

NEW STUDIES ON CHILD SUPPORT COOPERATION REQUIREMENTS

By Paula Roberts
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For many years, recipients of public assistance have been required to assign their child support rights to the state. Unless they can establish “good cause” for failing to do so, recipients must also cooperate with the state in pursuing child support. Prior to 1996, federal regulations both required states to notify recipients of these responsibilities and provided the form for such notice. Federal regulations also defined “cooperation” and “good cause” and set forth the standards for establishing the right to a good cause exception. Further, federal regulations laid out the respective roles of the public assistance and child support workers in the process. Finally, the penalty for non-cooperation was described in federal law.

The Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) retained this basic framework, but provided states much more flexibility in administering the requirements. As a result, the federal regulations are no longer in effect and each state can 1) set up its own notification process; 2) define “cooperation” and “good cause”; 3) establish the standards and process for proving “good cause”; and 4) set the penalty for failure to cooperate. Also under PRWORA, states have flexibility to decide whether the child support agency or the Temporary Assistance to Needy Families (TANF) agency will make the cooperation/good cause determination.

The Department of Health and Human Services Office of Inspector General (OIG) recently released five monographs on implementation of the PRWORA changes. Four of the documents deal with child support cooperation and good cause exceptions in the Temporary Assistance to Needy Families (TANF) program. One deals with these issues in the Medicaid program. Copies of these reports can be ordered from the Dallas Regional Office of the OIG by calling (214) 767-3310. They can also be obtained at www.dhhs.gov/progorg/oei.

The findings are based on an in-depth study of six representative states: California, Georgia, Illinois, New Jersey, Texas and Virginia. In addition to written surveys, site visits and telephone interviews with both child support and TANF managers and caseworkers were utilized in compiling the information. The results of these studies are summarized below.

THE TANF STUDIES

The four TANF studies are all entitled CLIENT COOPERATION WITH CHILD SUPPORT ENFORCEMENT. Each has a subtitle to distinguish it from the others. One is *Policies and Practices (P&P)*, one is *Use of Good Cause Exceptions (GC)*, the third is *The Role of Public Assistance Agencies (PAA)* and the fourth is *Challenges and Strategies to Improvement (C&S)*.

GENERAL CONCLUSIONS

The OIG reports:

- *Most states have adopted cooperation standards similar to those in the old federal regulations. (P&P p. 4)* TANF recipients must provide information about the noncustodial parent, appear for appointments at agency offices, make court appearances, and submit to genetic testing.
- *There is, however, state variation in the amount of information a client must provide in order to be deemed cooperative. (P&P p. 5)* In the sample, one state requires simply that the custodial parent provide all of the information available; two ask for all available information and, if this is not deemed sufficient, require the client to obtain more; three states set a minimum standard for cooperating. In the latter states, the client must provide a name and either two or three other specific pieces of information (e.g., social security number, date of birth, last known address).
- *Most states have also adopted the old federal “good cause” standards. However, some have added other exceptions. (P&P p. 6)* (See below for more on this.)
- *Both TANF and child support caseworkers continue to be involved in the child support cooperation process. However, the perceived difference in mission of the two agencies affects their ability to work together. (PAA pp. 9-12)* Line workers perceive that TANF is a service agency whose mission is to work with client’s to help them become self-sufficient. Child support, on the other hand, is viewed as a law enforcement function. This perception of different missions is especially strong where the child support agency is part of the judicial system and TANF is in the human services agency.

The perceived difference in mission can affect a line worker’s attitude toward the other agency and his/her desire to assist that agency to fulfill its function. TANF workers may not pursue information about absent parents as thoroughly as child support workers think they should (See below). Conversely, TANF workers may be slower to impose sanctions for non-cooperation than child support workers think they should be (See below). Co-location of offices, out-stationing of child support personnel in TANF offices, and cross training of workers are all helpful in addressing this issue.
- *Communication between child support and TANF caseworkers is often problematic. (PAA p. 10)* Child support staff expressed frustration about reaching the client’s TANF worker by phone, while TANF workers expressed the same feeling about the difficulty of reaching their child support counterpart. This affects the ability of these workers to cooperate and share information. It also presents problems to clients. For example, the TANF worker might be working with a sanctioned client who needs to reach the child support worker to

reschedule a missed appointment. If neither the client nor the TANF worker can reach the child support worker by phone, the sanction can't be lifted.

- *Most TANF clients have a basic understanding of cooperation requirements, but may not fully understand what is expected of them. (P&P p. 4)* Clients typically learn of the cooperation requirements from a TANF worker at the time of TANF application or re-certification. TANF caseworkers do not place great emphasis on the cooperation requirements, however. Many see them as a potential source of friction with the client at a time when they are trying to develop the close relationship needed to help the client move toward self-sufficiency.

