



## **Debt Compromise Programs:**

Best Practices  
& Child Support  
Outcomes

## **Conference Summary**

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## **Executive Summary**

On June 15-16, 2009, staff of the Center for Policy Research facilitated a meeting in Washington, D.C. to discuss concrete issues that states and local child support agencies must address in the design and implementation of debt compromise programs. The meeting involved representatives of debt compromise programs in the following state and local jurisdictions: California (Los Angeles County, Merced County, and the State); Illinois; Maryland; Minnesota (Hennepin County, Ramsey County, and the State); New Mexico; North Dakota; Vermont; and Washington D.C.

Participants discussed many features of their programs and noted their strengths and weaknesses. They identified the following best practices:

### **Clarify Program Goals**

Jurisdictions need to clarify what they primarily want to achieve through their debt compromise program since it is precursor to deciding on eligibility criteria, recruitment, and the scope of the program. Settlement Programs have as their primary goal the reduction of uncollectible debt, collecting some amount of arrears and case closure. They typically require obligors to make some upfront, lump-sum payment toward arrears. Incentive Programs seek to increase payment of current support and reduce uncollectible debt. They are restricted to low-income obligors with current support orders and require on-going current support payments.

### **Consider Different Programs for Different Populations**

Just as different enforcement remedies may work for different populations, different compromise arrangements might be effective with different populations. Those who can pay some lump sum might be responsive to a settlement opportunity that gets child support out of their life. Those who are employed might respond arrears forgiveness in exchange for regular payments. Jurisdictions should consider operating both types of programs to accommodate the wide range of indebted obligors in their caseload.

### **Establish Realistic Expectations**

Avoid setting expectations too high. Although in 2007, over 61 percent of obligors paid their current support, a very large number of obligors do not pay in full and on time. It is unrealistic to expect obligors in debt compromise cases to demonstrate high levels of payment performance over a sustained period of time. Child support agencies should consider accepting very small lump sum payments rather than more substantial amounts that would theoretically generate revenue for the state.

### **Establish Simple Rules, Requirements, Procedures and Ledger Adjustments**

Participating jurisdictions emphasized the importance of simplicity. Those with straightforward programs appreciated these features. Those with complex programs wished that they were less complex. One perceived advantage of having a program with a very exacting application and income documentation process is that it helps to overcome the perception that the state is giving up collections from undeserving parties.

Meeting attendees also urged jurisdictions to adopt a simplified forgiveness schedule and avoid making frequent ledger adjustments. Several programs have identified payment landmarks and make adjustments only at those critical time points.

### **Adopt a Uniform Approach But Allow Room for Flexibility**

Proponents of program uniformity maintain that it requires all staff to give the program attention, ensures some element of equal treatment, and can be easily explained to obligors and other audiences. Proponents of flexibility maintain that it is impossible to be formulaic given the range of circumstances that obligors present and that treatment is best determined at an individual and case-by-case level. In between these two extremes, some argue for a uniform approach that allows for elements of flexibility. Participants caution against gearing the entire program to catching “scammers”

### **Maximize Administrative Procedures and Involve the Court Constructively**

A key to program success is utilizing administrative procedures to speed up case treatment. Meeting participants urged architects of new programs to try to keep any judicial involvement as simple and supportive as possible. One positive role for the court is to assist with program recruitment at specialized dockets.

### **Consult with Advocacy Groups and Find a Legislative Champion**

Fatherhood groups, re-entry programs, legal services programs, and other community-based organizations that serve low-income obligors are likely to be the most effective entities for generating program participants, identifying program elements that enjoy credibility on the “street,” and assisting with the legislative approval process.

Debt compromise programs that derive their authority in legislation need to cultivate a “legislative champion” who will endorse the program, ensure funding, and protect it from those who might seek to eliminate it as a cost-cutting measure or view debt compromise as a way to generate revenue for the state.

### **Develop Effective Partnerships with Workforce Programs**

Employment is critical to the success of debt compromise programs that tie forgiveness to future payments. Obligor employment is also critical to the success of debt compromise programs that require noncustodial parents to make a certain payment amount over a set period time to receive arrears forgiveness. Meeting participants acknowledged the importance of developing strong working relationships with employment programs so that obligors are working when enroll in the debt compromise program. None of the participating sites had developed collaborations with a workforce program whereby debt compromise was offered as an incentive for participation in employment and training activities.

### **Reduce or Eliminate Interest Charges**

States handle interest differently with 18 states assessing it routinely, 16 states assessing it intermittently, and 16 states not assessing interest on arrears at all. Arrears balances track with interest policies; states that charge interest routinely having the highest arrears balances. The OIG reports that interest comprises 21 percent of arrears balances and recommends that states reduce or eliminate interest charges to reduce arrears balances. While most participating jurisdictions see interest as a “negative” that contributes to the generation of arrears, some view the forgiveness of interest as a payment incentive.

### **Use a Variety of Methods to Identify Suitable Cases**

Programs use a variety of methods to identify suitable cases: the automated system, advocacy and community-based organizations, worker nominations, word-of-mouth referrals, and general publicity. Some programs combine techniques. For example, they use their computerized system to generate lists of cases with high levels of debt and rely on workers to select specific cases from the longer lists to target. Still others have found little response to system-generated letters and are working more closely with community-based organizations, fatherhood programs and criminal justice organizations to help identify participants.

### **Develop a Simplified Method of Modifying Orders**

Developing appropriate orders is widely recognized to be a critical component of any debt compromise program that adjusts arrears based on future payment behavior. Some programs strongly recommend obligors seek modification of their orders before they enroll in the program so that they can be successful. The often cumbersome and time consuming nature of review and adjustment procedures is viewed as a barrier to arrears forgiveness program success. Another barrier that participating jurisdictions noted was the reluctance of some staff to modify orders downward, viewing it as not in the child’s best interest.

