



## Final Rule Summary

### Overview

This [final rule](#) strengthens and updates the child support program by amending existing rules, some of which are 35 years old, to:

- set accurate child support obligations based on the noncustodial parents' ability to pay;
- increase consistent, on-time payments to families;
- move nonpaying cases to paying status;
- increase the number of noncustodial parents supporting their children;
- improve child support collection rates;
- reduce the accumulation of unpaid and uncollectible child support arrearages; and
- incorporate technological advances and evidence-based standards that support good customer service and cost-effective management practices.

### What is new

Research finds that setting an accurate order based on the noncustodial parent's ability to pay improves the chances that the parent will comply with the support order and continue to pay over time. The final rule incorporates the longstanding federal requirement that child support orders reflect the noncustodial parents' ability to pay established under income-based guidelines adopted by each state. The rule increases public participation and transparency in state guidelines review processes. The rule also requires child support agencies to increase their case investigative efforts to improve the accuracy of child support orders. The rule includes language for states to consider the noncustodial parent's specific circumstances in imputing income when evidence of income is limited. Because three-fourths of child support payments are collected through payroll withholding, the rule standardizes and streamlines payment processing to ensure that this highly effective support enforcement tool does not unduly burden employers. The regulations clarify that health care coverage includes public and private insurance to increase state flexibility in ensuring that parents meet their medical support obligations by providing health care coverage or payments for medical expenses that are reasonable in cost and best meet the health care needs of the child.

The rule incorporates civil contempt due process requirements to implement the 2011 Supreme Court decision in *Turner v. Rogers*. The final rule establishes criteria that child support agencies must use to determine which cases to refer to court for a civil contempt action and how they prepare cases for a civil contempt proceeding. Under the rule, state child support agencies must maintain and use an effective system for enforcing the support obligation by establishing criteria for filing civil contempt petitions in child support cases funded under title IV-D. The criteria must include requirements that the child support agency: (i) screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order; (ii) provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and (iii) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

Federal law requires states to review, and if appropriate, adjust support orders when either parent has experienced a substantial change in circumstances. The rule provides that a state may not exclude incarceration from consideration as a "substantial change in circumstances." In addition, after learning that a parent who owes support will be incarcerated for more than 180 calendar days, the state must either send a notice to both parents of their right to request a review and adjustment or automatically initiate a review and adjustment with notice to the parents. When modifying orders, states may consider an incarcerated parent's income and assets in setting the order amount.

To better meet the needs of unmarried parents, this rule also gives states the flexibility to allow applicants for child support services to request help with establishing paternity only in cases in which both parents reside in the state. In an effort to direct resources for cases where collections are possible and ensure that families have more control over whether to receive child support services, the rule expands the circumstances in which a state may close cases. The revised regulation also strengthens notice provisions to ensure that safeguards are in place to keep recipients informed about case closure actions.

The rule also removes outdated barriers to electronic communication and document management, updating existing child support regulations, which frequently limit methods of storing or communicating information to a written or paper format. Finally, the rule incorporates several technical changes to update, clarify, revise, or delete former regulations to ensure that the child support regulations are accurate, aligned with current state practice, and up-to-date.

### **How this affects states**

This final rule draws on research and successful state practices to recognize and incorporate standards designed to improve the effectiveness and efficiency of the child support program. The final rule will make child support program operations and enforcement procedures more effective for families and more flexible and efficient for states and employers. The rule also recognizes advancements in technology that can enable improved collection rates and the move toward electronic communication and document management. This final rule will improve and simplify program operations and remove outmoded limitations to program innovations to serve families better. The rule makes significant changes to the regulations on case closure, child support guidelines, civil contempt, and medical support enforcement. The rule is intended to increase child support collection rates.

### **How this affects families**

The rule is evidence-based and is expected to result in families receiving more consistent payment of child support. The rule is intended to improve the accuracy of and compliance with child support orders by requiring state child support agencies to increase case investigation efforts and develop a sufficient evidentiary basis for child support orders. The final rule also ensures that the quadrennial state guidelines review process is more transparent by making the review results available to the public and allowing citizens an opportunity to provide meaningful input into the review process. States may not preclude incarcerated parents from seeking a review and adjustment of their orders, helping to reduce uncollectible debt, participation in illegal income-generating activities, and recidivism. Electing to offer paternity-only limited services will allow parents who are living together to legally establish paternity of their children, will better meet the needs of the modern family, and will result in a more flexible and family-friendly child support program.