Moreover, TANF caseworkers focus primarily on the obligation to provide information about the noncustodial parent. Child support workers know that this is important but also know that the client needs to show up for meetings, hearings, and genetic testing. As a result, while most TANF caseworkers feel that clients are well informed, child support caseworkers feel that a substantial number of clients do not understand the full extent of their state's cooperation requirement.

- *Using TANF caseworkers to do initial intake can negatively effect the quality of information obtained. (PA pp. 4-7)* The typical TANF caseworker spends about 15 minutes of the two-hour client interview collecting information about the noncustodial parent. The information (e.g., social security number, place of employment) is not verified because the TANF caseworker does not have access to the same extensive network of location databases that the child support worker has.

This unverified noncustodial parent information is then sent to the child support caseworker either by immediate electronic transfer, daily batch transfer, or weekly/monthly tape match. The information is verified by the child support caseworker. Often, the information is insufficient. Sometimes the information needed is in the client's TANF file, but this file is not accessible to the child support caseworker. This lack of shared resources frustrates both TANF and child support caseworkers. It also has ramifications for clients.

The child support caseworker must contact the client to get more/better information. This can be done by telephone interview or by sending the client forms to fill out. Sometimes, however, the client has to appear personally at the child support office. If clients do not respond to the phone call, fill out the forms, or appear at the office, they can be cited for non-cooperation. This is particularly annoying/confusing to clients who are working or in a TANF work/education/training program. Since child support offices are usually open only during regular business hours, these clients face the dilemma of losing their jobs or being found uncooperative with their TANF obligations or being found uncooperative with the child support agency.

Two states in the study address this problem by sending TANF applicants to a child support worker before certifying TANF eligibility. The applicant then provides information directly to the child support caseworker, who verifies it on the spot and certifies the applicant's cooperation. This works best when the TANF

and child support agencies are co-located or where the child support worker is out-stationed in the TANF office.

- *Recipients are usually offered several opportunities to cooperate before a sanction is imposed. (P&P p. 9)* The six states all report that they give clients the benefit of the doubt regarding whether they have pertinent information about the noncustodial parent. Three allow clients to attest to lack of information.

All report that if a client calls to explain why she cannot keep an appointment or make a court appearance, the activity will be rescheduled with no adverse consequences to the client.

Even if a client is found to be non-cooperative, 90 percent of the local child support offices said they would allow the client to change their status by cooperating prior to imposition of a penalty. However, few clients take advantage of this. This is partly due to the short period of time a client has to comply before the sanction is levied.

- *However, some child support workers believe that TANF workers do not impose recommended sanctions as quickly as they should. (PAA pp. 8-9)* In urban areas, TANF agencies often provide due process protections to clients who have been recommended for sanction by the child support agency. This may be done through an appeal procedure or a reconciliation conference. Since this takes some time, child support caseworkers perceive that penalties are not imposed quickly enough. They also note that in rural counties—where due process procedures are less likely to be offered- sanctioning is swifter.

- *Penalties are applied uniformly statewide. (P&P pp. 10-11)* Some states penalize the non-cooperating parent by reducing the TANF grant by 25%; others start at a 25% reduction and increase the penalty over time; still others disqualify the entire family. TANF workers have no discretion to increase/decrease the penalty outside of the state framework and they do not do so.

Most staff believe that the existence of penalties for non-cooperation influence TANF clients to cooperate. Nearly all public assistance staff reported that TANF clients who are penalized eventually cooperate. Of interest, the size of the penalty does not seem to be important. Partial penalties appear to have at least as much influence on client cooperation as full-family sanction. (C&S p. 15) Moreover, escalating penalties over time does not seem to influence client cooperation: the client will cooperate as a result of the initial sanction or not at all. (C&S p. 14)

GOOD CAUSE EXCEPTIONS

The OIG report on the use of good cause exceptions to the cooperation requirements notes:

- *Most states have also adopted the old federal “good cause” standards. However, some have added other exceptions. (GC p. 4)* As under the old federal rules, in

cases where there is domestic violence, a child born as the result of rape or incest, or adoption is being considered, the client may be excused from cooperation. In addition, some states have added exceptions for cases where the client has a mental disability, where the child was conceived through artificial insemination, where the client has little knowledge about the absent parent, and where violence is anticipated if child support is pursued.

- *The states all report requiring the client to corroborate her good cause claim. They believe that this requirement is not a substantial barrier to the clients who seek an exemption. (GC p. 6-7)* If the client is claiming good cause based on *domestic violence*, in some states she will be asked to provide police reports, court orders, hospital records and/or shelter documentation. Some states also accept written statements by the client or a friend. A few local offices will accept oral statements.

