

CHAPTER THREE STATE AND LOCAL ROLES IN THE CHILD SUPPORT ENFORCEMENT PROGRAM

INTRODUCTION

Child support enforcement on the State and local levels includes all activities devoted to securing payment of established financial obligations from noncustodial parents. State and local agencies are responsible for locating noncustodial parents; establishing paternity; establishing, modifying and enforcing support obligations; monitoring payments for compliance with orders; distributing and disbursing collections; and safeguarding confidential information. The State Child Support Enforcement (CSE) agency may also have responsibility for administratively establishing orders and enforcing them.¹ State CSE agencies often must work closely with courts in judicial States. In addition, State or local CSE agencies may work with prosecuting attorneys and other law enforcement agencies in pursuing criminal nonsupport cases.

Each State CSE agency operates under a State plan approved by the Federal Office of Child Support Enforcement (OCSE). This plan, based on the program standards and policy set by the Federal government, sets the structure for State CSE agencies and their local counterparts to work with families to obtain support. In 1984, 1988, 1993, and 1996, Congress enacted significant legislation relating to the Child Support Enforcement program, providing States with additional remedies to collect child support. In particular, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also known as PRWORA or Welfare Reform, mandated States to enact necessary legislation to facilitate paternity establishment, income withholding, and interstate case processing; to permit CSE agencies to issue administrative subpoenas; access State and local government records; revoke or restrict drivers' licenses; match information with financial institutions; and to require CSE agencies to seek medical support orders in all cases.

Before passage of PRWORA, public assistance was provided under the Aid to Families with Dependent Children (AFDC) program. With the move toward State control of assistance programs through block grants and the imposition of time limits for public assistance, the direction of this program changed. It is now known as Temporary Assistance for Needy Families (TANF).

TITLE IV-A STATE PLAN REQUIREMENTS

Historically, assistance cases comprised the majority of the Title IV-D attorney caseload. In recent years the number of cases from nonassistance

¹ See Chapter Six: Expedited Judicial and Administrative Processes, for additional information on administrative process.

applications for services has surpassed the number of referrals from public assistance. To understand the CSE program, it is helpful to understand the transition from an emphasis on recouping Federal funds to the current mission of ensuring the support and care of America's children, without regard to receipt of government assistance.²

With welfare reform came an increasing recognition that the Government's role must move beyond providing financial assistance.³ To this end, the States have been charged with developing their own programs to provide assistance to needy families with (or expecting) children and to provide parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.⁴ Under this scheme, the parent must be ready to enter the workforce within the time limits placed by the State.

The CSE program, once considered a means to recoup funds expended to provide assistance grants, now places greater emphasis on helping families obtain a steady source of income. As more families move from reliance on public assistance to self-sufficiency, they continue to use the CSE program services. While cases still come to the CSE agencies through criteria set by the States in their assistance programs, the focus has shifted to allow greater collection efforts for non-TANF families, as well as for those receiving public assistance.

The State welfare agency administers the TANF program, under an approved State plan pursuant to Federal requirements at 45 C.F.R. §§ 201 through 299⁵. The administering agency is commonly known as the IV-A agency, since Title IV-A of the Social Security Act establishes the programs that provide financial assistance to families.

An applicant for, or recipient of, TANF must meet the two following child support-related conditions:

- cooperation in obtaining child support;⁶ and
- assignment of rights to child support.⁷

² Office of Child Support Enforcement, Admin. for Children and Families, U.S. Dep't. of Health & Human Servs., *Twenty-Third Annual Report to Congress, For the Period Ending September 30, 1998* (Sept. 2000).

³ Assistance is defined to include cash, payments, vouchers, and other forms of benefits to meet a family's ongoing basic needs and may be conditioned on participation in work or community activity. 45 C.F.R. § 260.31 (2000).

⁴ 42 U.S.C. § 602(a)(1)(A)(i) (Supp. V 1999).

⁵ 45 C.F.R. §§ 201 – 299 (2000).

