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Policy Brief

More Child Support Dollars to Kids:
Using New State Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families

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The Deficit Reduction Act of 2005 (DRA) provides new state flexibility to pass through more child support dollars to children who currently receive or formerly received welfare. The federal government will pick up part of the cost if states exercise this new flexibility. These changes provide opportunities for states to devise new strategies to increase parental support for poor children and reduce poverty. In this policy brief, we discuss three reasons for states to consider these new opportunities:

Changes in pass-through and distribution policy can improve child support compliance.

- Encourages fathers to work and pay child support
- Reduces fathers' participation in the underground economy
- Provides an incentive to pay through the formal child support system

Changes in pass-through and distribution policy can complement broader work and poverty reduction strategies.

- Assists families making the transition from welfare to work
- Increases financial security for families on TANF

Changes in pass-through and distribution policy can benefit government.

- Improves child support program performance and increases federal incentive payments to states
- Helps states meet TANF work participation rates
- Simplifies and reduces the administrative cost to government
- Offsets costs with savings in other areas

Introduction

States are searching for ways to support work, reduce poverty, and meet the new TANF work participation requirements in the Deficit Reduction Act of 2005 (DRA). In addition, the need for supports for working families outside of welfare has increased as welfare caseloads have declined. Child support can be an important income supplement for working families and a source of long-term support for children.

The public child support program has undergone a transformation in recent years. Originally established as mechanism to reimburse welfare costs, the program has emerged as a central component in state efforts to support work and reduce family poverty. The program has dramatically improved its performance since the child support reforms required as part of the 1996 welfare reform law were implemented. The child support program now pays more dollars to poor families than TANF cash assistance for those families receiving collections.[i]

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However, this transformation in the program's mission from reimbursing welfare costs to increasing family self-sufficiency is incomplete. Federal and state governments continue to withhold $2 billion per year in child support to repay TANF cash assistance costs. In fact, more than half of the money withheld by the government is collected on behalf of former TANF families. Furthermore, a growing body of research indicates that the policy of withholding child support has eroded long-term support for poor children by discouraging child support compliance.

There is a new vision for child support: children should receive all of the child support paid by their parents.[ii] The DRA offers states new opportunities to align their child support policies with their overall goals to encourage work, increase family income, and reduce child poverty. States can take advantage of a series of options and federal cost-sharing incentives provided in the legislation to pay more child support to current and former TANF families.

> *"Child support is no longer primarily a welfare reimbursement, revenue-producing device for the federal and state government; it is a family-first program, intended to ensure families' self sufficiency by making child support a more reliable source of income."*
>
> -HHS National Child Support Enforcement Strategic Plan For FY 2005-2009

The Importance of Child Support

Families receiving TANF cash assistance are faced with time limits and are expected to move quickly into work. Supports outside the traditional welfare system have been expanded in order to assist working families earning low wages. These supports include expanded health care for children (Medicaid and SCHIP), expanded child care benefits, and a significantly increased earned income tax credit (EITC).

Child support is an important part of this mix of supports.[iii] Research suggests that the receipt of child support is important to assist recipients to leave welfare for work,[iv] remain off welfare once they have left,[v] and reduce poverty.[vi] For families below the poverty line who receive payments, child support is 30 percent of total family income on average–the next largest income source after the mothers' own earnings.[vii]

Research also shows that child support can improve child well-being. For example, it can have a positive effect on young children's cognitive development[viii] and educational attainment.[ix] Most recently, child support enforcement has received attention as a means to promote marriage. Evidence suggests that child support enforcement may decrease out-of-wedlock births and divorces.[x]

Assignment and Distribution Rules

States collect $10 billion per year in child support payments for current and former TANF families. However, families do not receive all of the money. When families apply for TANF cash assistance, they are required to sign over to the state their rights to child support owed before and during the assistance period and to cooperate with child support enforcement efforts. The state withholds the child support payments from these families in order to reimburse welfare costs. Complex distribution rules determine how child support collections are allocated between families and the government. The basic rule is that child support paid while families are receiving TANF cash assistance is withheld by the state and shared with the federal government. Once families leave welfare, they receive most, but not all, of the support paid on their behalf. These distribution rules, and the changes made by the DRA, are discussed in more detail in the sections that follow.