### **Enhance Automated Systems to Track Debt Compromise Cases**

The lack of automation to support the monitoring process limits the use of debt compromise in various jurisdictions. Program architects and workers alike want system-generated alerts when payments stop. In the absence of program integration into the statewide computer system, workers must use manual techniques to review debt compromise cases, make appropriate ledger adjustments, and notify obligors of program actions.

### **Suspend Debt Compromise Agreements When Circumstances Change/Give Obligor Additional Chances**

Programs that have realistic expectations build in some mechanism for obligors to rehabilitate themselves if they miss a payment. Another helpful feature is the ability to suspend a debt compromise agreement if an obligor loses his or her job or experiences some change of circumstance that makes it impossible for him to meet the payment terms of his agreement.

### **Consider Contacting Custodial Parents About Arrears Owed to Them**

Some jurisdictions permit outreach to custodial parents (or leave it to the discretion of the worker). In general, these jurisdictions find that it is productive to relay offers to custodial parents who are generally pleased to get current support payments or some arrears payment. Programs that avoid outreach report that they don't want to appear to be pressuring custodial parents to agree to a compromise. Some jurisdictions are litigious and have been penalized for appearing to coerce custodial parents; others have case law suggesting that since arrears are owed to the child, they cannot be forgiven by a custodial parent. Participating programs caution against being drawn into disputes between parents, but many advocate informing custodial parents about the program and the custodial parent's rights.

### **Prevent Arrears by Getting Orders Right in the First Place**

The arrears management recommendation that was most heartily endorsed by all participants was to prevent the accumulation of child support debt in the first place through the generation of appropriate child support orders. Participating jurisdictions report that they have developed early intervention and other outreach efforts aimed at making contact with obligors and generating orders that match their earnings, and that these efforts need to be augmented and continued.

### Conference Summary

On June 15-16, 2009, staff of the Center for Policy Research facilitated a meeting in Washington, D.C. to discuss concrete issues that states and local child support agencies must address in the design and implementation of debt compromise programs. The meeting involved representatives of debt compromise programs in the following state and local jurisdictions: California (Los Angeles County, Merced County and the State); Illinois; Maryland; Minnesota (Hennepin County, Ramsey County and the State); New Mexico; North Dakota; Vermont; and Washington D.C.

#### Presentation on Child Support Arrears

Elaine Sorensen began the conference with a presentation on what we know about child support arrears and child support debtors based upon analysis in nine large states. The major points are as follows:

- Arrears are highly concentrated with a relatively few obligors owing large amounts;
- Obligor with high debt levels are the hardest to collect from and typically have multiple orders, no reported earnings, and longstanding delinquencies reflecting the failure to make payments over a long period of time;
- Simulations suggest that most of this debt will not be collected within 10 years and that collectability is particularly low among those who owe the highest levels of debt.

Debt compromise is one strategy that CSE agencies can use to reduce or eliminate public assistance debt. Program architects need to determine the goals of the program, the obligors who will be eligible and the structure of the payment plan. Jurisdictions have adopted compromise plans that differ widely on all these points and there is little empirical guidance on which formats work best. Dr. Sorensen divides debt compromise approaches into two categories: those that focus on settlements aimed at reducing uncollectible debt and then closing cases by requiring obligors to make a lump-sum arrears payment; and those that offer incentives to obligors with continuing cases to encourage future payment behavior.

#### Presentation on Debt Compromise Programs

Ruth Ann Dorrill presented the results of a national survey of debt compromise programs adopted by state CSE agencies. The study was conducted by the Office of the Inspector General (OIG) in 2006. It had a special focus on programs in California, Massachusetts, New Mexico, Texas, and Washington. The survey revealed that:

- Twenty states had programs (12 fully implemented and 8 pilots), 23 states did compromise on a case-by-case basis, and 8 states prohibited debt compromise;

- There is great variation in program formats and eligibility factors and that many programs rely on caseworker or program staff discretion rather than formal criteria to determine eligibility;
- 17 of the 20 states with programs view them positively and are glad to be getting some money, closing cases and relieving obligors from overwhelming debt levels;
- 17 of the 31 states without programs are considering developing a program;
- Debt compromise takes a lot of time, is perceived by some to conflict with CSE's core mission, and is opposed by some legislatures.

The OIG also conducted a more intensive study of 259 cases in five states. It found that:

- Debt compromise programs reduced arrearage debt by two-thirds and led to case closure in many cases;
- Debt compromise programs led obligors to pay more regularly with regularity improving from 39 to 61 percent;
- States rarely monitored payments following compromise or reversed agreements or sanctioned obligors when they failed to make agreed-upon payments.

Based on this study, OIG recommended that CSE focus on reducing interest which comprises 21 percent of arrears, engage individual case managers in program design and program operation, publicize programs and cultivate word-of-mouth referrals to attract participants, use compromise as a tool for case closure and collaborate more closely with the courts to obtain periodic reviews of compromise cases.

### Best Practices

During the two-day meeting, conference participants discussed many features of their programs and noted their strengths and weaknesses. The following presents the best practices identified by participants with highlighted examples from the participating jurisdictions.

#### Clarify Program Goals

Jurisdictions need to clarify what they primarily want to achieve through their debt compromise program. There are many potential goals including: case clean up; case closure; collecting arrears; collecting current support; encouraging obligors to change their future behavior regarding employment, parental involvement and payment; changing the image of the child support system and/or re-engaging obligors with the agency; promoting the payment of arrears held by custodial parents; and/or making the child support system more cost effective. Clarifying the goals of the debt compromise

program is a precursor to deciding on the population to serve, eligibility criteria, and the scope and structure of the program.