⁶ 42 U.S.C. § 654 (1994, Supp. IV 1998, & Supp. V 1999).

⁷ 42 U.S.C.A. § 408(a)(3) (West Group Supp. 2001).

Cooperation in Obtaining Support

The new welfare law made several important changes affecting the cooperation/good cause determination. First, it transferred the determination that an applicant or recipient is cooperating “in good faith” with the IV-D agency to the IV-D agency. Second, the law allows the IV-D agency to define what constitutes “cooperation in good faith” for providing the State agency the name of the noncustodial parent and other information. Third, PRWORA allows the State to determine which agency—either the CSE, public assistance, or Medicaid agency—will define what constitutes “good cause” for not having to cooperate with the CSE agency, and for applying the “good cause exception” to the cooperation requirement.

To be eligible for assistance, each State must develop its own rules for cooperation by the applicant for benefits and for determination of good cause for refusing to cooperate. States may define cooperation to include any of the following:

- identifying and locating the parent of a child for whom aid is claimed;
- establishing the paternity of a child born out of wedlock for whom aid is claimed;
- obtaining support payments for the applicant or recipient and for a child for whom aid is claimed; and
- obtaining any other payments or property due the applicant, recipient, or child.

Further, cooperation on the State level can include any of the following actions determined by the State to be relevant to, or necessary for, achievement of the objectives listed above:

- appearing at an office of the State or local IV-A or IV-D agency as necessary to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by, the applicant or recipient;
- appearing as a witness at judicial or other hearings or proceedings;
- providing information or attesting to the lack of information under penalty of perjury; and
- forwarding to the IV-D agency any child support payments received from the noncustodial parent after an assignment has been made.

With adoption of welfare reform and the block granting of assistance programs, the States have been granted broad authority and discretion to set standards for what constitutes good cause and cooperation. Should a IV-D attorney experience difficulties with an applicant or recipient who has been referred by the IV-A agency, State law provides a process to address these difficulties. Once the IV-D agency notifies the State or local IV-A agency of evidence of failure to cooperate, the IV-A agency will act on that information to enforce these eligibility requirements.

Good Cause for Noncooperation

Block grants have removed the Federal regulatory mandates with respect to good cause. The States must develop a way to advise the applicant or recipient of TANF benefits about how to request a good cause exception. Each State must determine what type of notice it will give to the applicant or recipient regarding the procedures and sanctions for noncompliance. It is helpful for States to notify recipients of the following:

- the potential benefits that the child may derive from establishing paternity and securing medical and financial support;
- the requirement for cooperation in establishing paternity and securing support;
- the sanctions for refusing to cooperate without good cause; and
- the criteria for establishing good cause and how to claim it, and the exemption from the cooperation requirement if the IV-A agency determines that there is good cause (such as a risk of domestic violence).

Generally, the IV-D agency will not attempt to establish paternity and collect support in those cases where the TANF applicant or recipient is determined to have good cause for refusing to cooperate. However, the IV-D agency could attempt to establish paternity and collect support in cases where the IV-A agency determines that such activity can be done without risk to the applicant or recipient. If the IV-A agency excuses noncooperation, but determines that the IV-D agency can proceed safely with child support efforts, the IV-A agency may notify the TANF applicant or recipient. This will enable the applicant to withdraw the application, or the recipient to close the case, if desired.

TITLE IV-D STATE PLAN REQUIREMENTS AND PROGRAM OPERATIONS STANDARDS

The State plan requirements and standards for program operations for IV-D agencies are found in 45 C.F.R. §§ 302 and 303⁸, respectively. Requirements and standards apply both to types of cases served and the functions performed in processing a child support case.

Types of Cases Served

Cases come to IV-D agencies by different routes. The reason a particular case enters the CSE caseload determines its type, and can affect its servicing.

