

EMPLOYER SYMPOSIUM

**Hosted by the
Federal Office of Child Support Enforcement**



Partnerships that work!

November 2011 Report

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Introduction

Purpose

The purpose of the Employer Symposium was to convene experts from the child support, employer and judicial communities and provide a face-to-face forum to discuss ways to improve the operations of the child support program particularly where employers are involved. The specific goals of the symposium were to identify and discuss areas of mutual interest and document issues and recommendations. While not all issues may be resolvable to the satisfaction of both states and employers, the most important benefit of the symposium is that it afforded states an opportunity to identify why certain things do not work for them (i.e., current VOE) and employers were able to voice their concern about the workload/impact on them. Unfortunately, for some of the issues identified there may not be a solution that satisfies both states and employers.

Background

The first Employer Symposium was hosted by the Federal Office of Child Support Enforcement (OCSE) in August 2005. Attendees offered extremely positive feedback about the structure and content of the symposium. Since then many employers and states have suggested that OCSE host a second symposium to provide an opportunity for representatives from the child support, employer and judicial communities to discuss areas of mutual interest such as enhancing the program's effectiveness through electronic business practices, improving communications, and increasing support to families. Based on that feedback, OCSE decided to host a second Employer Symposium to follow NCSEA's 2011

Annual Conference and Expo with many participants already attending employer-related workshops at NCSEA's conference. The Employer Symposium was held on August 3-4, 2011 in Atlanta, Georgia.

Format

The symposium was two half-day sessions. Since there was limited meeting time, OCSE made the decision not to have break-out sessions but instead to facilitate discussion and share information in sessions attended by all participants. The agenda followed the logical flow of information from employers to states, states to employers, courts to employers, and employers to courts. The first day's agenda covered new hire reporting, verifications of employment, Federal Employer Identification Numbers (FEINs), electronic income withholding orders (e-IWOs) and communication. The second day's agenda covered income withholding and state disbursement units, electronic payments (e-payments), and lump sum reporting and withholding. Immediately following the conclusion of the second day, OCSE hosted a Q&A for members of the judiciary, including private attorneys, to provide additional information and respond to questions targeted to the judicial community.

Participants

A total of 89 individuals participated in the symposium including representatives from state and federal child support enforcement agencies, employers and payroll professionals, and members of the judiciary including private attorneys.

Issues and Recommendations

This report captures major topics discussed at the symposium and documents issues and recommendations that resulted from the participant discussions. Because of the related nature of the topics, there is some repetition of specific issues and recommendations. This part of the report will be the focus of future efforts to improve the operation of the child support (CS) program as a result of the symposium. Please note that these recommendations were developed through a general discussion with attendees at the symposium and may reflect the opinion of one or few participants. These recommendations are not based on group consensus.

Next Steps

OCSE will analyze the recommendations and work with organizations, such as the American Payroll Association, the National Child Support Enforcement Association, the National Council of Child Support Directors, the Employer Services Workgroup, and other employer and child support professionals across

the country as well as members of the judicial community, to determine which recommendations to implement.

New Hire Reporting

Background

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, also known as welfare reform, requires all employers to report certain information about their newly hired employees to a designated state agency.

States match new hire reports against their child support records to locate parents, establish orders, or enforce existing orders.

Issues Identified by Employers, States or Other Symposium Attendees

- **Standardization of Data Element Reporting**
 - States require additional data elements beyond the seven that are required by federal legislation.
 - It may be difficult to gain consensus from all states on standard data elements beyond the seven currently required.
 - Lack of national standardized data elements causes a delay in new hire submissions because additional time may be needed to provide the information requested; e.g., health insurance eligibility.
 - If stakeholders reach an agreement to collect standard data elements beyond the seven currently required, states that do not need the additional elements would be required to change their systems.
 - Not all required elements are being reported (information may not be available at time of reporting).
 - Employers have concerns about “mission creep” of information contained in the National Directory of New Hires; i.e., additional federal agencies requesting access.
- **Medical Insurance Reporting**
 - It is difficult for employers to meet the reporting timeframe when responding to a request for medical insurance information on a specific employee (e.g., Does John Doe have medical insurance?); however,

providing a general response about the availability of medical benefits (e.g., Do you offer medical support?) is less difficult.