Families Receiving TANF Assistance

Existing federal law allows states to withhold all support collected on behalf of families receiving TANF assistance, up to the amount of cash assistance paid out. The retained support is shared with the federal government according to the state's Medicaid federal matching rate (FMAP). For example, a state with a 65 percent FMAP rate that collects $100 pays the federal government $65 and keeps $35 as state revenues.

Under current law, states may choose to "pass through," or pay, support payments to families receiving TANF cash assistance. Nearly half of states pass through some part of the child support (usually $50) to families receiving TANF cash assistance. Most of these states disregard the support income for purposes of determining assistance.[xi] Prior to the 1996 welfare reform law, federal law required states to have a $50 pass-through and disregard, but the federal government shared in the cost. A number of states also received federal waivers to pass through all ongoing support to families.[xii]

The 1996 welfare reform law eliminated the federal requirements and allowed states to establish their own rules. However, the 1996 law also eliminated the federal cost-sharing arrangement so that states that choose to pass through some child support must continue to pay a share of the collections to the federal government–requiring states to bear the full cost of any pass-through.

Under new DRA provisions, states will continue to have the same flexibility that they have under current law to retain or pass through child support to current TANF families. States may keep all of the support, pass it all through, or pass through a portion. However, the DRA changes the federal cost-sharing arrangement to the benefit of states. If a state decides to pass through and disregard support payments, the federal government will waive the federal share (up to $100 passed through for one child and $200 for two or more children). This offer to waive the federal share contained in the DRA provides states with an opportunity to redirect support payments from the federal government to families. For states that already pass through some support to families receiving assistance, the federal government will begin waiving its share of the disregarded amount. These states have the opportunity to use the waived federal share to help pay for expanded pass-through and distribution policies.

In 2005, states withheld $2 billion in support payments collected for current and former TANF families, sending more than half to the federal treasury.

Families Who Have Left Welfare

When families leave TANF cash assistance, they begin receiving the ongoing monthly payments and most of the past-due support (arrears) collected on their behalf under "families first" rules adopted in 1996. However, an exception to this "families first" policy requires states to continue withholding a portion of collected support to reimburse welfare costs–specifically, arrears that are offset from federal income tax refunds owed to non-custodial parents. These federal tax offset collections–about a third of arrears collections–are kept by states and shared with the federal government according to each state's FMAP rate. Complicated rules allow states to keep the federal tax offset collections to repay state-assigned arrears that accumulated before the families began receiving assistance, as well as those accumulating during the assistance period.

The DRA makes two changes to these rules. First, it eliminates the requirement that families assign their rights to pre-assistance support. States will only be allowed to claim support amounts owed during the assistance period. This means that families will have a claim to a larger share of support payments, and states will be able to keep less money to reimburse welfare costs.

Second, the DRA provides states with the option to eliminate the special rules for federal tax offset collections and to allocate support payments collected through the federal tax offset procedure as they do any other type of collection. This option allows states to pay support collected through the federal tax offset procedure to former TANF families before repaying the state debt. If states adopt the option to eliminate the special federal tax offset collection rules, the federal government will waive its share of support. (Unlike the limits imposed on support passed through to current TANF families, the full federal share of federal tax offset collections will be waived if the money is paid to former TANF families.)

HOW PASS-THROUGH AND DISTRIBUTION RULES HAVE CHANGED

Under the pre-DRA child support rules (which will be in effect until 2008 and 2009), families that apply for assistance in a TANF-funded program are required to sign over to the state their rights both to child support that becomes due during the assistance period and to past-due child support previously owed to the family. State and federal governments retain collected support as reimbursement for the cost of providing TANF cash assistance to families. Even after families stop receiving assistance, states keep the child support that is collected through the federal income tax offset procedure. (Such families receive child support collected through any other means.) More than half of the child support retained by states–56 percent–is collected on behalf of families who no longer receive TANF cash assistance. Nearly all of this is collected through the federal tax offset procedure. The DRA makes several changes intended to increase the amount of child support paid to current and former TANF families.

- **A new limitation on assignment.** States may no longer require families to sign over their rights to past-due child support payments that accrued before they applied for TANF assistance. States must implement this change by October 1, 2009, but may implement it a year earlier.