TANF families and other applicants. Since inception of the CSE program in 1975, IV-D agencies have been required to provide equal services to both welfare and nonwelfare families. In 1984, Congress reemphasized this responsibility by requiring specifically "that assistance in obtaining support will be made available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested."⁹

Title IV-E foster care children. In 1980, Congress transferred the TANF foster care program from Title IV-A of the Social Security Act to a new Title IV-E. Because the foster care program was no longer funded or administered under Title IV-A, the provision for assignment of support rights by TANF recipients no longer applied to foster care cases. This meant that Title IV-D services were not available for Title IV-E cases except as non-TANF cases. To receive IV-D services as a non-TANF case, the child's parent, legal guardian, or entity given custody of the foster child by the courts had to apply to the IV-D agency pursuant to 42 U.S.C. § 654(6).

To remedy this situation, Congress added 42 U.S.C. § 671(a)(17) to require States to take steps, where appropriate, to secure an assignment of support rights on behalf of children receiving foster care maintenance payments under Title IV-E. It also amended 42 U.S.C. §§ 654(4)(B), 656(a) and 657(d) to require IV-D agencies to collect and distribute child support for IV-E foster care maintenance cases.¹⁰

Previous public assistance families. A IV-D agency must continue to provide IV-D services to persons no longer eligible for public assistance. When it receives notice that the family is no longer eligible for assistance, the IV-D agency must notify the family within 5 working days that services will be continued unless the family advises the IV-D agency to the contrary. The notice must inform the family of the consequences of the continuation of IV-D services,

⁸ 45 C.F.R. §§ 302 – 303 (2000).

⁹ 42 U.S.C. § 654(6) (Supp. V 1999); 45 C.F.R. § 302.33 (2000).

¹⁰ See also 42 U.S.C. § 664(a) (1994, Supp. IV 1998, & Supp. V 1999).

including the available services, state fees, cost recovery, and distribution policies.¹¹

Medical assistance families. IV-D agencies must provide IV-D services to families who have assigned their rights to medical support as a condition of receipt of medical assistance approved under Title XIX of the Social Security Act. IV-D agencies must provide all appropriate services in these cases, without an application or application fee, unless the Title XIX agency determines it is against the best interests of the child to do so.¹² When a family is no longer eligible for assistance, the IV-D agency must continue to provide services as with previous public assistance families and must provide proper notice of the continuing service.

Processing a Child Support Case

This section provides an overview of child support case processing. Although attorneys are not involved in all aspects of a case, it may be helpful to understand how a case progresses through the steps of case initiation, intake, locate, paternity establishment, support order establishment or modification, monitoring and enforcement, maintenance of records, and security procedures for safeguarding information.

Case initiation. Child support cases originate in one of three ways: (1) referral from the Title IV-A, IV-E, or XIX agency; (2) application for services from a nonpublic assistance recipient; and (3) referral from another State.

The Title IV-A, IV-E, or XIX agency determines whether a public assistance applicant is eligible for TANF, foster care, or medical assistance. If the applicant is determined eligible, and there is a duty to pay child support by a noncustodial parent or paternity is in issue, the assistance agency must refer the case to the IV-D agency. The referral must contain an Assignment of Support Rights in addition to other pertinent information discussed below under "Intake." No application is made for IV-D services and no fee is required.

Anyone who is not receiving public assistance can apply for IV-D services by filling out an application. Availability of services is not limited to cases with only minor children or to residents of the State.¹³ There are no income eligibility requirements. The application is a written document provided by the State and signed by the applicant indicating that the individual is applying for IV-D services. (Deeming all child support cases to be IV-D cases by operation of law is contrary to the Federal "application" requirement because it does not permit the individual

¹¹ 45 C.F.R. § 302.33(a)(4) (2000).

¹² 42 U.S.C. § 654(4) (Supp. V 1999).

