

Exploring a Child Support Pass-Through Option for Colorado

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Colorado Department of Human Services
Division of Child Support Enforcement

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OPPORTUNITY

Colorado has an opportunity to increase the monthly incomes of Colorado Works families as well as improve their paths to self-sufficiency by changing the State's child support pass-through and disregard policies. Families eligible for Colorado Works, which is Colorado's Temporary Assistance for Needy Families (TANF) program, have below-poverty incomes. When a family applies for Colorado Works, any payment toward the monthly child support obligation is counted as income for determining eligibility. Federal regulations also require that a TANF family cooperate with child support services and legally turnover their child support right to the government while the family receives TANF cash assistance. In Colorado, half of retained collections must be sent to the federal government and the remainder is retained by the State and counties.

In 1975, the Child Support Program was created as a national/state/local government partnership and it initiated the policy of retaining child support collections to recover welfare costs. In 1996, federal requirements began to grant states more flexibility in their pass-through/disregard policies. In 2008, federal regulations began offering a greater incentive to use that flexibility. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 gave states the options to pass-through child support collections for TANF families while receiving cash assistance, disregard the child support income when calculating the assistance level, or both. The Deficit Reduction Act of 2005 (DRA) made it more financially feasible for states to pass through and disregard child support payments. In 2008, the federal government began waiving part of its share of retained collections if the state adopted a child support pass-through and disregard policy. The disregard is just as important as the pass through if the goal is to increase family income. Without the disregard, a dollar of child support passed through to the family would reduce the TANF benefit by a dollar.

In all, child support is an integral source of income for low-income families. National research finds that, on average, child support contributes to 40 percent of family income among poor custodial families receiving child support; and, without child support, child poverty would increase by 4.4 percent.¹ As noted by *Kids Count: Colorado 2013*,²

¹Sorensen, Elaine. (Dec. 2010) *Child Support Plays an Increasingly Important Role for Poor Custodial Families*, Urban Institute, DC: Washington. Available at: <http://www.urban.org/publications/412272.html>.

² Colorado Children's Campaign. (March 18, 2013.) *Kids Count: Colorado 2013*. Available at <http://www.coloradokids.org/data/kidscount/2013kidscount.html>

almost one out of five Colorado children live in poverty, and that the poverty rate among Colorado children grew significantly in the past decade. Colorado Kids Count also warns that,

experiencing poverty not only impacts children's physical and mental health and academic achievement, but also increases the likelihood that they will drop out of school, become dependent on public assistance as adults and earn less over their lifetime.³

In 2012, \$6.2 million in child support collections was retained for about 9,000 Colorado Works families. Adopting a child support pass-through/disregard policy in Colorado has the potential of increasing monthly income to these families while they are receiving cash assistance by \$157 per month, on average. Colorado Works families receive cash assistance for an average of six months per year. In an average month of 2012, child support was collected and retained for 3,400 Colorado Works families receiving cash assistance.

Benefits of Child Support Pass-Through/Disregard to Children

In addition to increasing the income of poor families, there are many other ways that a change to the State's child support pass-through/disregard policy could improve the lives of Colorado children. Studies have found that passing through child support increases the number of cases with child support payments and the amount of child support paid. Research conducted by the Urban Institute⁴ and the Institute for Research on Poverty (IRP)⁵ has found that by passing through current child support, the percentage of cases with payments increased by 1.8 to 2.7 percentage points in the first year and by about 3 percentage points in three years for both studies. The same studies found that the amount of child support payments increased by 5.6 percent to 23 percent in year one and by 11-12 percent in year three. Another IRP study⁶ found that paternity establishment increased by 3 percentage points. These studies suggest that more child support is paid due to pass-through because a parent knows his or her payments will flow directly to his or her child.

³ Colorado Children's Campaign. (March 18, 2013.) *Kids Count: Colorado 2013*, p. 15.

⁴ Lippold, Kyle, et al. (November 2010). *Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia*. Urban Institute, DC: Washington.

⁵ Cancian, Maria, Meyer, Daniel, and Caspar, Emma. (2008) "Welfare and Child Support: Complements, Not Substitutes." *Journal of Public Policy Analysis and Management*. Vol. 27, No. 2. pp. 354-375

⁶ Meyer, Daniel R., and Maria Cancian. (2001.) *W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*. Report to the Wisconsin Department of Workforce Development. University of Wisconsin-Madison, Institute for Research on Poverty.

