

Child Support Provisions in the Deficit Reduction Act

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By Vicki Turetsky
Center for Law and Social Policy

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Deficit Reduction Act of 2005

- ❑ Signed into law on February 8, 2006 after close vote.
- ❑ Passed as S. 1932.
- ❑ Became Pub. L. 109-171.



Overview of DRA

- Funding provisions
 - Federal match eliminated on incentive payments
 - Federal match reduced for paternity testing
 - New service fee
- Assignment and distribution changes
- Mandatory TANF review and adjustment
- Medical support provisions
- Enforcement provisions
 - Reduced passport denial threshold
 - Federal tax offset procedure for adult children



Federal match cut on incentive payments under DRA

- ❑ Under CSPIA, incentive funds must be used to carry out IV-D state plan or other HHS-approved activities.
- ❑ Effective Oct. 1, 2007, HHS will no longer pay a 66% match on incentive payments spent on IV-D activities.
- ❑ CBO score in 2006: \$4.9 federal savings over 10 years (\$8.4 billion in lost collections).
- ❑ CBO score assumed states would replace half of cut funds.

Cite: 42 U.S.C. 655(a)(1) as amended; 658a(f).

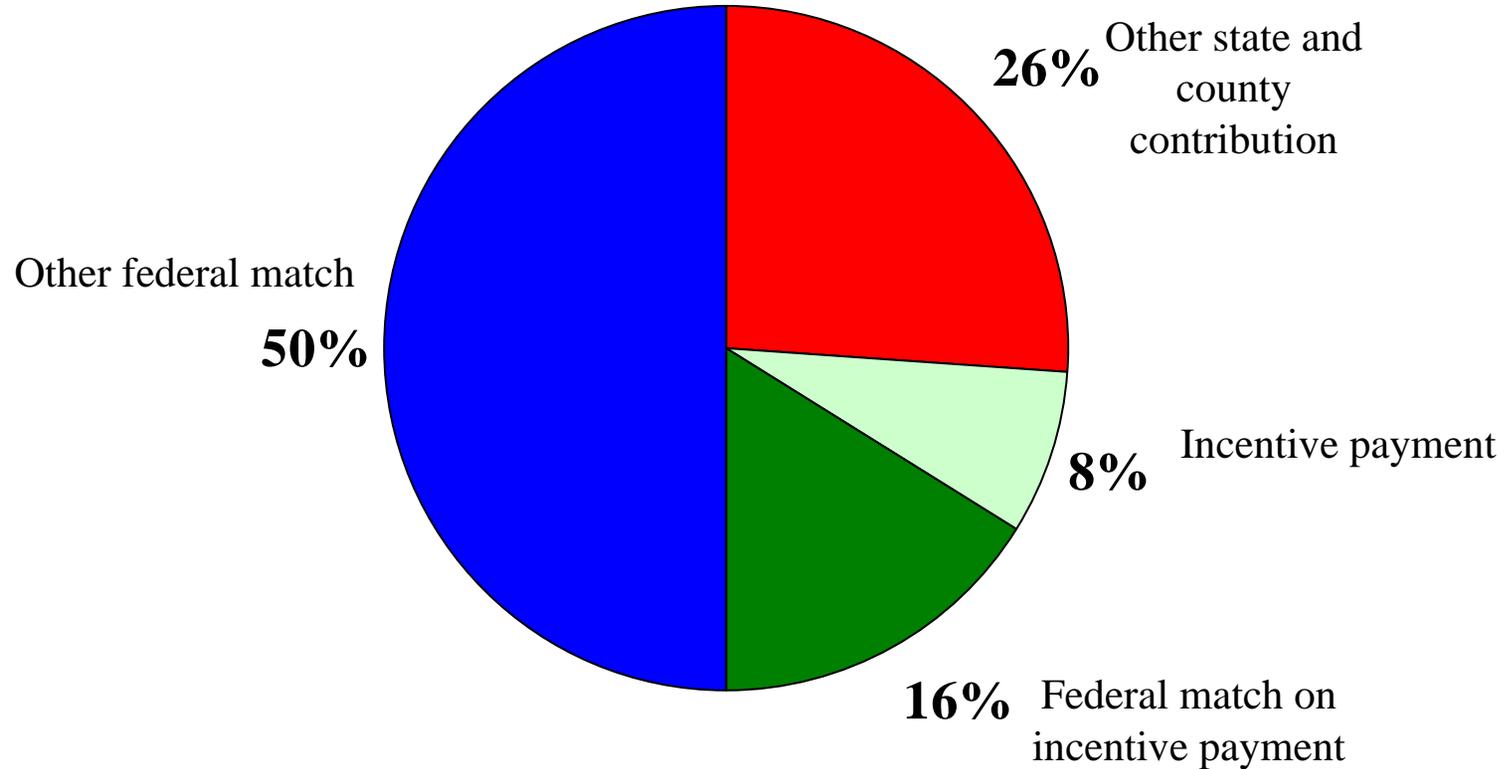


Repeal of incentive match cut?