¹³ See 42 U.S.C. § 654 (1994, Supp. IV 1998, & Supp. V 1999); 45 C.F.R. § 302.33 (2000).

applicant the option of choosing whether to apply for IV-D services.) In an interstate case, only the initiating State IV-D agency can require an application.¹⁴

The IV-D agency must charge an application fee of up to \$25 for nonassistance services. The IV-D agency can charge this fee to the applicant or pay the fee out of State funds. Either way, the State can seek to recover the fee from the noncustodial parent in order to repay the applicant or itself.¹⁵ States must publicize the availability of CSE services, including any application fees that might be imposed in non-TANF cases.¹⁶ The IV-D agency must make applications for CSE services readily accessible to the public.¹⁷

The IV-D agency must provide an application on the day of an in-person request for services, or mail one in no more than 5 working days in response to a written or telephone request. The application must be accompanied by information describing CSE services, the individual's rights and responsibilities, and the State's fees, cost recovery, and distribution policies. This information must also be provided to TANF, Medicaid, and foster care recipients within no more than 5 working days of case referral.¹⁸ The IV-D agency must accept an application as filed on the day it and the application fee are received.¹⁹

Interstate cases come to a State through several methods. PRWORA required all States and territories to adopt the Uniform Interstate Family Support Act (UIFSA) to maintain Federal funding, which all have now done. UIFSA provisions address specifically how actions are initiated in a two-state case.²⁰

If there is no support order, the State IV-D agency may proceed under the UIFSA long-arm provisions if the noncustodial parent has significant connections with the State and meets the criteria. Otherwise, the State where the family files an application for services or receives public assistance can forward a petition for paternity and/or support establishment to the State where the noncustodial parent resides or works. The family can also file the case directly in the State in which the noncustodial parent resides or works. When an order already exists, the initiating State can request the State where the noncustodial parent resides or works to administratively enforce the order or register it for enforcement only. If modification of an existing support order is appropriate, the initiating State can request registration for modification. If an order exists in the noncustodial parent's jurisdiction, the initiating State can simply request the noncustodial parent's jurisdiction to enforce the order using available remedies. When an order exists and the initiating State is aware of appropriate employment information for the

¹⁴ 45 C.F.R. § 302.33(a) (2000).

¹⁵ 45 C.F.R. § 302.33(c) (2000).

¹⁶ 45 C.F.R. § 302.30 (2000).

¹⁷ 45 C.F.R. § 303.2(a)(1) (2000).

¹⁸ 45 C.F.R. § 303.2(a)(2) (2000).

¹⁹ 45 C.F.R. § 303.2(a)(3) (2000).

²⁰ For more a more in-depth discussion of UIFSA, see Chapter Twelve: Interstate Child Support Remedies.

noncustodial parent, the State can initiate a direct income withholding to the noncustodial parent's employer in another State without the necessity of filing with the IV-D agency or tribunal in that State.²¹

The State IV-D agency must establish an interstate central registry to receive, distribute, and respond to inquiries on all incoming interstate IV-D cases, including interstate petitions and requests for income withholding in IV-D cases.²²

Intake. Once the IV-D agency receives the appropriate forms from the referring agency or applicant, the agency must open the case by establishing a case record. This must occur within 20 days of receiving a referral case or application for services. Based on an assessment, the agency must determine what action is necessary and start collecting and verifying information.²³

The intake function consists of compiling the data received from the above sources along with other information available to the IV-D agency. Most States have designed and implemented automated computer interfaces to augment the information available to the IV-D worker during the intake process.

Preparation of an accurate and complete case record is crucial to the child support enforcement process. Future action on the case often depends on information collected at the initial stages in the case processing sequence. In addition, a well prepared case establishes a verifiable audit trail and generally helps the system operate effectively.

Locate. Once a case is opened, the IV-D agency must use available Federal, interstate, State, and local sources to locate the noncustodial parent. The agency must access all appropriate location sources within 75 calendar days of determining that location efforts are needed, and ensure that location information is sufficient to take the next appropriate action.²⁴

Except for requests from other States, location efforts begin at the local IV-D office. The request for locate services may be made by a court with jurisdiction to issue child support orders, the resident parent, the legal guardian or agent of a child not receiving public assistance, the agency seeking to collect child support payments, or other authorized person defined under 45 C.F.R. §§ 302.35(c) and 303.15.²⁵

States must have guidelines defining diligent efforts to serve process. These guidelines must include periodically repeating service of process attempts

²¹ Unif. Interstate Family Support Act § 501 (amended 2001), 9 Pt. 1B U.L.A. 336 (1999) [hereinafter UIFSA].