- Requesting medical support information through the new hire reporting process helps states save time and money.
 - If medical support information is not reported at time of new hire, states would be required to follow up with an additional request to the employer.
 - If an employee is not eligible for medical benefits until after a certain period of time, the new hire report may not accurately reflect the employee's eligibility.
 - Departments, such as human resources, who respond to medical support inquiries, should be included in problem solving discussions.
 - Employers would like a better understanding of why some states (or federal agencies) need additional elements, e.g., NCP medical coverage due to changes in federal requirements on medical support.
 - Some states may not be using the medical insurance information provided when a child support payment is submitted via EFT.
- **Independent Contractors**
 - Independent contractors are required to complete different tax forms than regular employees and the information collected on the forms may not be sufficient for new hire reporting.
 - The information provided on the 1099 is for the previous tax year and reflects payments already made.
 - **Timing**
 - Temporary employees are being reported as new hires. When a state issues an IWO and there is no response, the state finds out the temporary employee is not an employee on the employer's payroll yet.

Recommendations Offered During the Discussion

- **Standardization of Data Element Reporting**
 - Require employers to report fewer data elements to all states, which may help states gain more "bang for their buck."
 - Provide more information on the front end (through new hire reporting) and decrease the need for verifications of employment.
 - Determine the data elements required by most states and available from most employers within the timeframes for new hire reporting.

- Establish a National Employer Database that is FEIN driven, and include any medical benefits the employer may provide.
 - Adjust the timeframes for new hire reporting to allow employers to gather information needed upfront.
 - Provide a standard definition of Date of Remuneration.
- **Medical Insurance reporting**
 - At the time of new hire reporting, ask the general question whether an employer provides medical insurance rather than whether a particular employee is eligible for coverage.
 - If an employer reports there is no medical insurance available, the state does not need to send a National Medical Support Notice.
 - States should look into ways in which medical support information could be captured from the EFT files submitted by employers when payments are made to the SDU. The EFT record provides information on whether the employer provides health insurance.
- **Independent Contractors**
 - Seek guidance within IRS SS-8 to define “independent contractor” to determine what information should be included in new hire reporting and on IWOs.
 - Look at the definition from Georgia’s “master & servant” law. (Georgia Code Title 34 – Labor and Industrial Relations, Chapter 7 – Master and Servant)

Verification of Employment (VOE)

Background

The CS program uses a verification of employment (VOE) form to obtain information about noncustodial parents (NCP) that is either not available through new hire reporting or has not reached the state through new hire reporting in the timeframe needed to establish or modify a child support order. The information most often sought by the child support agency concerns wages and the availability and type of medical insurance.

Locate sources have become increasingly innovative and effective. Despite these improvements, employers continue to receive a high volume of VOE forms from some states. To address this issue, in 2009 and 2010 OCSE partnered with states and employers to develop the standard VOE response form published in Dear Colleague Letter 11-04.

Twenty-six states voluntarily agreed to accept this form from employers; however, other states require additional information that is not supplied by the standard response form.

Issues Identified by Employers, States or Other Symposium Attendees

- **Need for VOEs**

- Quarterly wage data may not provide detailed information states need to establish or modify appropriate child support orders.

- **Third-party Providers**

- Sometimes all data elements/information required by a state are not available from a third-party provider. The employer is responsible for providing all information requested by a state.
- Recently a large third-party provider changed the wording in their user agreement to reference the Federal Consumer Credit Reporting Act, creating an issue for many states. The third-party provider reevaluated the change, determined that the language is not needed and is in the process of developing a new agreement for states.

Update: Since the symposium, the large third-party provider's further research resulted in a reversal of the decision. This is an outstanding issue.

- **Employer Compliance**

- There is only about a 40 percent compliance rate with returning completed VOEs. Employers understand the importance of completing and returning the VOEs; however, due to conflicting priorities they may not always return the completed forms.
- The volume of VOEs is a problem for employers. One employer commented that 2 states send more VOEs (400+ per week) than IWOs.
- Employers consider this an "unfunded mandate" that requires many resources to provide the information requested.