- H.R. 1386 (McDermott) and S. 803 (Rockefeller/Cornyn) would repeal the cut.
- CBO preliminary estimate to restore funds: \$6.7 billion over 10 years (or \$11 billion in lost collections).
- Significant bipartisan support: Good chance of moving in late fall.

Source: <http://thomas.loc.gov>. Co-sponsors listed by state: <http://www.nwlc.org/pdf/childsupportcosponsors.pdf>

Incentive match is 16% of total funds and 22% of federal funds.





Temporary stop-gap funding

- ❑ To maintain funding, state must contribute new state funds (equal to 66% of state incentive payments).
- ❑ 25 states, including CA passed full funding for next year.
- ❑ 11 states have passed partial funding
- ❑ 11 states and DC do not have stop-gap funding.
- ❑ 3 states have pending legislative proposals.

Source: NCSEA



Lewin Group data analysis found:

- DRA could mean substantial funding decrease to state programs.
 - 17% overall decline in program spending
 - Impact varies by state (5% to 36% decline)
- Program spending is linked to performance.
- If states don't restore funding, performance will fall.
 - 10% drop in cases with orders
 - 4% drop in current collections
- High performing states face greatest risk.

Source: Lewin Group and ECONorthwest, *Anticipated Effects of the Deficit Reduction Act Provisions on Child Support Program Financing and Performance*, http://www.nccsd.net/documents/nccsd_final_report_revised_2_437782.pdf.



Lewin Group interviews with 28 child support directors found:

- ❑ Strong support from state executive branch.
- ❑ Weak fiscal conditions and decentralization play key roles in state funding decisions.
- ❑ Effect of cuts will worsen over time.
- ❑ Cuts will affect all customers and related programs.
- ❑ Interstate ramifications.
- ❑ Even with restored funding, planned initiatives will be cancelled or delayed.



Lewin Group study found these cuts most likely:

- Staff cuts through attrition and lay-offs (10-50%)
- Cuts to labor-intensive services and initiatives
 - Arrears collection initiatives
 - Customer service call centers
 - Employer initiatives
 - In-hospital paternity work
 - Medical support enforcement
 - Computer replacements and upgrades
 - Employment services for non-custodial parents
 - Intensive work with hard-to-serve clients
 - Interstate cases
 - Distribution options

Paternity test match reduced under DRA

- The federal matching rate is reduced from 90% to 66%.
- Effective Oct. 1, 2006.
- OCSE AT-06-06 (Nov. 16, 2006): Lower rate applies to expenses paid by the state after Oct. 1, 2006.

Cite: 42 U.S.C. 655(a)(1)© as amended.



New \$25 service fee under DRA

- ❑ Effective Oct. 1, 2006, states must impose an annual \$25 fee.
- ❑ Charged to individuals who have never received assistance under a IV-A program (TANF).
- ❑ For whom the state has collected at least \$500.
- ❑ 4 options: (1) retained from collections; (2) charged to the applicant; (3) recovered from the absent parent; (4) paid by the state.
- ❑ OCSE AT-06-06 (Nov. 6, 2006): Fees are based on collections made on or after October 1, 2006 and considered program income.

Cite: 42 U.S.C. 654(6)(B) as amended; 657(a)(3) as amended.



OCSE proposed rule on fees

72 Fed. Reg. 3093:

- Annual fee applies when the “State has disbursed to the family” at least \$500.
- The \$500 must be disbursed “in the Federal fiscal year.”
- Fee must reported by end of the year.
- Fee applies to each IV-D “case.”
- Fee applies to new and existing cases.
- In interstate case, fee imposed by initiating state.
- Special rules for international and tribal cases.

Source: OCSE-AT-07-01(Jan. 24, 2007)



State implementation of fee policies in first year (as of March 2007)

- 1/4 of states (including CA) are paying or propose to pay fee out of state funds.
- 1/2 of states will charge custodial parent.
- Wyoming will split the fee between custodial and non-custodial parent.

Source: NCCSD; CLASP; Lewin Group.