Although there are many possible goals for a debt compromise program, and many programs have multiple goals, the primary goals can be generally classified into two general categories: settlement programs and incentive programs.

**Settlement Programs** have as their primary goal the reduction of uncollectible debt, collecting some amount of arrears and case cleanup and/or closure. However, such programs should be distinguished from workers doing routine reviews of arrears-only cases in order to determine whether case closure is warranted. Agencies should keep up with the criteria for case closure and review potentially eligible cases on a regular basis. According to 45CFR303.11, IV-D agencies may close cases in a variety of circumstances including: when there is no longer a current support order and arrearages are under \$500 or unenforceable under State law; the location of the noncustodial parent (NCP) is unknown and the state has made diligent efforts to find him over a one or three-year period; the NCP cannot pay because he/she has been institutionalized, incarcerated with no chance of parole, and/or has a medically verified total and permanent disability.

Examples of programs that have been designed to settle cases that would not otherwise be eligible for closure include the following.

- New Mexico's goals are to eliminate debt owed to the State and to close unworkable cases. If an NCP owes state-owed debt, he/she can enter Project Fresh Start, make a lump sum payment, and get his/her entire state-owed balance forgiven. The NCP is required to make a payment on his/her debt that ranges from 11 to 31 cents on the dollar.
- California's Compromise of Arrears Program (COAP) is also a settlement program and has a goal of collecting on cases considered uncollectible. The State accepts a lump sum payment or allows the NCP to enter a three year payment plan in exchange for state-owed arrears forgiveness. The minimum lump sum amount that California will accept is 10 percent of state-owed debt; however, because the state does incentivize for lump-sum payoffs, the minimum amount is technically 8 percent. To determine the settlement amount, the State chooses the highest of: 1) the minimum amount; 2) a calculated pay off based on the obligor's net income; and 3) an offer made by the obligor. On average, 80 percent of debt is forgiven. In addition, obligors must pay debt owed to the custodial parent.
- Vermont's Project AIM (Account Intervention and Management) tries to motivate NCPs to settle arrearages by accepting a reduced arrears amount in exchange for a lump sum payment or regular payment on arrears over time. The program targets NCPs who have not made any payments in 12 months. If the obligor cannot afford

an immediate lump sum payment, the pay-off period can be extended over 10 years. Child support tries to encourage pay-off in less time by forgiving a greater percentage of arrears for NCPs who can pay-off the balance faster:

- The State agency forgives 80 percent if the NCP can pay-off the balance in one to three years;
- 75 percent if the NCP pays the balance off in three to five years;
- 60 percent if the NCP pays the balance off in five to ten years; and
- If it will take the NCP more than 10 years to pay-off the arrears, child support forgives 50 percent of the arrears.

**Incentive Programs** seek to increase the payment of current support and reduce uncollectible debt. They are restricted usually to low-income obligors with current support orders. In exchange for a compromise on state-owed debt the non-custodial parent must comply with on-going current support payments (not to be confused with lump-sum payments) and very modest or no payment toward arrears in exchange for compromise of state-owed debt. Some programs may also require participation in other community programs related to employment, fatherhood or parenting.

- Illinois' Project Clean Slate has a very clear goal: to institute a process so that families who are not receiving child support will start getting support. The project tries to build a habit of payment for NCPs by requiring them to make payments for six consecutive months. After the six months, their state-owed debt is forgiven.
- Maryland's Child Support Payment Incentive Program (PIP) also tries to build a habit of payment and ties debt forgiveness to payment behavior. An NCP must make 12 consecutive current monthly support payments in order to have 50 percent of his/her debt reduced. After an additional 12 months of consecutive payments, the remainder of the debt is forgiven.

### **Consider Different Programs for Different Populations**

Just as different enforcement remedies may work for different populations, different compromise arrangements may be effective with different populations. For example, within a settlement program, those who can pay a lump sum amount might welcome this as an opportunity to get child support debt out of their lives. Those with employment might respond to an incentive program that offer arrears forgiveness in exchange for regular payments over a manageable period of time. Incentive programs may appeal to those who want to turn their lives around, perhaps by participating in pro-social programs leading to employment and parental involvement, or arrears compromises tied to regular payment of ongoing support obligations.

While it may not be feasible to run multiple types of settlement programs, and multiple incentive programs, jurisdictions should consider operating both a settlement and an

incentive program to accommodate the wide range of indebted obligors in their caseload. Examples of some jurisdictions with both types of programs include the following.

- Hennepin County, Minnesota responded to requests by fatherhood advocates by linking arrears forgiveness to participation in the Father Project. In its incentive program participants who develop a case plan and participate in employment training, parenting and payment activities qualify for arrears forgiveness. After 6 months of payment and following a case plan, 50 percent of the state-owed debt is forgiven. After 6 additional months of payment, the remaining 50 percent of the state-owed debt is forgiven. The county also has a settlement program that seeks to eliminate uncollectible debt in arrears-only cases by accepting a lump sum payment from qualifying obligors in exchange for debt forgiveness. Caseworkers will typically accept pay-off offers that are at least 65 percent of the arrears amount.
- North Dakota's Debt Compromising/Write-Off Program has three main goals: preventing arrears, collecting arrears, and getting rid of uncollectible arrears. The child support agency writes off debt and closes cases if the state-owed arrears balance is less than \$500 multiplied by the number of years since the last payment of support or if there is less than \$500 owed in unassigned arrears in the case. The state also forgives state-owed arrears if the NCP pays back 90 to 95 percent of the debt owed. In its incentive program, North Dakota encourages payment of current orders by offering regular payers a suspension of interest on both assigned and unassigned arrears or by forgiving some of the interest that has accrued in the past. Legislation specifies that interest accrued after August 1, 2005 is negotiable by the child support agency.
- Washington D.C.'s Fresh Start program adopts different goals for different types of cases. For cases with money owed to the family (either in the form of current support or CP-owed arrears), child support uses forgiveness of state-owed debt as leverage for the NCP to pay the family. In cases with just state-owed debt, the goal is to reduce the agency's arrears balances.

