

Child Support Assignment and Distribution Provisions in the Deficit Reduction Act

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Assignment and Distribution: Background

- Some child support payments are retained by federal and state government to repay welfare benefits received by families.
- Child support is withheld from families who receive or formerly received TANF assistance.

Assignment and Distribution: Background

- In 2005, states collected \$23 billion in child support and retained \$2 billion as recovered welfare costs.
 - \$1.1 billion withheld from former TANF families.
 - \$0.9 billion withheld from current TANF families.

Assignment and Distribution: Background

- States share retained support with the federal government according to the state's Federal Medical Assistance Percentage (FMAP).
 - States pay between 50 and 76 percent of retained support to the federal government.
 - Poorer states pay a larger federal share.

Assignment and Distribution: Background

- Assignment and distribution rules determine whether families or states keep collected support.
 - **Assignment** rules answer the question: “Who has a claim to the child support?”
 - **Distribution** rules answer the question: “Who is first in line for payment?”

Assignment and Distribution: Background

- When may states retain child support?
 - States may retain support only to repay cash assistance in a TANF-funded program.
 - States may *not* retain support to repay “non-assistance (e.g., child care for working families).
 - States may retain support only if assistance is “paid to the family” in cash or cash-like payments.

Assignment and Distribution: Background

- Assignment and distribution rules have resulted in complicated accounting “buckets.”
- Most of the complexity results from the interaction of two rules:
 - Pre-assistance assignment
 - Federal tax offset exception

Distribution “Buckets”

- Current support assigned to state
- Current support owed to the family
- Never-assigned arrears
- Permanently-assigned arrears
- Temporarily-assigned arrears
- Conditionally-assigned arrears
- Unassigned during-assistance arrears
- Unassigned pre-assistance arrears

Summary of DRA Changes

- **Assignment:** Pre-assistance assignment is eliminated. States may conform older assignments.
- **Pass-through:** Federal share is partially waived when support is passed through to current TANF families and disregarded.
- **Federal Tax Offset:** States may eliminate IRS exception, paying support to former TANF families. Federal share is waived.

Assignment Under Existing Law

- Families applying for TANF assistance must assign (sign over) to the state support rights owed before and during assistance period.
 - Assignments of support owed while families receive TANF assistance are permanent.
 - Assignments of support owed before families apply for TANF are temporary and conditional.

Assignment Under Existing Law

- Support owed while a family receives TANF is “permanently” assigned to the state.
 - Even after a family leaves TANF, the state has a claim against permanently assigned support rights.
 - States may not keep more support than assistance paid out.

Assignment Under Existing Law

- Support owed before the TANF assistance period is “temporarily” assigned so long as a family receives assistance.
- The state may claim the pre-assistance support if collected while the family is receiving TANF.

Assignment Under Existing Law

- After the family leaves TANF, the state “conditionally” owns the rights to pre-assistance arrears.
 - The “condition” is met when the state collects arrears through an offset of federal tax refunds.
 - Otherwise, the support rights revert to the former TANF family.
 - State and family claims to the money are contingent on the collection method.

Assignment Under DRA

- Families applying for TANF must permanently assign support owed during the assistance period.
- Beginning Oct. 2009, families will no longer assign rights to pre-assistance support.
- States have options to:
 - implement a year early.
 - conform older assignments to new rules.

Distribution Under Existing Law

- While a family is receiving TANF, the state's claim to support is paid off before the family's claim.
- After a family leaves TANF, support owed to the family is paid off first, *except* for arrears collected through an IRS offset.

Current TANF Families: Distribution Under Existing Law

- Support collected during the TANF assistance period is paid to the state first.
 - A state has the option to keep the support or “pass through” some or all of the support to the family.
 - Either way, the state must pay a federal share.
 - A state may claim Maintenance of Effort (MOE) credit for the state share of passed through support to the extent of the disregard.

Current TANF Families: Distribution Under DRA

- The federal government will waive its share of support to the extent that a state passes through and disregards the support.
 - Waiver limited to \$100 support passed through per month for 1 child and \$200 for 2 children.
 - The federal share will be waived in states with pre-existing pass-through policies.
 - Effective October 1, 2008.

Former TANF Families: Distribution Under Existing Law

- In general, once a family leaves TANF, support owed to the family is paid first under “families first” ordering rules:
 - Support is distributed to the family first if collected by a method other than IRS offset.
 - Collections are distributed first to monthly support, then to arrears.

Former TANF Families: Distribution Under Existing Law

- Collections made through an IRS offset are an exception to the general “families first” rules.
 - IRS offsets are distributed to arrears only, and not to monthly support.
 - IRS offsets are paid to the state first, whether or not the family is receiving assistance.
 - IRS offsets satisfy the state’s “conditional” claim to pre-assistance support.

Former TANF Families: Distribution Under DRA

- States have the option to eliminate the IRS offset exception:
 - IRS offsets would be distributed first to monthly support, then to arrears for current and former TANF families.
 - IRS offsets would be paid to former TANF families before the state.
 - Since states will no longer have a conditional claim to pre-assistance arrears, IRS offsets will apply to a smaller state claim.

Former TANF Families: Distribution Under DRA

- States must elect old or new rules in state plan.
- If state elects the option, the federal share of collections is waived (no limits apply).
- Unclear whether MOE is available under new TANF rules for expanded distribution to former TANF families.
- IRS will give offset priority to child support, whether or not assigned.
- Effective October 1, 2008.

Policy Options Under DRA

- Move toward full distribution to current and former TANF families.
- Pass-through and disregard all or more support to current TANF families.
- Pay all collections to former TANF families first.

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