Distribution-related terms

- ❑ *Assignment rules* determine whether the state or family has a claim to collected support.
- ❑ *Distribution rules* determine how a collection is allocated between families, state, and federal government.
- ❑ *Pass-through policies* allow a state to pay the assigned money to current and former TANF families.
- ❑ *Disregard policies* determine extent support income is counted or ignored in TANF.
- ❑ *Disbursement rules* govern the act of paying collections to families, by check or electronic transfer.

Source: OCSE-AT-07-01 attaching 72 Fed. Reg. 3093, 3094 (Jan. 24, 2007).



Assignment under DRA

- Pre-assistance assignment eliminated for new cases, effective Oct. 1, 2009, with state option to implement a year earlier.
- State flexibility to conform older assignments:
 - State option to discontinue some or all assignments in effect before Sept. 30, 1997.
 - State option to discontinue some or all post-1997 pre-assistance assignments in effect before DRA (Jan.
 - Options allow state to treat collections as never assigned.
- Bottom line: States may discontinue any assignment except during-assistance support owed after Sept. 30, 1997.

Cite: 42 U.S.C. 608(a)(3) as amended; 657(b)(1) and (2) as amended; OCSE-AT-07-05 (July 11, 2007).

Distribution to former TANF families under DRA

- State option to eliminate federal tax offset exception—
distribute like other collections
 - Distribute to former TANF families before state
 - Distribute to current support before arrears
- IRS will give priority to child support offsets, whether assigned or not.
- State does not pay a federal share on support paid to families.
- State may elect DRA or PRWORA rules in state plan after Oct. 1, 2008—and must inform families if state keeps money.

Cite: 42 U.S.C. 657(a)(2) as amended; 657(a)(7)(A) as amended; 654(34) as amended; 26 U.S.C. 6402©; OCSE-AT-07-05 (July 11, 2007); OCSE-AT-07-01 attaching 72 Fed. Reg. 3093, 3094 (Jan. 24, 2007).



New pass-through authority to former TANF families under DRA

- State also may "retain, or pay to the family, the State share of the excess amount" assigned to the state.
- Even if states don't discontinue old assignments, they can pass through the money
- If state pays support to the family, it does not pay a federal share—no \$ limit.

Cite: 42 U.S.C. 657(a)(2)(B)(ii)(II) as amended; 657(a)(7)(A) as amended; OCSE-AT-07-05 (July 11, 2007).

Pass-through to current TANF families under DRA

- ❑ State authority unchanged to retain or pass through any support (current or arrears).
- ❑ But federal cost-sharing changed: effective Oct. 1, 2008, federal share is waived, up to \$100 pass-through for one child and \$200 for more children.
- ❑ Both federal and state shares must be passed through.
- ❑ Federal share is waived to extent of disregard.
- ❑ Maintenance of Effort (MOE) credit available for state share.
- ❑ URA is reduced by passed through amounts.

Cite: 42 U.S.C. 657(a)(7) as amended; OCSE-AT-07-05 (July 11, 2007); OCSE-97-017 (Oct. 21, 1997).



State implementation of TANF pass-through policies as of June 1, 2007

- 7 states adopted new pass-through policies or have pending legislation.
- More than 1/2 of states, including CA, have some type of pass-through policy.

Source: CLASP, *State Policy Regarding Pass-through and Disregard* (as of June 1, 2007), http://www.clasp.org/publications/pass_through_2007june01.pdf.



Effect of expanded distribution on federal share

- California has a 50% FMAP rate.
- Under existing law, state pays federal government \$50 dollars out of every \$100 assigned to and collected by state.
- When \$100 is paid to current or former TANF families, state gives up \$50 and federal government gives up \$50 in revenues.

Source: For more information on impact on California families, see Carmen Solomon-Fears, *The Financial Impact of Child Support on TANF Families: Simulation for Selected States*, CRS Report for Congress (June 24, 2007).



TANF Maintenance of Effort (MOE)

States must spend sufficient state funds to count toward TANF MOE requirements. To count, state spending must meet one of 4 TANF purposes:

- (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- (4) encourage the formation and maintenance of two-parent families.

Source: 42 U.S.C. 601; 609(a)(7).

MOE spending for child support paid to current and former TANF families

- ❑ Existing TANF statute permits states to count state share of child support passed through and disregarded for current TANF families.
- ❑ Unclear whether states can count state share of support paid to former TANF families. State spending counts for certain “pro-family” activities meeting 3rd or 4th purpose.

Source: 42 U.S.C. 609(a)(7)(B)(i)(I)(aa); interim final TANF rule 45 C.F.R. 263.2 (71 Fed. Reg. 37454 (June 29, 2006, <http://www.acf.hhs.gov/programs/ofa/tanfregs/tfinrule.htm>); OCSE-AT-07-05 (July 11, 2007).



