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Section 102. Disregard Applicable to Timely Child Support Payments (42 USC 602 & 657):

The Family Support Act of 1988 (Public Law 100-485 - H.R. 1720) has totally ignored the "costs" associated with the implementation of mandates that are contrary to proper and basic accounting and money distribution principles. The cost(s) associated with the recording and distributing of monies collected for child support exceeds or approaches most other major functional costs of the Child Support Enforcement Program./1

Federal policy makers, through regulatory action, have demanded that child support agencies ignore basic "system" or even reasonable accounting procedures concerning posting of monies received. We are being asked to determine, on an individual check-receipting basis, the date of collection, which determines how amounts collected must be distributed rather than the "date of receipt," as Congress stated under Section 102, Public Law 100-485.

The Department of Health and Human Services, by means of their regulatory rule-making, has interpreted "date of receipt" as "date of collection". What this does is negate the usefulness of any automated collection-distribution system. Manual override methods are currently being utilized, even with the most advanced state-of-the-art accounting-distribution system, due to the requirement of posting payments based on a "collection date" rather than a "receipt date".

Congress enacted the "Child Support Enforcement Amendments of 1984" which included a $50.00 disregard provision (the first $50 of any current monthly collection on an AFDC case would be distributed to the family in addition to the AFDC grant), which requires AFDC collections to be handled in a specialized manner. This provision has resulted in numerous lawsuits filed by welfare-rights organizations, due to issues such as the date of collection vs. receipt; past-due amounts not applying and assignment of support rights (current and arrears)/2

/1 Costs of the financial distribution process is higher than the enforcement function in the states of Virginia, Pennsylvania, Michigan, Iowa and Illinois. The state of New York's expenditure for the financial distribution function was $20,498,826 compared with $22,459,394 for all of the enforcement function. (Table 25-12th Annual Report to Congress, U.S. Dept. of Health and Human Services). Note: The state of Virginia has been under a court order to distribute collections, including the $50 disregard within the timeframe (15 days) now required by Section 302.32(f) of the Code of Federal regulations.

The Office of Child Support, Family Support Administration, believes that all states can meet this requirement: "...without difficulty through management commitment and an appropriate allocation of resources to the task."

The state of Virginia has shifted 1/2 their total expenditures of all activity towards this "task".

/2 Litigation Report of Sept., 1987 reported out of 10 current class action lawsuits, 7 were issues concerning the disregard provision: Agee vs. Coler (IL); Beasley vs. Harris (CT); Berg vs. Gardebring (MN); Luyando vs. Bowen (NY); Todd vs. Regan (IA); Vanscotter vs. Bowen (WA); Wilcox vs. Petit (ME)

The Department of Health and Human Services, Family Support Administration has reacted to these class-action lawsuits by regulatory changes--resulting in a current system of child support distribution that is and will continue to be costly, due to the accounting problems (constant adjustments-manual overrides required) for the required $50.00 disregard program.

Public Law 100-485 (The Family Support Act of 1988) provided for over sixty-four million dollars **($64,500,000)** to be spent on studies/demonstration projects and reports--and not a single cent was allocated for studying the problems relating to the $50.00 disregard program. Failure of Congress to find a solution to the $50.00 disregard accounting-distribution problem will insure that costs of the Child Support Enforcement Program in the functional area of financial distribution to continue to be high.

Implementation of **Section 101 - Immediate Income Withholding** will exacerbate the distribution problem due to current regulations addressing the "date of collection" issue for disregard purposes. It will be necessary to simplify and streamline the distribution process prior to the mandate of requiring immediate wage withholding on all orders beginning in 1994. An automated system will help, but under the current "disregard" and "date of collection" process, even an automated system will be one operated on the "exception" basis. Congress has not considered other improvements that are necessary for this program--no money was allocated to research methods of collecting from the self-employed. The mandated wage withholding process will result in more obligors finding methods of getting paid as self-employed contractors and working "under-the-table" may increase. Congress needs to research methods that will place the self-employed and the employee who gets unreported wages in a similar wage withholding situation.

Section 104 - Timing of Notice of Support Payment Collections: This provision sought to allow recipients of aid to know when and how much monies in support payments had been received by an agency and applied against a current or past grant amount(s). Congress' intent was to allow individuals to see what monetary resources would be available to them to help them get off the welfare rolls. Current regulatory audit rulings include a notice that is provided when -0- amounts are collected. This is counter to Congress' specific language and intent and only adds costs to the program.