### **Establish Realistic Expectations**

Avoid creating programs with unrealistic requirements. Although in 2007, over 61 percent of obligors paid their current support, a very large number of obligors do not pay in full and on time. It is unlikely that obligors in debt compromise cases will be able to demonstrate high levels of payment performance over a sustained period of time. Child support agencies should consider accepting smaller, more realistic lump sum payments rather than holding out for substantial amounts that would theoretically generate revenue for the state. According to the American Bankers Association, credit card companies have begun to settle account balances (and not just interest charges

and late fees) for substantially less than the amount owed. And while credit card companies used to be able to sell bundles of old debt to collection agencies for as much as 15 cents on the dollar, experts say that the worsening economy means that 5 cents on the dollar is now the most a company can hope to get for its past-due accounts.

- Illinois has the debt compromise program with the easiest terms. An NCP can receive full forgiveness of state-owed debt if he/she makes full and on time payments for six months. Project Clean Slate also allows the NCP to petition to have his/her agreement suspended for up to one year to accommodate unexpected events such as unemployment or illness that might impair his/her ability to make regular and complete payments for six months. The case is reviewed after the one year suspension to determine if the noncustodial parent is ready to continue in the program. If the case is still not ready to participate it will be closed and obligors are barred from reentering the program.
- Of all of the programs represented, California offers the opportunity for the lowest pay-off amount on arrears at 8 percent; however, COAP representatives reported that this is the exception and NCPs usually have to pay more.
- New Mexico's lump sum settlements range from 11 to 31 percent.

### **Establish Simple Rules, Requirements and Ledger Adjustment Schedules**

Participating jurisdictions emphasized the importance of simplicity. Those with straightforward programs appreciated these features. Those with complex programs wished that they were less complex. Some jurisdictions with simple programs had experienced varieties that were more complex.

- Maryland's program, known as the Child Support Payment Incentive Program (PIP), became effective in June of 2008. PIP aimed to solve the problems of a previous pilot debt compromise project. It allowed for debt compromise to be accomplished administratively and it simplified the requirements for program enrollment and performance. In PIP, an NCP qualifies if his/her income is less than 225% of the federal poverty level. Employed NCPs must provide two pay stubs when applying for the program and self-employed NCPs must provide income tax returns. However, failure to provide proof of income/earnings does not prevent an NCP from participating in the program. Child support offices can also obtain earnings information from Federal Case Registry and quarterly income reports if the NCP has no pay stubs. According to one Maryland representative, the program is "very generous" and the state does not turn NCPs away if they are unemployed. The program's proscriptive case type and performance criteria also appeals to local CSE managers who wanted a simple approach that would not require worker discretion and create excessive training needs among front-line workers.

- Illinois' Project Fresh Start also takes a simple approach. An NCP can have his/her entire state-owed arrears balance (interest plus principal) forgiven if he/she signs an agreement with the State and pays his/her current support plus a payment toward the CP-owed arrears for six months. After the six months, the debt is forgiven, and is not reinstated if the NCP stops making current support payments. The program is open to NCPs with any amount of state-owed arrears who have a factor that impeded their ability to pay support including prior incarceration, a disability, or chronic unemployment. Applicants are required to provide written proof that they could not make payments from a reputable source such as: a letter from a former employer, paperwork from the Department of Employment Security, prison discharge or parole papers, a doctor's statement, and/or a statement of earnings from the Social Security Administration.
- Washington requires that Fresh Start participants have a circumstance that impaired their ability to pay at the time when arrears accrued. Thus, all previously incarcerated obligors are eligible to participate in Fresh Start. The project does not attempt to limit itself the portion of state-owed arrears that accrued during incarceration and makes all state-owed arrears available for compromise for eligible participants.
- New Mexico seeks to eliminate debt owed to the state by focusing on arrears-only cases with a minimum of \$1,000 owed to the state. Since the program's inception in 2005, New Mexico has closed 1,825 cases, collected \$1.7 million and decreased arrears balances by nearly \$15 million. Obligor are required to present income documentation consisting of three recent pay stubs, the most recent tax return and W-2 and pay a lump sum based on a simple program calculation that considers average earnings over a three year period and number of dependents. Obligor generally pay 11 to 31 cents on the dollar and the length of time from application to case closure is approximately one week.

There is one perceived advantage of having a program with a very exacting application and income documentation process. Stringent rules and requirements may help to overcome the perception that the state is giving away money to undeserving parties. For example, although California representatives urged others to avoid complexity ("It will come back to bite you.") they conceded that the exacting application process for COAP reassures child support enforcement staff that participants qualify.

- California's COAP requires the NCP to fill out an application and provide information on all of his/her assets to enroll in COAP. This includes tax returns, bank statements, and documentation of real estate holdings, stocks and bonds, life insurance policies, businesses, and any other assets worth more than \$2,500. The heavy documentation requirements lead to many enrollment denials, the majority of which are due to the NCP's failure to provide all the needed information for the program application. Workers can impose penalties for those who attempt to perpetrate a fraud (e.g., if the NCP tries to conceal or transfer assets to someone

else because he knows this increases his chance of being accepted into the COAP program.)

