of each fiscal year and not impacted by temporary mid-year FMAP increases (an argument offered by states to OCSE but not accepted under current law). It would provide further immediate relief to states if reimbursement of the federal share of assigned collections was waived completely for a period.

- Similar support and flexibility should be given to tribal Child Support programs, who partner with states and share many cases in common.

Conclusion

NCCSD recognizes that many programs across government have been disrupted by the current pandemic. Nevertheless, the Child Support program is one of the most impactful programs for low-income families who have been hit the hardest by the pandemic. Importantly, Child Support is one of few programs that can help mitigate the need for other government programs like TANF, Medicaid, and SNAP. This crisis has highlighted how much work is still needed to support both payers and recipients of child support, especially those with economic hardship. Two examples of such work, as discussed above, are changes to child support distribution rules and work supports for parents. The information in this document has been prepared to assist decision-makers in these uncertain and challenging times.