If the good cause claim is based on *rape or incest*, adoption papers, court documents, birth certificates, police reports and/or hospital records may be required. Client statements are also often allowed.

- *TANF workers report that they provide clients with information about the good cause exception at initial application and at re-certification. (GC p. 5)* These workers also report that they often provide information about good cause to clients who have been referred by the child support agency for sanction due to non-cooperation. However, they generally take no affirmative steps to discover whether the client might have reason to claim a good cause exemption. The client has to raise the issue herself.
- *It is generally the line worker who makes the good cause determination and these workers have substantial discretion. (GC p. 8)* Most workers also periodically review the exemption to determine whether it still applies. Most also make efforts to protect client safety through address protection, flagging both paper and electronic files and (rarely) helping the client develop a safety plan.
- *Once a good cause determination is made, the state does not usually proceed with the paternity or child support action. (GC p. 9)*
- *As was true in the past, there are very few good cause claims by clients. (GC p. 4)* Moreover, workers reported that when a claim was made, it was almost always justified. No caseworker or manager interviewed was aware of any fraud in this area.

Many workers believe that the lack of good cause claims—especially by domestic violence victims--reflects the client's desire for child support. (GC p. 13) Workers also identified client embarrassment about the situation (GC p. 16), fear of retaliation by the non-custodial parent, and fear of intervention by a child welfare agency as reasons that domestic violence victims did not pursue a good cause claim. (GC pp. 13-14) Many also believe that it is easier for clients to claim lack of knowledge about the custodial parent than to provide information and seek

an exemption. This is especially true in states where court documents are a matter of public record and there is no way to protect client confidentiality. (*GC pp. 14-15*) In addition, some workers believe that clients do not claim the exemption because they do not understand the process and staff do not provide adequate guidance. (*GC pp. 15-16*)

MEDICAID-ONLY CLIENTS

Families receiving Medicaid must assign their medical support rights to the state and cooperate with the state in establishing paternity and pursuing medical support. As with TANF, there is a good cause exception to this cooperation requirement. Typically, Medicaid-only families learn of this obligation from a form that is given to them at the time they apply for Medicaid benefits. (Families leaving TANF but retaining Medicaid coverage will receive the form in the mail.) If a parent fails to cooperate without good cause, she/he will be ineligible for Medicaid. The children, however, will be covered. Experiences with this population are described in *Local Staff Experiences with Medicaid-Only Clients (M-Only)*.

One issue of concern to the child support agency is the issue of cash support. The agency can and will pursue such support (in addition to medical support) unless the custodial parent informs the agency that she/he does not want cash support. Child support workers say they encourage parents to pursue both medical and cash support. However, some clients decline to pursue cash support either because they already have an informal relationship with their children's fathers or because they are reluctant to involve the fathers in their children's lives. (*M-Only pp. 4-5*)

The workers believe that the option to eschew cash support leads to confusion—parents seem to think that if they are not pursuing cash support they don't have to cooperate in establishing paternity and pursuing medical support. However, the report reveals that there is also misperception on the caseworkers part. A significant number of both child support and public assistance workers appear not to know that a parent can be sanctioned for failure to cooperate with medical support efforts. As a result, sanctions—when appropriate-- are not imposed. (*M-Only p. 6*) Workers also believe that the present sanction system is not effective. In their view, removing the parent but continuing to cover the children does not seem to encourage cooperation by reluctant parents. (*M-Only p. 5*)

Underlying these issues is a concern by child support workers that Medicaid-only cases negatively impact their performance ratings. If the caseload contains a large number of Medicaid-only cases in which only medical support is sought, then the worker must do a good deal of work (establish paternity, obtain an order, enforce that order) for little return. (*M-Only p. 7*)

RECOMMENDATIONS

The OIG makes a number of specific recommendations at the end of each report. These recommendations generally involve the need for:

1. Additional training, technical assistance, and encouragement to states to ensure that both line workers and clients understand their responsibilities in regard to cooperation and good cause.
2. The development of policy that encourages greater collaboration, interaction and cross-training by child support, TANF and Medicaid agencies. This includes strategies for obtaining better information at the beginning of a case, enhancing public assistance line workers access to information verification tools available to child support workers, and enhancing child support workers ability to access public assistance files.
3. Give attention to policies that discourage clients from cooperating. This includes better client education about their responsibilities, and elimination of redundant visits to child support offices and duplicative requests for information. It also includes evaluating whether current policies in regard to pass-through and disregard of support as well as the treatment of in-kind support are counter-productive.
4. Greater emphasis on strategies that allow domestic violence victims to safely pursue child support. This includes training to improve staff ability to recognize and assist domestic violence victims, and the development of standards and practices to protect client confidentiality.