- California also uses a complicated formula to determine the arrears forgiveness arrangement. The minimum lump sum amount California will accept is 10 percent of state-owed debt; however, because the State does incentivize for lump-sum payoffs, the minimum amount is technically 8 percent. COAP compares this minimum amount with a calculated payoff amount based on net income and a settlement offer by the obligor. The State accepts the highest amount of the three. Obligor has up to three years to complete the pay off. In order to enter COAP, all debt owed to the custodial parent must be paid upfront—though it only needs to be paid in a lump sum if it is wrapped into the agreement with the State’s compromise. The compromise process can be very lengthy due to a state-required audit and the required pay off of debt to the custodial parent. Although COAP cases are handled at the local CSE office. All agreements are entered with the court and the State COAP staff must approve agreements that deviate from these guidelines.

Meeting attendees also urged jurisdictions to avoid making frequent ledger adjustments. Several programs have identified payment landmarks and make adjustments only at those critical time points. For example:

- California used to forgive debt every month if the NCP was in a payment plan. This was extremely labor intensive. Merced County had one full-time staff member that did just this. Now, when the first check clears, the debt is gone. Counties find that this motivates NCPs to keep up with the program because the NCPs see what their account looks like with a zero arrears balance and they do not want the debt reinstated.
- Washington D.C. develops a two-year payment agreement with Fresh Start participants with current support orders. Debt is forgiven based on the achievement of certain payment “landmarks” according to the following schedule:
  - After six months of payment, 25 percent is forgiven;
  - After one year, an additional 25 percent is forgiven;
  - 25 percent more is forgiven after 18 months of payment; and
  - The remaining 25 percent is forgiven after two years of payment.

The case is treated like a normal child support enforcement case until the entire debt is forgiven, so the payment amount remains the same and all intercepts are kept in place.

- Maryland’s PIP requires that participants make consecutive payments on current support orders for 12 months in order to have 50 percent of his/her debt reduced. After an additional 12 months of consecutive payments, the remainder of the debt is forgiven. The debt is actually taken off of the NCP’s account at month 12 and

month 24. The NCP receives no upfront forgiveness or month-to-month forgiveness.

- Illinois takes the entire state-owed arrears balance off of the account as soon as the NCP enters Project Fresh Start. If the NCP fails to complete the six months of payment, then the entire debt is put back onto his/her account and the individual cannot reenter Project Fresh Start again.

### Adopt a Uniform Approach But Allow Room for Flexibility

Administrators of debt compromise programs tend to favor elements of uniformity but recognize the value of flexibility. Proponents of program uniformity maintain that it requires all staff to give the program attention, ensures some element of equal treatment, and can be easily explained to obligors and other audiences.

- California maintains that the legislature adopted a very proscriptive program to address concerns about “deadbeat” dads “scamming the system,” and wrongly benefiting from the write-off. As a result, the COAP application process is lengthy and the documentation requirements are exacting. Subsequent research on child support debt in California confirms that most debt is held by obligors with the lowest income levels and that they are “dead-broke” rather than being “deadbeat.” One consequence of designing the program to catch “scammers” is that the COAP application process is extremely difficult for low-income noncustodial parents and time consuming for the agency. On the positive side, program administrators believe that its complexity helps to reassure child support enforcement staff that COAP participants deserve the debt compromise treatment.
- New Mexico is developing a more uniform way to determine lump sum payments to promote more consistency across child support offices and individual workers. Under new program rules, the lump sum payment accepted in debt compromise cases will be based on the obligor’s average income over the past three years. Another new feature will be a standard application process. Income will be documented using tax returns, pay stubs or a letter from the employer. Disability and other circumstances will also require documentation. Program administrators believe that greater program standardization will make case processing faster and easier.

Proponents of flexibility maintain that it is impossible to be formulaic given the range of circumstances that obligors present and that treatment is best determined at an individual and case-by-case level. In between these two extremes, some argue for a uniform approach that allows for elements of flexibility.

- Minnesota endorses the idea of “equitable adjustment” and does not specify how debt compromise should be handled at the state level. Individual counties exercise discretion. The child support director of Ramsey County stresses that interventions

are determined on a case-by-case basis and that there are different remedies and different goals for different cases. Like a business, CSE takes a “holistic” view of each case, and encourages workers to determine “what makes sense in this case.” On a case-by-case basis, obligors might be offered an arrears reduction or a suspension of interest charges in exchange for a lump sum payment.

- Vermont also stresses the importance of “common sense” strategies and encourages workers to reach agreements depending upon case circumstances and obligor capacities. While the approach allows managers flexibility in crafting debt compromise arrangements, administrators concede that it creates “consistency issues.”

### Maximize Administrative Procedures and Engage the Court Constructively

A key to program success is utilizing administrative procedures to speed up case treatment. Meeting participants urged architects of new programs to try to keep judicial involvement as simple and supportive as possible. One positive role for the court is to assist with program recruitment at specialized dockets.

- California has an administrative program that is proscribed through legislation. Although COAP agreements are filed with the court, there is virtually no judicial element to the program and all COAP decisions are final
- Minnesota relies heavily on administrative process for all aspects of child support. This greatly simplifies the requirements for arrears forgiveness. If an NCP owes debt to the custodial parent, all CSE needs to complete the compromise is for the CP to send in a request in writing. No cases have to go to court and child support caseworkers have maximum flexibility to determine compromise terms on a case-by-case basis.
- New Mexico requires that all orders settlements be approved by the court but the approval process is very quick and many cases can be resolved within one week of application. Normally satisfaction of orders can be done without court intervention.
- Illinois sends judgments to the court for permanent forgiveness. This brief approval process does not require the participation of the NCP.
- Washington D.C. plans to recruit Fresh Start participants at its Fathering Court which is a court-monitored effort to provide ex-offenders and substance abusers with an array of intensive services aimed at enhancing parent-child contact and employment. Obligor who complete Fathering Court requirements will be eligible for arrears forgiveness. Thus, the child support agency sees the court’s program to engage obligors in employment, substance abuse treatment, and parenting activities as a good vehicle to expand participation in its Fresh Start Program.