²² 45 C.F.R. §§ 302.36(b) and 303.7 (2000).

²³ 45 C.F.R. § 303.2(b) (2000).

²⁴ 45 C.F.R. § 303.3(b) (2000).

²⁵ Additional information on the locate process and available resources can be found in Chapter Five: Location of Noncustodial Parents and Their Assets.

in cases where previous attempts have failed, but in which existing identifying and other information is adequate to attempt service of process.²⁶ The actual requirements for service of process are found in State law and rules of procedure.

Paternity establishment. Paternity establishment is an important part of the CSE program. The number of children for whom paternity has been established has grown steadily. In fact, the number of paternities established in recent years has exceeded the number of out-of-wedlock births, thus reducing the number of children without a legally established father in their lives. That relationship is critical for securing the financial and emotional support children deserve.²⁷

Support order establishment. If there is no judicial or administrative order establishing a child support obligation, the State must seek to enter such an order by a court or other legal process.²⁸ Within 90 calendar days of locating the noncustodial parent or establishing paternity, the IV-D agency must establish a support order or complete service of process necessary to establish an order.²⁹ In cases where a petition to establish a support order is dismissed without prejudice, the agency must determine when it would be appropriate to seek an order, and do so at that time.³⁰

Modification. Because family dynamics and situations do not remain static, Federal regulations have developed standards for periodic review and adjustment of child support amounts. It might be appropriate to adjust the amount of support either upward or downward based on a change in the child's needs or a variation in the calculation of support under mandatory guidelines. States must have a plan to review orders and determine when modification is appropriate.³¹ Any modification proceeding must be consistent with the jurisdictional rules under UIFSA and the Full Faith and Credit for Child Support Orders Act (FFCCSOA).³²

Monitoring and enforcement. Accurate monitoring of child support payments is essential to the enforcement of the obligation, and can help prevent accumulation of arrearages. The IV-D agency must have and use an effective system to monitor compliance with the support order, and to identify delinquencies for the purpose of initiating income withholding and other

²⁶ 45 C.F.R. § 303.3(c) (2000).

²⁷ For a detailed analysis of paternity establishment in the Child Support Enforcement program, see Chapter Eight: Paternity Establishment.

²⁸ 45 C.F.R. § 302.50 (2000).

²⁹ 45 C.F.R. § 303.4(d) (2000).

³⁰ 45 C.F.R. § 303.4(e) (2000). For a detailed treatment on establishing child support obligations, see Chapter Nine: Establishment of Child Support Obligations.

³¹ See 42 U.S.C. § 666(a)(10) (Supp. V 1999); 45 C.F.R. § 303.8 (2000).

³² For additional information on Modification, see Chapter Eleven: Modification of Child Support Obligations.

enforcement techniques. Monitoring applies to all provisions of the support order, including health insurance or other coverage of health care costs.³³

In some States with technological advances, much of the enforcement of a child support obligation has become automated. When a threshold amount of arrears has been reached, the automated system will initiate administrative enforcement actions available in the State, such as automatic income withholding, license revocation, and referrals to the State or Federal Office of Child Support Enforcement for tax refund intercept programs. In those States with less automation, caseworkers rely on techniques such as interviews, personal contacts, telephone collection calls, billing systems, and delinquency notices. Use of a particular collection technique depends on the individual facts and circumstances of a case, such as past payment history, age of the established obligation, date since the last payment was received, location, income, and resources available to the noncustodial parent. These administrative and nonjudicial enforcement techniques can minimize the use of court personnel and attorneys. If these enforcement techniques are unsuccessful, the IV-D agency must be ready to use its administrative authority or a court's authority quickly to enforce the obligation and establish regular payments.³⁴