- **Standard VOE Response Form**

- Not all states have agreed to accept the standard VOE response form because additional information may be needed to establish or modify a child support order in the state than is provided on the form. For example, detailed income history may be required.
- It is difficult to create one form to meet the needs for all states.

Recommendations Offered During the Discussion

- **Reduce Number of VOEs to Employers**

- Use automated sources: If it comes from NDNH then the state should not send a VOE since information has been provided by the employer.
- Work with states to see if there are more elements to include on the standard VOE response form so more states will agree to accept it from employers.
- States that use the standard VOE response but need additional information may contact an employer to request additional information, such as other benefits.
- Work with specific states to reduce the volume of VOEs sent to employers.

- **Standard VOE Response Form**

- Simplify the response form for employers.
- Standardize response format: supported by large employers, easier to implement.
- Use OCSE's portal to facilitate transmission of VOEs from states to employers and then back to states, one stop for employers and states to exchange information.
- Outsourcing of VOE responses including medical support requests may be helpful and reduce the time it takes for states to receive responses from employers.

- **Outreach**

- Some employers do not provide medical support information because it is considered private under HIPAA. A compromise may be to ask a general question such as "Do you provide health insurance to employees?"
- OCSE should clarify the impact of HIPAA requirements on requests for medical support information from state CS agencies.

Note: Guidance issued, see PIQ-04-03 on HIPAA and Medical Support.

Federal Employer Identification Numbers (FEINs)

Background

In many instances states identify employers by their Federal Employer Identification Number (FEIN). The FEIN is the key to processing information from the Federal Case Registry (FCR) to issue income withholding orders (IWO) and it is used as an identifier for incoming electronic funds transfer (EFT) payments.

Many states have employer tables and staff work diligently to maintain accurate employer addresses and eliminate duplicate addresses. Nevertheless, state employer tables are often prone to duplication and erroneous entries. One of the reasons for this problem is that some employers have multiple addresses and FEINs that are difficult to reconcile. Some states reported that they have employers with no FEINs.

Issues Identified by Employers, States or Other Symposium Attendees

- States continue to receive addresses for Unemployment Insurance (UI) claims administrators instead of the employer even though OCSE developed a process to suppress/filter the UI address, e.g., PO Box 283.

Note: Filter can be improved by notifying OCSE immediately when “bad” addresses are identified. Send “bad” addresses to nancy.benner@acf.hhs.gov.

- Third-party payers use their own FEINs on EFT payments.

Comment: NACHA ACH rules do not have a solution for this; OCSE has developed a work-around for third-party providers using the CCD+ file format. For more information, contact nancy.benner@acf.hhs.gov.

- Many states have not “cleaned up” or reconciled their employer tables.

Comment: Several states that have cleaned up their employer tables (TX, MN) prepared presentations and best practices. OCSE’s Technical Support Team is also available to assist state CS agencies.

- Currently, there is no mechanism in place to allow employers to update FEINs/addresses on OCSE’s portal when an employer goes through a merger or acquisition.

Recommendations Offered During the Discussion

- States may need to suppress/filter UI claims administrator addresses.
Comment: Filtering by OCSE catches large, UI claims administrators who are active nationally; states can improve the process by setting filters for local UI claims administrators.
- If it is IRS information, IRS should provide FEIN information/verification when it is not available from SSA.
- Allow employers to update information on OCSE's portal.
Note: Any new FEIN reported by an employer is added to the e-IWO employer table.

Electronic Income Withholding Orders (e-IWOs)

Background

In 2004, in partnership with states and public and private-sector employers, OCSE developed an electronic format for the IWO. In 2005, several states and employers began exchanging e-IWO information as a pilot. As a result of the pilot, states and employers determined that it would be more efficient and cost effective to develop a single point of communication between states and employers to exchange e-IWOs. In 2008 OCSE implemented the e-IWO portal, which enables states and employers/payroll processors to easily and securely exchange e-IWO documents and files by interfacing with just one entity.