Putting it together: Limiting assignment

- State only allowed to take a permanent assignment of support owed during assistance in new cases—no more temporary or conditional assignment.
- State can eliminate any or all old pre-assistance assignments.
- State can eliminate any or all pre-PRWORA assignments.



Putting it together: Full family distribution

- A state may pay all collected support to current and former TANF families.
- This includes any or all assigned support.
- Federal share can be waived on all support paid to families except support above \$100 and \$200 limits for current TANF families
- Can claim MOE credit for entire state share paid to current TANF families when disregarded.

Summary of DRA distribution options

(adapted from Matheson, et al., Aug. 6, 2007 NCSEA powerpoint)

Decision point	Implement	Or
Eliminate pre-assistance assignment	By 10/1/09	As early as 10/1/08
Discontinue older assignments	Some or all pre-1997 assignments on or after 10/1/08	Post-1997 pre-assistance assignments on or after 10/1/08
Pass-through payments	Current TANF cases—existing authority, but fed share waived 10/1/08	Former TANF cases on or after 10/1/08
Tax offset collections in former TANF cases	Continue PRWORA distribution	Implement DRA distribution on or after 10/1/08
Full family distribution	None or some options	All options



Solely-funded state programs

- ❑ DRA also changed TANF work participation rules—work rates count for families in state-funded programs if state spending is used to meet MOE.
- ❑ Some states are considering whether to move TANF families into a state (non-MOE) program.
- ❑ New federal policy allows states to require assignment and retain support for families in state-funded programs, but difficult and legally uncertain.
- ❑ Better idea: move toward full family distribution across programs.

Source: OCSE AT-07-02 (May 18, 2007).



Review and adjustment under DRA

- States are *required* to review and, if appropriate, adjust orders for cases with an assignment under part A at least every 3 years or upon parental request.
- 72 Fed. Reg. 3093: Proposed rule would clarify that this doesn't apply to TANF arrears-only cases.
- Effective Oct. 1, 2007.

Cite: 42 U.S.C. 666(a)(10) as amended; OCSE-AT-07-01 (Jan. 24, 2007).



Medical support under DRA

- ❑ All orders enforced by child support agency must include a provision for medical support provided by *either or both parents*.
- ❑ The state may enforce a medical support order against custodial parents.
- ❑ “Medical support” defined to include health care coverage under a health insurance plan and payment of medical expenses.
- ❑ Effective Oct. 1, 2006.

Cite: 42 U.S.C. 666(a)(19)(A) as amended; 652(f) as amended.



OCSE medical support policy interpretation

OCSE-PIQ-07-01 (Feb. 6, 2007):

- State must use guidelines for birthing costs and other retroactive medical support orders.
- State may submit past-due medical support for IRA tax offset--if set according to guidelines.



Proposed OCSE medical support rule

71 Fed. Reg. 54965:

- ❑ Defines “cash medical support:” private or public insurance or other medical costs.
- ❑ Broad definition of “health insurance.”
- ❑ Defines “reasonable cost:” doesn’t exceed 5% of gross income.
- ❑ Guidelines must address “how parents will provide for health care needs.”
- ❑ All IV-D support orders must include medical support.
- ❑ Requires agency to seek modification if health insurance is available.
- ❑ State must consider appropriate health coverage available to either parent.
- ❑ Current support given priority over medical support.
- ❑ Child-only Medicaid cases may be closed for non-cooperation.
- ❑ Changes in audits and self-assessments (FFY 2005 audits).

Cite: OCSE AT-06-04 (Sept. 20, 2006).



Decreased passport limits

- The amount of unpaid support needed to trigger a passport denial has decreased from \$5,000 to \$2,500.
- Effective Oct. 1, 2006.

Cite: 42 U.S.C. 666(a)(10)(A)(i) as amended.



Tax intercept for adult children

- The federal tax offset procedure can be used to collect arrears for children who have reached the age of majority.
- Effective Oct. 1, 2007.

Cite: 42 U.S.C. 664 as amended.



Other provisions

- ❑ HHS may conduct insurance data matching through FPLS.
- ❑ State option to use system for interstate case processing conduct insurance data matching.
- ❑ Federal FPLS and training funds maintained.
- ❑ General DRA effective date: Oct. 1, 2006, with standard exception when state laws must be amended (3 months after the 1st day of the 1st calendar quarter beginning after the close of the first regular session of the state legislature).

Cite: 42 U.S.C 652(l) as amended; 653(k)(3) as amended; 653(o) as amended.



Contact me at:

Center for Law and Social Policy

vturet@clasp.org

www.clasp.org

(202) 906-8017