### Consult with Advocacy Groups and Find a Legislative Champion

Fatherhood groups, prisoner re-entry programs, legal services, and other community based organizations that serve low-income noncustodial parents are likely to be the most effective entities for generating program participants. These advocacy groups are trusted by and often communicate with obligors. Advocates and representatives of community based organizations can provide useful guidance in developing debt compromise programs that will enjoy credibility on the “street.” The groups can also help with the legislative approval process if the program is established by legislation. In addition to eliciting “buy-in” from key partner organizations, debt compromise programs that derive their authority in legislation need to cultivate a “legislative champion” who will endorse the program, ensure funding and protect it from those who might seek to eliminate it as a cost-cutting measure or view debt compromise as a way to generate revenues for the state.

- Maryland’s PIP was developed in collaboration with key advocacy groups. Representatives of major legal services and fatherhood programs were instrumental in designing the program and helping to draft the legislation. They encouraged CSE to make PIP simple and flexible. The program enjoyed the support of a single legislator who was passionate about the issue and worked to get the legislation passed. Despite having a champion, debt compromise was still a controversial subject. It took two years to enact the bill; a previous bill to help incarcerated NCPs was defeated. Program architects say that without a supportive legislator, the legislation could have failed.
- California also had a legislative champion. COAP administrators say that they brief their legislative champion about the program and its accomplishments on a regular basis so that he can explain it to his colleagues and better resist challenges to program funding. While California did not consult with advocacy groups in the design of COAP, the State has subsequently reached out to and engaged NCP advocacy groups. The State has an annual session with the groups and reports on COAP. Advocacy groups are a good source of COAP referrals and program architects hope that they can reduce the number of inappropriate referrals by educating groups on the program.

### Develop Effective Partnerships with Workforce Programs

Employment is critical to the success of debt compromise programs that tie forgiveness to future payments. Obligor employment is also critical to the success of debt compromise programs that require noncustodial parents to make a certain payment amount over a set period time to receive arrears forgiveness. At the 2009 conference, participants acknowledged the importance of developing strong working relationships with employment programs so that obligors can find jobs before they enroll in the debt compromise program. None of the participating sites had developed collaborations

with a workforce program whereby debt compromise was offered as an incentive for participation in employment and training activities.

- Maryland reported that its child support agencies collaborate closely with the state's employment program.
- Hennepin County, Minnesota also works closely with the county's employment program. Jobs counselors appear at the court's paternity calendar and unemployed or underemployed NCPs are ordered by the court to meet with on-site personnel and participate in employment programs. Debt compromise is not a part of the child support-workforce collaboration at the court.

### Reduce or Eliminate Interest Charges

States differ in their policies regarding interest on arrears. According to researcher Elaine Sorensen, 18 states assess interest routinely, 16 states assess interest on arrears intermittently, and 16 states do not assess interest on arrears at all. Arrears balances track with interest policies. States that charge interest routinely have the highest arrears balances while those that do not charge interest have the lowest. An analysis of state-owed arrears balances in Wisconsin found that 30 percent of all balances were due to interest. New Mexico estimates that 21 percent of its arrears balances are due to interest charges. The OIG recommends that states reduce or eliminate interest charges to reduce arrears balances. While most participating jurisdictions see interest as a "negative" that contributes to the generation of arrears, some view the forgiveness of interest as a payment incentive.

- North Dakota offers to suspend interest on state-owed debt to encourage payment on cases with current orders. CSE personnel maintain that telling NCPs how much interest adds to their debt (the current interest rate is 7%) helps to get NCPs engaged in the system and that charging interest (and suspending it) is a good payment incentive.

### Use a Variety of Methods to Identify Suitable Cases

Programs use a variety of methods to identify suitable cases: automated systems, advocacy and community-based organizations, worker nominations, word-of-mouth referrals, and general publicity. Some programs combine techniques. For example, they use their computerized system to generate lists of cases with high levels of debt and rely on workers to select specific cases from this list to target for the program. Other programs report little response to letters that are mailed to noncustodial parents identified from system-generated lists. Instead, they work more closely with community-based organizations, fatherhood programs, reentry programs and other entities that hopefully enjoy the trust of noncustodial parents who might be eligible. A number of programs use all available means of generating cases.

- New Mexico recruits participants for its Project Fresh Start by running reports to identify NCPs with certain case characteristics. For example, in 2005, it generated lists of arrears-only cases and mailed letters to NCPs identified in this fashion. New Mexico also developed a poster and publicized Fresh Start by placing fliers and other publicity materials in places frequented by NCPs such as laundromats, convenience stores, and public agencies. When the program first started, it aired public service announcements.
- Washington D.C. began its Fresh Start program by using its automated system to generate a list of 100 cases every month that meet certain eligibility criteria. The system also creates a Fresh Start introduction letter, an affidavit, and a consent to access credit reports and mails the package to the NCP. To counteract the low rate of response to system-generated letters, project staff have trained child support staff on the program and the eligibility requirements and are encouraging other, non-project child support workers to identify potentially relevant cases which consist of previously incarcerated NCPs. Project architects are also talking with representatives of the advocacy community to publicize the program and encourage referrals of potentially eligible participants. Involving workers and community advocates in the recruitment and referral process appears to be improving enrollment rates.
- Minnesota workers receive a report every month listing the cases with the highest arrears balances. They are urged to review the lists for possible arrears compromise treatment. Hennepin and Ramsey Counties also generate referrals from the state's data warehouse and ad hoc reports. CSE workers try to engage these NCPs into the program. The reports help cut down the amount of staff time required for recruitment but the outreach is still performed by workers. In addition, both Hennepin and Ramsey County cultivate partnerships with community agencies and recruit program participants through outreach efforts in community settings. For example, Hennepin CSE conducts client information sessions at libraries and has a specialized worker who handles incarcerated obligors. Ramsey CSE does outreach at community fairs. Hennepin has a specialized worker who deals with cases that involve incarcerated obligors and debt compromise is included with presentations about order modification to those audiences. When Hennepin County's program first began and the goal was to close old cases, the County pulled reports on when an NCP last made a payment on his/her arrears balance. If the NCP had not paid in five years, the County examined the case to determine whether it should be closed.
- Vermont's data warehouse provides lists of cases with high arrears balances to the regional managers and workers. The workers are supposed to call the NCPs on the lists and try to make deals that include debt compromise agreements. According to Vermont staff, the data warehouse is an invaluable tool for tracking cases and telling the story of cases involved in debt compromise. The only manual task a