Electronic transmission of IWOs increases processing efficiency and improves the speed with which payments are made to families by:

- reducing the time from IWO preparation to employer processing;
- reducing errors that can occur through manual processing;
- reducing the cost of postage and processing paper documents; and
- providing an on-going communications link between CS agencies and employers should additional action be necessary.

Issues Identified by Employers, States or Other Symposium Attendees

- Payroll software providers have not integrated e-IWO into their software.
- Not all states have implemented e-IWO.

Recommendations Offered During the Discussion

- Add a check box to the profile form just for the employers on e-IWO to address the question, “Does your company offer medical insurance?” This information could be added to the spreadsheet currently provided to states.
- Encourage states/employers to take advantage of reconciliation process.

Communication Methods

Background

Communications between CS agencies and employers have not always kept pace with employers’ continued need for information. Employers use the employer section of the OCSE website, particularly the state-specific information and are looking for that kind of resource at the state level.

Issues Identified by Employers, States or Other Symposium Attendees

- No new issues documented.

Recommendations Offered During the Discussion

- Employers maintain their own profile on state websites.
- States should establish an Employer Taskforce to address state and employer concerns and to work together on improving the child support program including proposing legislation.
- Employer councils and employer services center should be established and an employer handbook should be provided as PDF on state websites.
- Courts and private attorneys should be included in child support related discussions; particularly regarding changes to the Income Withholding for Support (IWO) form.

Income Withholding Orders/State Disbursement Units

Background

PRWORA required that states transmit orders and notices for income withholding to employers (and other income withholders) using uniform formats prescribed by the Secretary of Health and Human Services. To ensure consistency, OCSE issued the Income Withholding for Support, which is required to be used by public and private entities when sending an order/notice to an employer or other income withholder. In May 2011, the Federal Office of Management and Budget (OMB) approved the revised IWO disseminated via AT-11-05. The revised IWO includes several changes; the most significant instructs the employer/income withholder to return the IWO to the sender if it is not “regular on its face” under the following circumstances.

- Payment is not directed to a State Disbursement Unit (SDU).
Exception: If the order was entered before January 1, 1994 or the order was issued by a Tribal CS agency, the employer/income withholder must follow the payment instructions on the form.
- The form does not contain all information necessary for the employer/income withholder to comply with the withholding.
- The form is altered or contains invalid information.
- The amount to withhold is not a dollar amount.
- The sender has not used the OMB-approved form for the IWO (effective May 31, 2012).
- A copy of the underlying order is required and was not included.

Issues Identified by Employers, States or Other Symposium Attendees

- Terminating IWOs
 - States do not always receive notice when a noncustodial parent (NCP) has been terminated.
 - Employers do not always receive termination orders for non-IV-D/private orders or for IV-D orders.
 - Employers are not sure how to determine if a termination order is valid.

- Insufficient information for employers to process the IWO
 - There are missing case/remittance ID on non-IV-D orders.
 - There are missing or truncated SSNs.
- Insufficient information for states to process payments
 - Non-IV-D order information is not on the state system.
- Employers receive IWOs that do not direct payment to an SDU, which creates an extra step for employers to contact the SDU to attempt to correct the order.
- There is a lack of communication between courts and state CS agencies when a non-IV-D/private order is entered.
- About 90 percent of states do not use FIPS codes to allocate payments, but we need to include the codes on the IWO for those states that do.
- Some states use a single IWO when an NCP has multiple cases (different custodial parties and children). The current IWO is case-specific and not designed to capture information about multiple families.
 - When a state modifies the IWO and does not use the same case ID that was used on the original IWO, the employer may implement the modified order as if it were a new order, a process called “double-dipping.”
 - Issuing only one IWO per case simplifies the IWO process for employers.
 - Using one IWO to cover multiple cases against one NCP can result in errors in distribution (payments sent to the “wrong” custodial party).
 - However, employers in Washington State have adjusted to the process of receiving one IWO to cover multiple cases for an employee/NCP.
- Terms of the Order
 - Federal statute requires states to have laws in effect that require employers to withhold income; however, employers are not required to vary the normal pay and disbursement cycles in order to comply with the withholding order. One state sent a notice to employers in their state to withhold according to the order, but to suppress the withholding in months with 3 pay periods. This affects weekly and bi-weekly pay cycles.
 - Not all states complete the amounts to withhold when the pay cycle is weekly, bi-weekly, semi-monthly or monthly.