Research has also found that child support pass through reduces the percentage of child maltreatment cases⁷ and reduces reliance on public assistance.⁸ In addition, research finds that child support has other positive effects on child outcomes, including a positive effect on young children's cognitive development⁹ and educational attainment.¹⁰ In addition, some evidence suggests that child support enforcement may decrease out-of-wedlock births and divorces.¹¹ Increased child support payments can also result in increased contact between the nonresidential parent and the child;¹² and, in turn, increased contact can foster a quality parental relationship that can further improve child outcomes.

BACKGROUND INFORMATION

The background information provides more in-depth information about federal regulations concerning pass through and how they have changed over time. It also provides more information about Colorado's policy, other states' policies, and Colorado's caseload.

Federal Regulations and National Perspective

In 1975, the child support enforcement program (CSE) was established. It was expected to reduce public expenditures on Aid to Families with Dependent Children (AFDC), which was the predecessor to TANF. AFDC families were required to assign their child support rights to the state. Federal regulation required states to retain collections but pass through the first \$50 per month in child support payments to the family and disregard it in the determination of benefit levels. The purpose of the \$50 child support pass-through and disregard was to provide an incentive for obligated parents to pay child support and an incentive for custodial

⁷ Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," *Institute for Research on Poverty Discussion Paper* 1385-10, WI: Madison.

⁸ Wheaton, Laura, and Sorensen, Elaine. (2008) The potential impact if increasing child support payments to TANF families. [on-line] Urban Institute Report. DC: Washington. Available: http://www.urban.org/UploadedPDF/411595_child_support.pdf

⁹ Argys, L., Peters, E., Brooks-Gunn, J., and Smith, J. (1988). "The Impact of Child Support on Cognitive Outcomes of Young Children." *Demography*. 35(2): 159-173.

¹⁰ Knox, V.W. & Bane, M.J. (1994). "Child Support and Schooling." In I. Garfinkel, S. McLanahan, and P. Robins (Eds.). *Child Support and Child Well-being*. The Urban Institute Press, DC: Washington.

¹¹ Roberts, P. (2002). "The Importance of Child Support Enforcement: What Recent Social Science Research Tells Us." Center for Law and Social Policy, DC: Washington.

¹² Peters, H.E., Argys, L.M., Howard, H.W., and Butler, J.S. (2003). "Legislating Love: The Effect of Child Support and Welfare Policies on Father-Child Contact." *Review of Economics of the Household*. 2: 255-74.

parents to cooperate with the establishment and enforcement of child support orders. Federal regulation also required states to pay the federal government a share of retained collections. The share was determined by the state's Federal Medical Assistance Percentage (FMAP), which is the federal matching rate for certain medical and social programs. Colorado's FMAP rate is 50 percent.

PRWORA. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 replaced AFDC with TANF and made changes to the child support program to improve child support collections. In all, PRWORA aimed to make families more self-sufficient. PRWORA emphasized work as a means to self-sufficiency. Child support was also perceived to be a valuable source of income particularly among welfare leavers and because TANF cash benefits would now be time-limited. One study finds that child support payments represented about 30 percent of custodial parents' income in former-assistance cases with child support payments.¹³ In addition, PRWORA devolved the AFDC/TANF program to the states. The \$50 child support pass-through was no longer required. Instead, states could choose to pass through child support payments to TANF families and/or disregard them when calculating benefit levels, but they would also have to pay the federal government its share. This made child support pass-through and disregard a costly policy. By 2002, over half of the states, including Colorado, eliminated the \$50 child support pass-through.¹⁴

A report commissioned by the U.S. Department of Health and Human Services in 2005 found that TANF families would benefit from states adopting child support pass-through/disregard policies or increasing the existing amounts of child support pass-through/disregard.¹⁵ The study found that child support pass-through/disregards could increase income of TANF families with incomes below 50 percent of poverty by seven percent and by smaller percentages for TANF families with more income. The study also found that food assistance and housing subsidies would decrease due to the additional child support income. The study touted that the reduced dependency represented increased level of self-sufficiency among families.

¹³ Sorensen, Elaine and Chava Zibman (2000). *To What Extent Do Children Benefit from Child Support?* Washington, DC: The Urban Institute.

