
**Child Support Enforcement
Program
Action Transmittal**

U.S. Department of
Health and Human Services
Administration for Children & Families
Office of Program Support
Office of Child Support Enforcement
Washington, D.C. 20447

Transmittal No. OCSE-AT-97-08

Date: May 14, 1997

- TO:** STATE AGENCIES ADMINISTERING THE CHILD SUPPORT ENFORCEMENT PROGRAM UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS AND ORGANIZATIONS
- SUBJECT:** Reduction in Federal Financial Participation (FFP) Rates for the Child Support Enforcement Program Under Title IV-D of the Social Security Act (Act)
- PURPOSE:** The purpose of this Action Transmittal is to inform States of the elimination of the 90 percent FFP rate on September 30, 1997 and the process for requesting a deviation from the standard treatment of expenditures to preserve a claim to Federal funding at the 90 percent FFP rate for contractual "holdback" payments.
- BACKGROUND:** Beginning in fiscal year 1982, FFP at an enhanced rate of 90 percent was first made available to State agencies for expenditures incurred in the development and implementation of a Child Support Enforcement System (CSES).
- Under the "Family Support Act of 1988" (P.L. 100-485, enacted October 13, 1988), States were required to have an operational CSES, certified by OCSE as meeting the requirements specified in that statute, no later than October 1, 1995. This statute also provided that Federal funding at the 90 percent FFP rate for ADP development and implementation costs would continue only through September 30, 1995.
- P.L. 104-35 (enacted October 12, 1995) extended the deadline for implementing a certified, operational CSES by two years, until October 1, 1997. This statute did not extend the availability of FFP at the 90 percent rate.
- The "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" ("PRWORA;" P.L. 104-193, enacted August 22, 1996), reinstated FFP at the 90 percent rate, with limits, retroactive to October 1, 1995 and through September 30, 1997 to enable States to complete the development and implementation of a CSES that meets the requirements of the Family Support Act. PRWORA also provided funding at an enhanced rate of 80 percent (capped at \$400 million Federal share) for system development and implementation costs related to ADP requirements under the Family Support Act of 1988 as well as the system requirements specified in PRWORA.

EFFECTIVE

DATE:

The 90 percent FFP rate for CSES expenditures is repealed as of September 30, 1997. For all CSES expenditures made **on or after October 1, 1997** (other than holdback payments discussed as "Special Circumstances," below), Federal funding is only available at either the 80 percent or 66 percent FFP rates.

SPECIAL

CIRCUMSTANCES: System Certification and Holdback Payments. In accordance with Section 454(24)(A)

¹ of the Act, each State "will have in effect an automated data processing and information retrieval system by October 1, 1997, which meets all requirements of (title IV-D)...enacted on or before the date of enactment of the Family Support Act of 1988 (October 13, 1988)." To be fully certified, a system must be in compliance with all the requirements of 45 CFR 307.10 and must have successfully passed a certification review conducted by the Office of Child Support Enforcement (OCSE) under the provisions of 45 CFR 307.25.

Since we anticipate that many States will not request certification reviews until just before the deadline, OCSE will be unable to conduct these reviews in all States that have a "certifiable" operational system in effect by the October 1, 1997 deadline. When, under the terms of its contract with systems developers and others, a State "holds back" a reasonable and customary portion of the contracted price pending completion and formal certification of the entire project, any delay in the certification process will necessarily delay the final payment of these "holdback" amounts.

This deviation for a class of expenditures covers only the amounts attributable to work completed on or before September 30, 1997 for which payment is being deliberately withheld solely because of contractual provisions that delay full payment pending Federal certification of the CSES. Holdbacks payments are not attributable to work performed after September 30, 1997, nor are they attributable to work performed on or before September 30, 1997 if the payment is not contractually designated as a holdback payment and if it could not have been anticipated to be made to the State staff or contractor on or before September 30, 1997, under the State's regular or expedited payment procedures.

Cash Accounting. Under the provisions of 45 CFR 304.25(a), States are required to maintain a cash accounting system for the maintenance of financial records under the Child Support Enforcement Program. As stated in this regulation, this provides that "(e)xpenditures are considered to be made on the date which the cash disbursements occur...."

¹ As amended by §344(a)(4) of PRWORA.

Given the delays that may occur in the certification process, many "holdback payments" will ultimately be paid to the respective contractors after September 30, 1997, the last day that Federal funding will be available at the 90 percent FFP rate. In accordance with the cash accounting requirements outlined above, payments made after that date would no longer be eligible for Federal funding at the 90 percent FFP rate.

Deviations. Under Federal regulations at 45 CFR 304.25, "(d)ifferent rules may be applied... for particular classes of expenditures only upon justification by the State to (OCSE) and approval (by OCSE)."