- Orders Issued by the Judiciary
 - Many courts are not aware of the requirements to use the OMB-approved IWO and that all payments (both IV-D and non-IV-D) must be directed to the SDU¹.
- Some may interpret IWO instructions to mean that non-IV-D orders have to go back to court each time there is a change of employment or modification to the order.

Recommendations Offered During the Discussion

- Create a matrix for employers that contains a list of SDU contacts.
Note: This is currently available on OCSE's website.
- Provide outreach to employers about notifying the IWO sender when the employee is terminated.
- Propose legislation to eliminate non-IV-D orders/cases by requiring all child support cases to become part of the state's IV-D caseload.
- Provide guidance to ensure that a specific dollar amount is used on the IWO rather than a percentage of income.
- Coordinate outreach activities between OCSE and states to provide information about income withholding to the judiciary focusing on directing payments to the SDU and using the OMB-approved IWO.
- Highlight availability of bench cards (one-pagers with links to child support information) addressing OMB-approved IWO and SDU requirements that will be available on OCSE's website.
- Remind states to complete all fields on the OMB-approved IWO, since the employer pay cycle may not correspond with the pay cycle contained in the underlying order.

¹If the underlying support order meets any of the following criteria, then there is no requirement for states to process income withholding payments through the SDU:

1. support order initially issued in the state before January 1, 1994 and has never been modified; or
2. support order initially issued in the state before January 1, 1994 and has no arrearages; or
3. support order initially issued in the state before January 1, 1994 and is not associated with a IV-D case.

Electronic Payments

Background

All state CS agencies (except South Carolina) offer payment by Electronic Funds Transfer/Electronic Data Interchange (EFT/EDI), the primary method of sending payments electronically. The EDI portion of the transmission includes identifying information so that the payment can be properly credited to the payor's case. Employers and state agencies that switch to electronic payments will realize lower costs, fewer errors, and faster processing.

- Large employers can save time and money by sending their child support payments electronically. Many large employers have experienced substantial savings by converting to e-payments for child support.
- Small-to-midsize employers have realized savings by submitting their child support payments to the 37 state websites that currently accept e-payments for child support: Arizona, Arkansas, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

Issues Identified by Employers, States or Other Symposium Attendees

- Few if any SDUs accept payment by major credit cards because they will not allow child support agencies to charge a percentage fee. One major credit card company allows a percentage fee, though most SDUs charge a flat fee for accepting major credit card payments from noncustodial parents.
- Some states require employers to send payments and annual state fees in separate records to ensure there is a separate electronic account for fees. Employers prefer to send child support payments and fees as one record.

Recommendations Offered During the Discussion

- OCSE and SDUs should work together to convert international child support payments to e-payments.
- OCSE and SDUs should work together to ensure that payments from online billers arrive electronically with adequate information to be identified.

- OCSE should pursue discussions with major credit card companies to allow lower fees for child support payments.

Lump Sum Payments/Debt Inquiry Service

Background

Lump sums are an underused source of child support collections, according to employers. In an effort to increase collections from lump sums, OCSE and the Employer Services Workgroup consisting of states, federal agencies, and private employers identified improvements in several areas. One of those was a list of recommendations for model lump sum legislation states might adopt to increase and standardize employers' reporting of lump sums.

In response to employers' request for standard reporting of lump sums and quicker response times regarding whether an employee/NCP owed child support arrears, OCSE developed the Debt Inquiry Service (DIS) in 2011. This is an automated tool allowing employers to report pending lump sum payments; that file is compared to the Debtor File and matches are sent to participating states with arrears owed by the NCP. The DIS is currently being piloted by thirteen states and eight employers.

Complicating this issue is the fact that some lump sum payments are "earnings" as defined by the Consumer Credit Protection Act. Employers may withhold only the maximum federal limits (50 – 65 percent) or a lower limit established by state law. Other lump sum payments are not "earnings" but rather are "income" as defined by the Social Security Act. Employers may withhold 100 percent or up to the amount of the arrears, if lower, from these payments. Identifying which lump sums fall into which category is a topic for further discussion.