¹⁴ Wheaton, Laura and Sorensen, Elaine (2005). *Benefits and Costs of Increased Child Support Distribution to Current and Former Welfare Recipients.* (page 4) Washington, DC: The Urban Institute.

¹⁵ Wheaton, Laura and Sorensen, Elaine (2005). *Benefits and Costs of Increased Child Support Distribution to Current and Former Welfare Recipients.* (page iii) Washington, DC: The Urban Institute.

DRA. As previously mentioned, the DRA of 2005 made it more financially feasible for states to pass through and disregard child support payments. Beginning in 2008, the federal government waives its share of retained child support collections if a state passes through child support to the family and disregards child support income in the calculation of benefits, up to \$100 per month for one child and up to \$200 per month for two or more children. Several studies affirm the benefits of states adopting child support pass-through/disregard policies. A Congressional Research Service report (CRS)¹⁶ simulation found that state adoption of the DRA-maximum could significantly increase the incomes of TANF families and have little to no effect on families with a parent earning minimum wage. The latter is important because over a third of families in the Child Support Program have never received cash TANF benefits and many are working at or above minimum wage. An Urban Institute simulation found that adoption of the \$100/\$200 pass-through/disregard policy would increase the income of TANF families by \$488 per year or 3 percent.¹⁷ Albeit modest, the Urban Institute concludes that any increase in income can be very beneficial to a TANF family because most are highly disadvantaged.

Both studies acknowledge that there are federal and state costs to changing child support pass-through and disregard policies. Some of the federal costs are offset by reductions in public housing and food assistance benefits precipitated by increased income. The Urban Institute finds the average cost of every dollar of child support passed through to a family would cost the federal government somewhere between 13 and 19 cents and a state government between 39 to 44 cents.

Other States

Based on data compiled by the National Conference of State Legislatures, 25 states passed through and disregarded child support in 2012.¹⁸ Ten states continue to pass through \$50 per month, five states pass through the DRA amounts of \$100/\$200 per month, four states pass through another amounts (i.e., \$75, \$100, \$150 and 75 percent), and the remaining five states pass through child support up to the state-

¹⁶ Solomon-Fears, Carmen and Falk, Gene (July 24, 2007). *The Financial Impact of Child Support on TANF Families: Simulation for Selected States*. DC: Washington. Congressional Research Services Report for Congress, RL34105.

¹⁷ Wheaton, Laura and Sorensen, Elaine (December 2007). *The Potential Impact of Increasing Child Support Payments to TANF Families*, DC: Washington, Urban Institute.

¹⁸ Compiled from National Conference of State Legislatures. (2012). *State policies regarding pass-through and disregard of child support*. [On-line]. (February 2012) Available from: <http://www.ncsl.org/issues-research/human-services/state-policy-pass-through-disregard-child-support.aspx>

determined standard of need because the maximum TANF benefit in these states is lower than the standard of need.

Most states that pass-through and disregard more than \$50 of child support have not documented their experiences. Only two states have extensively analyzed their experiences passing through and disregarding child support and one state developed an in-depth policy brief for its legislature on the costs and benefits. As discussed earlier, research from these states has found that child support pass-through/disregard has increased the number of cases with payment, the amount paid and paternity establishments; and decreased the incidence of child maltreatment cases. New York's policy brief noted that federal regulations allow the pass-through payments to be counted as TANF maintenance of effort (MOE), which essentially gives states more flexibility in how they spend TANF dollars. New York also reported that pass-through would benefit local economics because, "additional pass-through payments would most likely be spent in the county where the recipient resides."

Further, the anecdotal evidence from states with more generous pass-through/disregard policies is overwhelmingly positive because it is perceived to help families. The only recurring concern is the cost to the state. This actually forced Washington State to discontinue its pass-through/disregard policy recently.

In all, the benefits of child support pass-through/disregard through the lens of other states can be summarized by the following bullets.

- Increases paternity establishments;
- Increases noncustodial parents' willingness to pay;
- Increases custodial parents' willingness to cooperate with their TANF program;
- Reduce families' needs for other public assistance programs;
- Reduces the risk of some children going into the child welfare system;
- Improves child outcomes such as child's educational attainment and reduces risk of juvenile delinquency;
- Can be counted as TANF MOE; and
- Increases expenditures in the local economy.