- **Waiver of the federal share of child support if the support is passed through and disregarded**. Under the pre-DRA rules, states have the option to pass through support to families receiving cash assistance in a TANF-funded program. They also may set their own TANF disregard policies–they can disregard the entire amount of support passed through, disregard a portion of it, or count all of the money against TANF eligibility, benefit levels, or both. However, states that adopt pass-through and disregard policies must continue to send the federal government its share of the collections. Under the new law, if a state passes through and disregards some or all child support payments, the federal government will waive its share of collections, up to $100 per month passed through for one child and $200 per month for two or more children. This provision is effective October 1, 2008. Pre-DRA law permits states to count amounts passed through to families receiving TANF assistance and disregarded in determining benefits toward TANF Maintenance of Effort (MOE) obligations.

- **A new option to distribute more support to former TANF families.** Under the pre-DRA rules, states are required to retain child support collected on behalf of former TANF recipients through the federal tax offset procedure. Under the DRA, states are permitted to direct all child support collected through the tax offset procedure to those families first. If a state elects this option, the federal government would waive its share of those collections, with no limits. This provision is effective October 1, 2008.

Changes in Pass-Through and Distribution Policy Can Improve Child Support Compliance

Under the new law, states do not have to pay the federal share of support if they pass through and disregard child support to families on TANF (up to the $100 and $200 limits for families receiving TANF). A pass-through and disregard policy has several benefits for families and the child support program.

Encourages fathers to work and pay child support. Evidence from a study in Wisconsin and other research suggests that when child support is passed through and disregarded to families receiving TANF cash assistance, more fathers pay support, and fathers pay more.[xiii] The study found that the effects were greater for parents who were new to the welfare system.[xiv] Fathers were also more likely to establish their legal relationship to the child (paternity) more quickly.

Reduces fathers' participation in the underground economy. The Wisconsin study found that when child support is passed through and disregarded to families receiving TANF cash assistance, fathers are less likely to work in the underground economy.

When children receiving TANF never see the support paid by their parents, parents are less likely to pay it. This is particularly true for parents who are poor themselves and have difficulty maintaining stable employment. These parents frequently walk away from regular jobs and child support payments because they know that the money will be kept by the state and will not benefit their children. Current distribution rules not only undercut the willingness of parents to work and pay support during the relatively short time period that the children receive TANF cash assistance, but they also reduce the chances that these parents will start paying after their children stop receiving assistance. If they walk away when the child is young, they are unlikely to come back later.

Provides an incentive to pay through the formal child support system. One consequence of the state retaining child support collections is that it encourages fathers to pay under the table and avoid the formal child support system. No one is well served when parents agree to under-the-table payments. Mothers can be vulnerable to welfare fraud prosecution, fathers don't receive credit for the payments they make, and the child support program is faced with the difficult task of collecting arrears.

Changes in Pass-Through and Distribution Policy Can Complement Broader Work and Poverty Reduction Strategies

Since the 1980's there has been a growing consensus that supports to working families should be expanded to "make work pay." Increasing the amount of child support payments to current and former TANF families can complement this strategy.

Assists families making the transition from welfare to work. Research indicates that families are especially vulnerable at the time they leave welfare. Additional supports, including child support, can make a difference in whether they will remain off of welfare or return.

Under the new law, states have the option to expand payments to both current and former TANF families, allowing for a smoother transition off of welfare. This would directly provide additional support to families transitioning from welfare to work and help them remain off of cash assistance once they have left.

Increases financial security for families on TANF. For current TANF families, child support that is passed through and disregarded can increase the family's cash income. One study estimated that a $100 pass-through and disregard could increase annual cash income for poor TANF families with a child support collection by 6 percent.[xv] And in states with earnings disregards, a combination of work, child support, and assistance could substantially increase the financial security of TANF working families.

Changes in Pass-Through and Distribution Policy Can Benefit Government

The pass-through and distribution policy changes also benefit government in a number of ways.

Improves child support program performance and increases federal incentive payments to states. The federal government provides financial incentives to states based on their child support program performance. Implementing a child support pass-through and disregard policy could increase the financial incentives a state receives by improving its performance rates in paternity establishment and collections.

Helps states meet TANF work participation rates. When child support is disregarded, the level of earnings that a family needs to become ineligible for assistance is higher, thus increasing the number of working families in the TANF program.