Issues Identified by Employers, States or Other Symposium Attendees

- Department of Defense lump sum payments are issued to members of the uniform services "in the field." Therefore payroll does not receive prior notice about the lump sum payment.
- Employers noted that 75 percent of lump sums/bonuses reported to states do not result in follow-up action from states to withhold. Employers would like to have the authority to receive information through the DIS to determine whether an employee owes a debt.

- Employers may not want to use the DIS if there is little chance the state can send them notice before the payment is made to the obligor.
- Employers may not use DIS unless it is mandated.
- DIS does not go full circle like lump sum reporting available through e-IWO.

Recommendations Offered During the Discussion

- Propose legislation that would standardize the process for reporting and withholding from lump sum payments.
- Expand use of the DIS to report other types of lump sum payments from other sources (e.g., multistate lotteries, class action suits, structured settlements).

Comment: Legislation would be required to provide authority.

- Discuss use of the DIS with Social Security Administration and Defense Finance and Accounting Service.
- Add retroactive pay increase and sign-on bonus to lump sum types on the DIS application.
- States could explore using Texas' lump sum legislation and process as a model for obtaining or modifying existing lump sum legislation. For example, establish a specific process for severance pay with an automatic deduction.
- Improve the process for sending notices to withhold from lump sum payments from states to employers by using e-IWO or expanding the DIS application.
- Add a field to DIS to determine whether an employer requires an additional notice to withhold from the lump sum payment or if an IWO would be sufficient.

Comment: Explore simplification of notice to an employer/income withholder to garnish a lump sum payment.

- Expand the use of the DIS for other garnishments outside of the child support program.

Appendix A - Evaluation Summary

Participants were asked to evaluate various aspects of the Symposium. The average score received for each aspect is expressed below. (Participants completed forty-two evaluation forms.) The numerical ratings were: (5) Excellent; (4) Very Good; (3) Good; (2) Fair; and (1) Poor. Participants seemed most pleased with the opportunity to meet and discuss items in this forum.

	Average
A. Please indicate the extent to which you were satisfied with these aspects of the Employer Symposium for Wednesday August 3rd:	
Symposium format (group discussion)	4.6
Discussion topics	
New Hire Reporting	4.5
Verification of employment	4.5
FEINs	4.5
e-IWO	4.8
Communication	4.4
Participant composition (employers, state CS staff, judiciary)	4.6
The opportunity to express my ideas and concerns	4.7
Resource Materials	4.7
Meeting Space	4.8
B. Please indicate the extent to which you were satisfied with these aspects of the Employer Symposium for Thursday August 4th:	
Discussion topics	
Income Withholding/SDU	4.7
Electronic Payments	4.6
Lump Sums/Debt Inquiry Service	4.7
Q&A session for Attorneys	4.5
C. Please indicate your level of satisfaction with all aspects of the Symposium:	
Overall, I thought the Symposium was	4.7
D. Please provide any additional comments.	
<p>“I couldn’t score lower than 5’s. I was truly impressed with the organization, choice of invited attendees, and enthusiasm of OCSE. Being from a state, it’s nice for me to see OCSE outside of agency audits.”</p>	

<p>“This was one of the best conferences that I have attended! It would be great to meet every year or every other year. It was as good as the 2005 symposium.”</p> <p>“Excellent format; I liked the “no-scheduled breaks,” felt very productive.</p> <p>“Good networking opportunity and useful information.”</p> <p>“It was great to see that all sides had great representation and utilized the opportunity to meet face to face to discuss issues and concerns. I truly hope this kind of forum could be held more often than or at least as often as changes require.”</p> <p>“The symposium was great but felt a bit rushed; maybe we could have used some round table discussions toward realistic solutions.”</p> <p>“The symposium needs to be held more often, at least every three years, if not every year.”</p> <p>“Very beneficial!”</p> <p>“Needed more time to address issues; lots of good discussion, was cut short due to the agenda timeline.”</p> <p>“Excellent forum.”</p>	
<p>Overall Average</p>	<p>4.6</p>