In accordance with these regulations, any State that has in effect an operational statewide comprehensive computerized support enforcement system and has requested a "Federal Level 2 Certification" prior to October 1, 1997, may submit a request that it be permitted to deviate from the standard treatment of expenditures to preserve its claim to Federal funding at the 90 percent FFP rate. To permit these requests to be processed, they must be received by this agency no later than August 31, 1997. Each request must include the State's rationale for the request and the full amount for which the request is being submitted. The use of certified mail with a return receipt is recommended to establish the mailing and receipt dates.

The request must be signed by the individual responsible for submitting the State's quarterly expenditure reports and should be sent to:

Administration for Children and Families
c/o Director, Office of State Systems
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

A copy should also be sent to the appropriate Regional Administrator.

Escrow Accounts. To preserve its claim for Federal funding at the 90 percent FFP rate, the State must establish an escrow account with a third party at the time the request for deviation is submitted. The amount deposited to this account should equal the 10 percent State share of the payments being held back pending system certification, as specified in the State's contract. If the State's deviation request is approved, the holdback payments, when made to the vendor, will remain eligible for Federal funding at the 90 percent FFP rate, using the funds in the escrow account as the State share of these payments. Any non-holdback payments anticipated to be made to the vendor later than September 30, 1997 under the terms of the contract should not be deposited in this account and will not be considered for the 90 percent FFP rate.

Financial Reporting. Deposits made to an escrow account will not be considered expenditures for Federal reporting purposes. Upon notification that a State's Child Support Enforcement System is certified, the entire holdback payment should be claimed as "prior quarter increasing adjustments" at that time. These claims will remain eligible for Federal funding at the 90 percent FFP rate. Additional Federal funding at the 90 percent FFP rate will not be available to correct system deficiencies identified by the State or by a Federal certification review, including deficiencies concerning contract deliverables, if such corrections are made after September 30, 1997.

**OTHER
PROVISIONS:**

Prior Quarter Adjustments. For the purposes of determining the applicable FFP rate for those expenditures affected by this change, the date the expenditure is made (or the quarter to which the expenditure is allocated) is the controlling factor. Any expenditure made prior to October 1, 1997 that is eligible for 90 percent Federal funding, but claimed later than that date (subject to the timely filing requirements, below) will remain eligible for Federal funding at the 90 percent FFP rate.

Timely Filing. The reduction in FFP rates does not alter the requirement under Section 1132 of the Social Security Act (45 CFR Part 95, Subpart A) that claims be filed within two years of the last day of the quarter in which the expenditure was made. The determination of the appropriate FFP rate for these claims is governed by the guidelines discussed above. Any claim found to meet the criteria for an exception to the two-year deadline, will remain eligible for Federal funding at the 90 percent FFP rate regardless of when that claim is filed.

Depreciation Claims. Under the provisions enacted under PRWORA, FFP at the 90 percent rate has not been reinstated for claims for depreciation. Therefore, claims filed in accordance with a multi-quarter depreciation schedule were eligible for FFP at the 90 percent rate only through the quarter ended September 30, 1995. Depreciation claims applicable to quarters beginning on or after October 1, 1995, are eligible for FFP only at the 80 percent or 66 percent FFP rates, as appropriate.

(Example: ADP equipment purchased in accordance with an approved plan in July 1994 is to be depreciated over a five-year period, from July 1994 through June 1999. The portion of the depreciation allocated to and claimed for quarters beginning July 1994 and ending September 1995 will be eligible for Federal funding at the 90 percent FFP rate; the portion of the depreciation allocated to and claimed for quarters beginning October 1995 and ending June 1999 will be eligible for Federal funding at either the 80 percent or 66 percent FFP rates, as applicable.)

**ACTION
REQUIRED:**

For "Current Quarter Expenditures" claimed in column (a), Part 1 of Form OCSE-131, the "Child Support Enforcement Program Financial Report" for fiscal quarters beginning on or after October 1, 1997: (1) No amounts should be reported as eligible for FFP at the 90 percent rate on Lines 5 or 6; and (2) The "Federal Share of Expenditures" reported on Line 10 must be calculated using the enhanced 80 percent FFP rate and the regular 66 percent FFP rate, as appropriate.

Eligible expenditures, including holdback payments, will continue to be claimed at the 90 percent FFP rate as "Prior Quarter Adjustments," as necessary and subject to the timely filing requirements discussed above.

(**Note:** At the time of publication of this Action Transmittal, Form OCSE-131 was in the process of being revised and redesignated to accommodate statutory changes. As a result of these revisions, the line numbers specified above may change, although the general reporting requirements will remain intact.)

**RELATED
MATERIAL:**

Action Transmittal OCSE-AT-96-10, dated December 23, 1996.

**SUPERSEDED
MATERIAL:**

Action Transmittal OCSE-AT-95-03, dated February 17, 1995.

INQUIRIES:

ADP System Inquiries: Director, Office of State Systems.

Financial Inquiries: ACF Regional Representative.

/s/ Anne P. Donovan for
David Gray Ross
Deputy Director
Office of Child Support Enforcement

/s/
Norman L. Thompson
Director
Office of Program Support