worker must perform for a Project AIM case is to enter a code into the automated system so that a letter will be sent out to an NCP.

- Maryland generated lists from its computerized system and did a mass mailing based on the data to enroll participants into PIP. NCPs on the lists were mailed a brochure that also had an application attached. The response to the mailings has been weak, so the state plans on working with fatherhood groups in the near future to enroll more NCPs. The state hopes that NCPs will trust the Fatherhood programs and that the programs will provide some referrals to PIP.
- California tries to avoid publicity about COAP to minimize interest from obligors who believe it is a means to erase their debt without having to make a lump sum payment. In some counties, staff uses the computer system to identify potential COAP cases, such as those with arrears balances in excess of \$10,000 or receiving federal retirement pensions. California emphasizes the importance of training its call center workers to do pre-screening with individual obligors who phone and request information on COAP in order to avoid having callers pursue a complex application process only to learn that they do not qualify for relief. As the program administrator explained, "We have authority to waive 90% of their government debt, but there are lots of conditions. We don't want to talk to them about compromise until we know they are eligible. If they have filled out the application and provided all the documents, they hate hearing they don't qualify. So we train our customer service staff to determine whether they are eligible."
- Illinois coordinates with community based organizations to publicize Project Clean Slate and to help potentially eligible obligors complete the program application. CSE also relies on its paternity establishment workers to publicize the program when it does workshops in prisons, which are conducted routinely with offenders 60 to 90 days prior to their release. Other entities that CSE works with to spread the word about Clean Slate are employment and training programs, fatherhood programs, reentry programs and Adult Transition Centers, and Head Start. CSE is also exploring partnerships with WIC programs to publicize paternity establishment and other child support initiatives, including Clean Slate.

### **Develop a Simplified Method of Modifying Orders**

Some debt compromise programs that key forgiveness to future payment behavior strongly recommend that obligors explore the utility of modifying their orders before they enroll in the program. The often cumbersome and time consuming nature of review and adjustment procedures is viewed as a serious barrier to arrears forgiveness program success. Another barrier that participating jurisdictions noted was the concern expressed by some child support staff about being too quick to reduce orders without considering all the facts.

- Maryland child support can recommend an NCP to request an order modification before enrolling in PIP. This policy is based on the assumption that obligors who have an unrealistically high order are less likely to make payments for the full two years that are required to receive an arrears adjustment. There is no expedited modification process, however.
- Illinois' Project Clean Slate requires NCPs to make payments for six consecutive months to receive forgiveness of their state-owed debts. Some orders are beyond the NCP's ability to pay. If that happens, child support will delay the NCP's acceptance into the program until the order can be modified downward. If an NCP applies for Project Clean Slate and he/she is ineligible for the program, child support has the NCP sign an agreement that allows child support to review his/her order and modify it if appropriate. Before this option was open to child support, workers could only go in to an NCP's case to determine if it should be modified once every three years.
- Hennepin County does not have a simplified modification process for obligors in the debt compromise program although it has expedited procedures for incarcerated obligors and is developing a streamlined approach for newly unemployed obligors. One worker handles all review and adjustment cases for the agency. The family court does have a self-help center where parents can pick up the pro se forms, receive assistance from a paralegal or attorney, and apply for the review and adjustment on their own. There is a \$400 fee for a parent to initiate the review and adjustment (if child support initiates the review, there is no fee). This fee and the huge amount of complicated paperwork required to apply for modification are barriers for parents needing an order modification.

### Enhance Automated Systems to Track Debt Compromise Cases

The lack of automation to support the monitoring process limits the use of debt compromise in some jurisdictions. Both program architects and workers want system generated alerts when payments stop. In the absence of program integration into the statewide computer system, workers must review debt compromise cases, make appropriate ledger adjustments, and notify obligors of program actions on a manual basis.

- Washington D.C. workers receive an automated alert if NCPs in its Fresh Start program stop paying. The NCP is sent a system-generated letter. The NCP is dropped from the program for nonpayment and cannot reapply for Fresh Start for three years.
- Maryland workers receive a monthly report that tracks the payment history of the participants. The worker reviews the report to determine if the NCP met the total monthly child support obligations for all cases or completed twelve or twenty-four

consecutive payments. Depending on the results of the review, the worker takes the appropriate action and updates the system. The NCP is automatically dropped from the program after three episodes of nonpayment. Maryland used manual techniques to monitor payments when it conducted its pilot project on debt leveraging in 1997 – 2000. One result of the evaluation of its State Owed Child Support Leveraging Program (2000) was the recommendation that payment monitoring be automated.

- California and Illinois both have the goal of integrating their respective debt compromise programs into the state-wide child support system in the near future. Because COAP is not integrated into the state-wide child support system, staff spends a good deal of time monitoring cases. Program administrators in Illinois keep track of payment for project cases on an Excel spreadsheet. The project is not integrated into the statewide computer system.