Maintenance of case records. The State or local IV-D agency (including subcontracting agencies) must keep careful records of case activity. The case record established at intake must be supplemented with all information and documents pertaining to the case, as well as all relevant facts, dates, actions taken, contacts made, and results that occur. Much of this recordkeeping is now automated.³⁵

A IV-D case must be kept open and worked unless it meets case closure criteria set forth at 45 C.F.R. § 303.11.³⁶ The IV-D agency must retain all records for cases closed for a minimum of 3 years.³⁷

Safeguarding information. State IV-A agencies must provide for such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under any program partially funded by the Federal government.³⁸

Because of the changes brought about by welfare reform, particularly in 42 U.S.C. §§ 653(b)(2), 653(l), and 653(m), numerous new provisions regarding the use, disclosure, and safeguarding of information with respect to custodial and noncustodial parents and the purposes for which that information can be used

³³ 45 C.F.R. § 303.31 (2000).

³⁴ See Chapter Ten: Enforcement of Support Obligations, for a detailed analysis.

³⁵ 45 C.F.R. § 303.2(c) (2000).

³⁶ 45 C.F.R. § 303.11 (2000).

³⁷ 45 C.F.R. § 303.11(d) (2000).

³⁸ 42 U.S.C. § 602(a)(1)(A)(iv) (Supp. V 1999).

and disclosed, have rendered previous regulations with respect to safeguarding obsolete. The provisions of the Act and other applicable statutes continue to govern the safeguarding, use, and disclosure of information. OCSE will develop comprehensive guidance consistent with PRWORA's provisions regarding safeguarding information, including any implementing regulations that might be necessary.

There are specific requirements in place to govern security of information housed within the statewide automated system. Title IV-D requires that all States have safeguards in effect to ensure the accuracy and integrity of information in its system.³⁹ Federal regulations provide more detailed requirements.⁴⁰

In addition to these safeguards, because of the significant amount of data that passes through the Federal Parent Locator Service (FPLS), Federal law limits access to this information to authorized persons for authorized purposes. Additional safeguards are in place to protect those at risk for domestic violence and child abuse. One such safeguard is the Family Violence Indicator, which protects individuals whose data appear on State systems from disclosures if certain criteria are met.⁴¹

Assignment and Distribution of Child Support Collections

Two parties have claims on child support collections made by the State. The children and custodial parent on behalf of whom the payments are made, of course, have a claim on payments by the noncustodial parent. However, in the case of families that have received public aid, the State and Federal governments who paid to support these families by providing a host of welfare benefits also have a legitimate claim on the money.

Since the CSE program's inception, the rules determining the distribution of arrearage payments have been complex, but not nearly as complicated as they are currently. It is helpful to think of the rules in two categories. First, there are rules in both Federal and State law that stipulate who has a legal claim to the payments owed by the noncustodial parent. These are called assignment rules. Second, there are rules that determine the order in which child support collections are paid in accord with the assignment rules. These are called distribution rules.

Family receiving public assistance. When a family applies for TANF, the custodial parent must assign to the State the right to collect both current child support payments and past-due child support obligations that accrue while the

³⁹ 42 U.S.C. § 654a(d) (Supp. V 1999).

⁴⁰ 45 C.F.R. § 307.13 (2000).

⁴¹ For additional information on the Family Violence Indicator and other FPLS safeguards, refer to Chapter Five: Location of Noncustodial Parents and Their Assets.

family is on the TANF rolls. Arrearages that accrued to the family before it went on public assistance are called "preassistance arrearages"; those that accrue while the family is on public assistance are called "permanently assigned arrearages." While the family receives TANF benefits, the State can retain any current support and arrearages it collects up to the cumulative amount of TANF benefits that have been paid to the family.