Colorado Families and Existing Policies

According to Colorado Kids Count, there are 1.2 million children in Colorado and 28 percent of them live in single-parent families. The Colorado child support program served 153,253 children and distributed \$289 million in child support collections in 2011.¹⁹ In 2012, the Colorado child support program established over 10,000 orders including orders for over 3,000 active Colorado Works cases.

When a single parent applies for Colorado Works, pursuant to federal requirements, the case is referred to child support. If a child support order is in place, the child support agency will enforce it. If there is not a child support order in place, the child support agency will pursue an order establishment, and once established, enforce it. Parents who do not cooperate with child support are subject to federally-regulated sanctions.

In 2012, there were 31,617 families in the Colorado Works caseload that include 60,225 children.²⁰ Parents are subject to work requirements, benefits are time limited, and the maximum amount of cash assistance per month is \$364 for a family of two (e.g., one parent and a child) and \$462 for a family of three. Because families go on and off Colorado Works, in any given month there is an average Colorado Works caseload of about 15,000 cases. Child support is not sought on all Colorado Works cases. Some involve two-parent families, child-only cases, the nonresidential parent's only income is SSI, the child lives with a non-parent custodian but there is a plan to reunify the child with a parent, or there is another situation in which child support is not appropriate for a particular case.

In 2012, there were 14,653 child support/Colorado Works cases that included 21,298 children.²¹ Data downloaded from the child support program's automated system shows that child support was collected for 69 percent of these cases anytime in 2012 and 61 percent had child support payments made toward current support in the month in which they received Colorado Works cash assistance. (The difference between 61 and 69 percent, are cases that received Colorado Works cash assistance for part of the year, but current child support was paid in one

¹⁹ Federal Office of Child Support Enforcement. (2012). *Preliminary Report to Congress: FY2011*. Washington, D.C.: Federal Office of Child Support Enforcement. Retrieved from <http://www.acf.hhs.gov/programs/css/resource/fy2011-preliminary-report-table-p-18>

²⁰ Colorado Department of Human Services. (February 22, 2013). Presentation to *Investing in Hope Forum*, CO: Denver, History Colorado Denver Museum.

²¹ Colorado Department of Human Services. (February 22, 2013). Presentation to *Investing in Hope Forum*, CO: Denver, History Colorado Denver Museum.

or more non-assistance months and never paid in a month that assistance was received.) Among the remaining 31 percent, an order had not been established yet or there were zero collections. Although this percentage is of concern, relative to national data, Colorado's percentage appears low. In federal fiscal year 2010, 56 percent of current assistance cases nationally with orders had collections.²² More importantly, the fact that not all child support/Colorado Works cases receive child support calls for policy changes such as pass-through/disregard that encourage payments.

As mentioned earlier, \$6.2 million in current child support was collected on behalf of Colorado Works families while they received cash assistance in 2012. An additional \$4.2 million in current child support was collected in the months that the families did not receive cash assistance in 2012. These collections were distributed to the family because they occurred in months in which there was no cash assistance. In all, this underscores the importance of child support income to families in any month. Other states have found that implementing pass-through/disregard policies increases all²³ child support payments even in months that the family does not receive TANF cash assistance.

Colorado's current policy is to share retained collections, which were \$6.2 million in 2012, with the federal government (50 percent, pursuant federal requirement) and the counties (20 percent). Some of the remaining 30 percent is kept by the state for program administration, but most of it is distributed to the counties. The counties use it for operating child support programs and serving families.

²² Federal Office of Child Support Enforcement. (2012). *Report to Congress: FY2010*. Washington, D.C.: Federal Office of Child Support Enforcement. Available from: <http://www.acf.hhs.gov/programs/css/resource/fy2010-annual-report>The percentage tabulated using all custodial parents receiving public assistance regardless whether there is an order is even less. See U.S. Census Bureau. (April 2010.) *Custodial Mothers and Fathers and Their Child Support: 2009 Series P60-240 Detailed Tables*, Table 4. Available from: <http://www.census.gov/people/childsupport/data/files/chlds09.pdf>