Simplifies and reduces the administrative cost to government. A number of federal and state administrators cite problems with automating complicated rules as a contributing cause of computer system delays and delayed payments to families. In addition, the rules are difficult for parents to understand, and child support programs spend significant amounts of time simply trying to explain the rules to parents. States may be able to reduce administrative costs by simplifying the distribution rules under the new state flexibility. (While implementing a new pass-through and disregard policy where none exists may slightly increase administrative costs, the benefits to states from increased collections far outweigh the costs.)

The administrative costs to states to administer complicated distribution rules represent as much as 6 to 8 percent of total administrative costs for state child support programs.[xvi]

Offsets costs with savings in other areas. If a state passes through and disregards support for families receiving TANF cash assistance or adopts the option to pay federal tax offset collections to families who have left assistance, it will forego the state share of the TANF collections that it would otherwise retain as revenues. However, the cost to the state could be offset in other areas. The Wisconsin study concluded that the financial cost of passing through the support instead of keeping the money as state revenues was fully offset by decreased government costs in other areas, particularly increased payments by fathers and reduced TANF use by families. In addition, a study by the Urban Institute found that expanded pass-through and distribution policies reduce costs in other programs.[xvii]

Furthermore, states that pass through and disregard child support are directing more of that money to poor families in their own state rather than sending it to the federal government. This is especially true in poorer states, including most southern states, which return a larger share of support to the federal government, because their FMAP rates are higher. For example, Mississippi sends 76 percent of its collections back to the federal government.

Finally, states can claim MOE credit for child support that is passed through to families receiving TANF cash assistance and disregarded in determining eligibility for and the amount of assistance.[xviii] This helps states meet their MOE requirements in their TANF programs.

State Policy Options

States considering expanding child support pass-through and distribution policies in their TANF- funded programs can consider several major options:

Pass-through and Disregard Policy For Current TANF Families. States may continue to keep all of the support, pass it all through, or pass through a portion. They also may set their own TANF disregard policies–they can disregard the entire amount of support passed through, disregard a portion of it, or count all of the money against TANF eligibility, benefit levels, or both. The DRA provides that if a state adopts a pass-through and disregard policy, the federal government will waive its share of support, up to $100 per month passed through for one child and $200 for two or more children.

For example, a state could pass through and disregard all of the child support or all of the ongoing monthly child support. Or, the state could pass through all of the support, and disregard part of it–for example, $200, $100, $50, or an amount equal to their TANF earned income disregard. When more child support is passed through and disregarded, the impact on non-custodial parents' willingness to establish paternity, work in the formal economy, and pay child support will be greater. More generous policies also will have a greater impact on a state's work participation rate. With higher disregards, more working families will retain eligibility, and thus count toward the state's work participation rate.

Full Family First Policy for Former TANF Families. Under the DRA, states may elect to distribute past-due child support to former TANF families first when the money is collected through the federal income tax offset procedure. States that distribute federal tax offset collections to families are not required to pay a federal share of those collections. Thus, this option allows states to eliminate the rules that apply specifically to federal tax offset collections, treating the collections made through this procedure as they do all other collections.

Full Distribution Policy, Regardless of TANF Status. By exercising all of the options in the DRA, states may distribute all child support to families first, even if they disregard only a portion of the support while a family is receiving TANF assistance. States might want to take that approach if they want to make sure families understand the extent to which their needs are being met by child support rather than by TANF assistance, smooth the transition off of welfare, simplify their distribution rules, or harmonize distribution rules across programs.

A fuller description of policy design issues can be found in Implementing the TANF Changes in the DRA: *"Win-Win" Solutions for Families and States* by the Center for Law and Social Policy and the Center on Budget and Policy Priorities. A more detailed description of pre-DRA distribution rules can be found in *In Everybody's Best Interests: Why Reforming Child Support Distribution Makes Sense for Government and Families* by Vicki Turetsky. Both documents can be accessed at **www.clasp.org**.

Conclusion

The new state flexibility under the DRA provides an opportunity for states to make changes in their child support pass-through and distribution policies that will improve child support compliance, assist families in achieving self sufficiency, and benefit government. Most importantly, it will ultimately improve the lives of children and families.

Notes

[i] Sorensen, Elaine and Chava Zibman. 2000. *To What Extent do Children Benefit From Child Support*, Discussion Paper, Assessing the New Federalism, Washington D.C.: The Urban Institute.