Pass through. Before the 1996 PRWORA reforms, States were required by Federal law to pay (or "pass through") the first \$50 of collections to the family. This provision was repealed by the 1996 legislation. States now decide for themselves how much, if any, of their collections will be passed through to the family, although States must pay the Federal share of collections. Thus, amounts passed through come entirely out of the State share of collections. States also have the right to decide whether they treat any child support passed through to the family as income to the family, in which case the support can reduce or even eliminate TANF payments.

After the family leaves public assistance. Distribution rules after the family leaves public assistance are far more complicated. Most of the complexity stems from the requirements that preassistance arrears be assigned to the State, and that certain arrearages otherwise owed to the former welfare family are deemed to be owed to the State when the collection is made by Federal tax refund intercept. When a family leaves welfare, States are required to keep track of six categories of arrearages:

- permanently assigned;
- temporarily assigned;
- conditionally assigned;
- never assigned;
- unassigned during assistance; and
- unassigned preassistance.⁴²

On the statewide automated system, these different categories are called "buckets." The money shifts between the buckets according to:

- the source of the collection;
- the family's status on or off assistance when the arrearage accrued;

⁴² See 42 U.S.C. § 657 (Supp. V 1999).

- the amount of the unreimbursed public assistance balance; and
- the date of the assignment of support rights as well as the date the TANF case closed (because of phased-in implementation dates).

Moreover, the distribution rules differ depending on whether the family went on welfare before or after October 1, 1997.

- Families that assigned their rights to preassistance arrearages to the State before October 1, 1997, have "permanently assigned arrearages," which are owed to the State.
- Families that assign their rights to preassistance arrearages to the State on or after October 1, 1997, have "temporarily assigned arrearages."⁴³

Temporarily assigned arrearages and permanently assigned arrearages are treated differently after a family leaves public assistance. Temporarily assigned arrearages become "conditionally assigned arrearages" when the family leaves assistance. These are called conditionally assigned arrearages because, as discussed below, if they are collected by Federal tax refund intercept, they will be paid to the State, not to the family.

There are also categories for "never assigned arrearages," which accrue after the family's most recent period of assistance ends. These can become temporarily assigned arrearages if the family goes back on public assistance.

In addition, there are "unassigned during assistance arrearages" and "unassigned preassistance arrearages." These are previously assigned arrearages that exceed the cumulative amount of unreimbursed assistance when the family leaves public assistance, and which accrued either during (unassigned during assistance arrearages) or prior to (unassigned preassistance arrearages) receipt of assistance.

When the family leaves public assistance, the order of distribution of any collection depends not only on when the arrearages accrued—preassistance, during-assistance, or postassistance—and when they were assigned, but also on when and how the past-due support was collected. If the collection was made by any means other than the Federal tax refund intercept, the collection is first paid to the family up to the amount of the monthly child support obligation. Any remaining collection is distributed to certain categories of arrearages owed to the family (conditionally assigned, never assigned, and unassigned preassistance), and then to arrearages owed to the State (permanently assigned), with the remainder to the family (unassigned during assistance).

⁴³ See 42 U.S.C. § 657 (Supp. V 1999).

When current support is paid, collections on past-due support are paid to the family to satisfy any arrearages that accrued to the family after leaving public assistance (never assigned arrearages). When never assigned arrearages are satisfied, the collection is applied either to other arrearages owed to the family or to the State (permanently assigned arrearages). Temporarily assigned arrearages for a former welfare family that leaves public assistance become "conditionally assigned arrearages." The distribution of these conditionally arrearages is "conditioned" on whether the money is collected by Federal tax refund intercept or by some other method, such as a levy of a bank account, a workers' compensation lump sum payment, or a payment agreement to avoid a driver's license revocation. If the collection is from a tax refund intercept, it will be paid to the State rather than to the family, up to the cumulative amount of unreimbursed assistance. The distribution from any other method of collection is first made to the family, with current support being paid first and any balance allocated to any arrearages.⁴⁴

⁴⁴ For additional discussion, refer to OCSE Action Transmittals AT-97-17 (1997), AT-99-01 (1999), and AT-98-24 (1998).

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