²³ This paper does not address payments toward past-due child support. Federal regulation provides states with the option to pass-through payments of past-due child support to the family and discontinue assignments. There are, however, some exceptions such as for past-due child support collected from tax intercepts. See Federal Office of Child Support Enforcement. (July 28, 2009.) "Assignment of Support Rights and Distribution of Child Support Collections under the DRA of 2005." *Action Transmittal-09-03*. [On-line.] Available at: [AT-09-03http://www.acf.hhs.gov/programs/css/resource/assignment-of-support-rights-distribution-deficit-reduction-act-of-2005](http://www.acf.hhs.gov/programs/css/resource/assignment-of-support-rights-distribution-deficit-reduction-act-of-2005); and, Federal Office of Child Support Enforcement. (June 11, 2010.) "Collection and Enforcement of Past-Due Child Support Obligations." *Action Transmittal-10-04*. [On-line.] Available at: <http://www.acf.hhs.gov/programs/css/resource/collection-and-enforcement-of-past-due-child-support-obligations>

PROPOSED APPROACH

The proposed approach is to pass through and disregard *all* child support payments and request state funding to backfill the federal and counties' shares of retained collections beginning July 1, 2016. The evidence from other states finds larger benefits when more is passed through. A full pass-through policy is easier to explain and understand, hence it reduces customer service needs. A full pass-through policy complements new employment programs aimed at helping nonresidential parents improve earnings to pay child support. A full-pass-through policy also integrates child support services into changes to Colorado Works, Food Assistance, and Medicaid/CHP+ that aim to simplify and streamline paperwork and processes with the goal of sustainable self-sufficiency.

It will be necessary to request state funds to expand pass through. As discussed earlier, the federal government requires a share of collections exceeding \$100/\$200 per month for one and two or more children. Counties use their share of retained collections to operate their child support programs and provide services to families.

The proposed approach also calls for two years (state fiscal years 2014 and 2015) devoted to implementation, specifically the development of business rules and new policies and changes to the automated systems. Policy changes will be needed in both the Division of Child Support Enforcement and Colorado Works program as well as their respective automated systems, Automated Child Support Enforcement System (ACSES) and the Colorado Benefits Management System (CBMS). Outreach and training are also integral to the proposed approach.

ESTIMATED COST AND RESOURCES

DCSE has estimated the cost of implementing and maintaining a full child support pass-through policy and disregard. The implementation costs in FY 2014-16 consist of \$599,040 for programming changes to ACSES and \$44,000 for programming changes to CBMS and \$420,852 for contractual services to develop program requirements and business rules, and design user interfaces and system design.

The implementation cost in FY 2015-16 consist of \$599,040 to continue to make programming changes to ACSES and \$44,000 to continue programming changes to CBMS and \$419,000 to continue contractual services to develop program requirements and business rules, and design user interfaces and system design. The contractual services will also be

used for system design testing and training. An additional \$80,000 in implementation is needed in FY 2015-16 for outreach, education, and training efforts.

Beginning FY 2016-17 and each year thereafter, \$4,650,405 is needed to backfill the state, local and federal share of retained child support collections so that local operations and service delivery are not adversely affected. In addition in FY 2016-17, there will be continued outreach (\$80,000), continued contractual services for education and training (\$177,900), and an evaluation (\$100,000).

OTHER ISSUES

The information presented in this document was presented to many stakeholders to gain their input on changing Colorado's pass-through/disregard policy. Some asked whether increased child support income will affect benefits received from other programs (Medicaid/CHP+, Food Assistance, housing assistance, and child care assistance). The answer to that question is contained in this section.

Medicaid and CHP+ benefits will not be affected. Child support is not counted as income under new rules that conform to the Affordable Care Act's definition of income. Few Colorado Works families have sufficient income to significantly reduce Food Assistance, housing assistance benefits, or the child care subsidy. Approximately one-fourth of Colorado Works families have paid employment.²⁴ For these families, the pass-through of child support dollars may reduce other benefits, such as child care, subsidized housing, and Food Assistance, but the reduction will not be on a dollar for dollar basis. Food Assistance could be reduced by 30 cents for every dollar of child support passed through. Housing assistance could be reduced by the same amount. The reduction is not likely to be immediate. Instead, it will be factored in at the time that benefits are re-determined. This can occur within six months for Food Assistance. The redetermination process for housing assistance varies across regions. If a parent has any earned income, the parent may have to pay a fee toward childcare expenses that amounts to up to 10 percent of his or her income for one child and up to an additional five percent off his or her income for each child. The parental fee is based on a sliding scale.

²⁴ Cadena, Brian, et al. (January 2012). *Colorado Works Evaluation Report: SFY 2011*, Report to Colorado Department of Human Services, University of Colorado, Boulder, Colorado, page 26.