[ii] Turetsky, Vicki. 2000. *What If All the Money Came Home?* Washington, DC: Center for Law and Social Policy.

[iii] Turetsky, Vicki. 2005. *The Child Support Program: An Investment That Works.* Washington, D.C.: Center for Law and Social Policy.

[iv] Huang, Chien-Chung, James Kunz, and Irwin Garfinkel. 2002. "The Effect of Child Support on Welfare Exits and Re-Entries." *Journal of Policy Analysis and Management* 21(4): 557-576.

[v] Formosa, Carl. 2004. *Beneficial Impacts of Child Support Services on Custodial Family Self-Sufficiency*. Olympia, WA: Washington Department of Social and Health Services; Huang, Chien-Chung, Irwin Garfinkel, and Jane Waldfogel. 2000. *Child Support and Welfare Caseloads*, Discussion Paper No. 1218-00. Madison, WI: Institute for Research on Poverty, University of Wisconsin-Madison.

[vi] Garfinkel, Irwin, Philip Robins, Pat Wong and Daniel Meyer. 1990. "The Wisconsin Child Support Assurance System: Estimated Effects on Participants." *Journal of Human Resources* 25:1-31; Meyer, Daniel. 1993. "Child Support and Welfare Dynamics: Evidence from Wisconsin." Demography, Vol. 30, No. 1; Sorensen, Elaine and Chava Zibman. 2000. *Child Support Offers Some Protection Against Poverty,* New Federalism Series, No. B-10. Washington, D.C.: The Urban Institute.

[vii] Sorensen, Elaine. 2003. *Child Support Gains Some Ground.* Washington, DC: The Urban Institute.

[viii] Argys, L. Peters, E. Brooks-Gunn, J., & Smith, J. 1988. "The Impact of Child Support on Cognitive Outcomes of Young Children," *Demography*, 35(2), 159-173.

[ix] Barnow, Burt, *et al*. 2000. T*he Potential of the Child Support Enforcement Program to Avoid Costs to Public Programs: A Review and Synthesis of the Literature.* Washington, DC: U.S. Department of Health and Human Services; Knox, Virginia and Mary Jo Bane. 1994. "Child Support and Schooling." *In Child Support and Child Well-Being*, Irwin Garfinkel, *et al.* (Eds.). Washington, D.C.: The Urban Institute Press.

[x] Barnow, *supra*; Nixon, Lucia. 1994. *Child Support Enforcement, Marital Dissolution, and Welfare Participation*. Department of Economics, Massachusetts Institute of Technology.

[xi] Roberts, Paula and Michelle Vinson. 2004. *State Policy Regarding Pass-Through and Disregard of Current Month's Child Support Collected for Families Receiving TANF-Funded Cash Assistance.* Washington, DC: Center for Law and Social Policy. States use a variety of mechanisms to pay child support to families receiving assistance, including fill-the-gap policies. States with waivers to pass through all current support payments included Connecticut, Georgia, Vermont, and Wisconsin. While these states passed through all support, their disregard policies varied.

[xii] Meyer, Daniel and Maria Cancian. 2003. *W-2 Child Support Demonstration Evaluation, Phase 2: Final Report.* Madison, WI: Institute for Research on Poverty, University of Wisconsin-Madison.

[xiii] Meyer, Daniel and Maria Cancian. 2001. *W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Vol.1, Effects of the Experiment.* Madison, WI: Institute for Research on Poverty, University of Wisconsin-Madison.

[xiv] In full sample 52 percent of fathers in the experimental group paid child support compared to 50 percent in the control group. Among those new to welfare, 58 percent of fathers in the experimental group paid child support compared to 48 percent in the control group.

[xv] Wheaton, Laura and Elaine Sorensen. 2005. *Benefits and Costs of Increased Child Support Distribution to Current and Former Welfare Recipients*. Washington D.C.: The Urban Institute.

[xvi] Williams, Robert. 1999. Letter to the Subcommittee on Human Resources, Ways and Means Committee, U.S. House of Representatives. Estimate based on informal survey of selected former IV-D Directors, Policy Studies Inc., Denver, CO.

[xvii] Wheaton and Sorensen, *supra*.

[xviii] The 1996 welfare reform law required states to maintain historical levels of expenditures on the TANF program, called Maintenance of Effort or "MOE."

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