### **Suspend Debt Compromise Agreements When Circumstances Change/ Give Obligor Additional Chances**

Programs that have realistic expectations build in some mechanism for obligors to rehabilitate themselves if they miss a payment. Another helpful feature is the ability to suspend a debt compromise agreement if an obligor loses his/her job or experiences some change of circumstance that makes it impossible for him/her to meet the payment terms of his agreement.

- Illinois' Project Clean Slate requires NCPs to make payments for six consecutive months. If something happens in the NCP's life that makes it difficult for him/her to make the payments for six consecutive months, he/she can petition to have his/her agreement suspended for up to one year. After the one year suspension is up, child support looks at cases on an individual basis and determines whether the suspension should be continued beyond that point. Once an NCP is terminated from the program, he/she is barred from reentry.
- Maryland has a three strikes policy. In PIP, debt forgiveness is tied only to payment behavior. If the NCP misses a payment, he/she is sent a letter and is given 60 days of flexibility before the missed payment is classified as a stop payment. The NCP can only have three episodes of stop payment before he/she is expelled from the program.
- In California, when an NCP enters a COAP agreement, his debt is taken off of his account when his first check clears. If there is a stop-payment (there is 60 days of flexibility before a missed payment is considered a stop-payment), the agreement is rescinded and the whole debt is reinstated. The 60 day period gives the NCP some opportunity to get money together and stay in the program. If an NCP has a COAP

agreement rescinded, he/she cannot reenter COAP for three years. After the three year period is up, the NCP can reapply for the program. Some counties contact obligors who are late and encourage them to make a payment, others do not. To date, there is no evidence that personal contact makes a difference in payment behavior.

- Washington D.C.'s Fresh Start program requires a two-year payment agreement for NCPs with current orders. If the NCP does not make a timely payment, the worker is notified by the computerized system and the NCP is sent an automated letter. (A payment is considered timely if it is made in the same calendar month in which it is due.) The NCP is dropped from the program for nonpayment and cannot reapply for Fresh Start for three years.

### Consider Contacting Custodial Parents About Arrears Owed To Them

Jurisdictions have disparate policies about interactions with custodial parents concerning debt compromise. Some jurisdictions permit outreach (or leave it to the discretion of the worker). In general, these jurisdictions find that it is productive to relay offers to custodial parents who are generally pleased to get current support payments in programs that use debt compromise as a mechanism to encourage the payment of current support. Programs that avoid outreach report that they don't want to appear to be pressuring custodial parents to agree to a compromise. Some jurisdictions are litigious and have been penalized for appearing to coerce custodial parents; others have case law suggesting that since arrears are owed to the child, they cannot be forgiven by a custodial parent. Programs that allow outreach to custodial parents caution against being drawn into disputes between parents, but many advocate informing custodial parents about the program and the custodial parent's rights.

- California policies vary by county. Los Angeles does not allow any outreach to custodial parents because the county was once required to pay legal sanctions for appearing to coerce a custodial parent. As a result, workers are prohibited from making overtures to custodial parents about debt compromise. Other counties do not bar workers from outreach.
- Hennepin County, Minnesota wants to avoid the appearance of coercion and accordingly does not contact custodial parents about debt compromise. Ramsey County, Minnesota, reports that it will incorporate terms dealing with compromise of non-state debt if the conversation is initiated by the custodial parent.
- Illinois does not believe it has the authority to engage in a discussion of debt compromise with custodial parents.

- New Mexico regularly relays offers of compromise to custodial parents and will prepare relevant paperwork for judicial approval if it is endorsed by the custodial parent.
- North Dakota needs court approval to waive arrears owed to the custodial parent. Program representatives report that they are moving away from negotiations with custodial parents. They worry about the agency becoming an advocate for either parent. CSE is supposed to be a separate, third party with its own goals.
- Vermont has case law suggesting that arrears are owed to the child and cannot be compromised by the custodial parent.

### Prevent Arrears by Getting Orders Right in the First Place

The arrears management recommendation that was most heartily endorsed by all participants was to prevent the generation of child support debt in the first place through the generation of appropriate child support orders. Participating jurisdictions report that they have developed early intervention and other outreach efforts aimed at making contact with obligors and generating orders that match their earnings, and that these efforts need to be augmented and continued.

- Minnesota's state-wide program to help prevent and forgive arrears is the Strategies to Help Low Income Families, or SHLIF. The statewide program is very broad in scope. Some of SHLIF's goals include the prevention of arrears buildup and engaging both parties in the establishment of an appropriate order (e.g., trying not to impute income, avoiding default orders and retroactive support, and not assessing birth expenses). According to Pat Krauth from the Minnesota Child Support Enforcement Division, "we want to get the order right and keep the order right to prevent arrears from building up." So far, 36,000 cases in the state have had some sort of SHLIF action, including debt forgiveness, early intervention, order modification, or some related intervention.

### Future Project Plans

Bringing together jurisdictions with debt compromise programs to exchange information allowed for the identification of effective program policies. After the conference, CPR held calls with representatives of participating jurisdictions to discuss developments in their debt compromise programs since the June meeting and their interest in research dealing with the characteristics of program participants and outcomes associated with their participation. CPR also discussed needed research on debt compromise with Ruth Ann Dorrill, principal investigator for the national study of debt compromise programs conducted by the Office of Inspector General (OIG, 2007).

The next project objective is to perform an evaluation for the interested jurisdictions using a sample of cases participating in debt compromise programs. This will provide empirical information on the effectiveness of debt compromise programs and will offer more supporting evidence on the program features associated with strong outcomes. Following the evaluation, CPR will issue a final report detailing the full research methodology and findings.