Section 122 - Requirements of Prompt State Distribution of Amounts Collected as Child Support, resulted in final regulations that will only attract new welfare-rights class-action lawsuits. The problem that Congress and the Department of Health and Human Services cannot understand is why agencies have such a difficult time with distriibution. To solve it, why not just put out specific regulations that monies have to be distributed (including disregard payments) within a short time period? Representatives from the Department of Health and Human Services have failed to provide information to Congress as to the complexity of distribution of welfare-related child support collections.

Non-welfare-related distribution is simple, but due to the assignment of all current and past-due child support for welfare-related cases and the disregard process, a very complexdistribution system has evolved that needs to be revised. An elimination of part of the assignment provision (current or type of payments processed) would help simplify the distribution process. Families on welfare would receive payments on a much more timely basis and automated systems could reduce grant amounts based on such current collection amounts. The resulting

loss to taxpayers would be minimized based upon reduced grant amounts.

Another suggestion is to perform a cost analysis of the current disregard program (administrative costs, both IV-A and IV-D, and the lost revenue) and compare such costs to that of increasing grants in the like amounts.

Testimony (H.R. 1720) by personnel from the Department of Health and Human Services provided no insight into the complex distribution problems associated with the $50.00 disregard program. Department of Health and Human Services personnel continued to be negative about the current funding mechanisms and State representatives spent most of their time defending their programs and sharing with the House Committee problems associated with obtaining Federal approval of automated systems. Representatives from the Office of Child Support Enforcement, Department of Health and Human Services have become obsessed with the funding scheme that Congress enacted in 1975 (Public Law 93-647) and have successfully convinced Congress to lower the Federal Financial Participation from 75% down to 66%. The representatives from the Department of Health and Human Services also provided very little input to Congressional policy-makers as to the impact of additional services placed on the Child Support Enforcement Program, e.g., review and modifications (downward and upward) of court-ordered amounts. (Section 103(c))

Section 103. State Guidelines for Child Support Award Amounts - Requirements for Review of Individual Awards:
Congress has effectively changed the role of the Child Support Enforcement Program by enacting the Family Support Act, specifically Section 103, subsection (c). The mission to help children who need support from their parents and to help taxpayers by shifting the burden back to the true obligor has been changed. This law will result in a child support enforcement agency **initiating and lowering a child support amount, even when opposed by the custodial parent.**

This counters the original intent of Congress (P.L. 93-647), to reduce the welfare burden and to have the true parental obligor provide for his or her child. Special advocate groups who appeared in the House hearings (H.R. 1720) were determined for the downward modification to pass and also the authorization of $8,000,000 to address child access problems. (Section 504 of Title V).

Section 129, Collection and Reporting of Child Support Enforcement data, will certainly increase the cost of the national program by the items being measured. It is important for Congress and Federal agencies to know what the results are regarding this program. However, when Congress asked for the identification of specific services provided and sub-categories of such services to be measured on a fiscal year basis, such as "location of an absent parent for purpose of establishing a court order; enforcing a court order or modifying a court order"... we begin to fall into the category of over-measurement. Regulations are being considered that include location of not only the absent parent, but also location of an absent parent's assets. Does Congress really want this information?

How many Federal programs do we have where we are measuring the individual activity and not the end result(s)?
A better, more efficient and probably more accurate method of measuring specific activities would be accomplished by annual properly-conducted statistical samplings.

Conclusion:

The expectations of Congress regarding the "mission" of child support enforcement has been muddied. Congress will continue to be misinformed about requested changes, additional services to be provided, and impacts of reduced Federal funding by the Department of Health and Human Services, Family Support Administration.

Failure of the Department of Health and Human Services, Fammily Support Administration, to provide leadership and required expertise in the area of child support enforcement has resulted in new Federal mandates that are not conducive to an efficient program.

Congress needs to determine if they want a program that is a social-welfare program (one that helps all individuals with any domestic relations-type problem, e.g., visitation/access; lowered court-ordered amounts; health insurance, etc.) or a child support enforcement program that is focused on the **collection of child support.**

If the program is to be another social-welfare program, then collection expectations need to be lowered and funding increased dramatically. If this program is a "welfare reform" program, relieving taxpayers of an unnecessary and costly burden, then Congress needs to inform the Department of Health and Human Services of that purpose. If the Department of Health and Human Services does not understand or misinterprets the purpose of the program, then Congress should consider placing the program with another Federal agency that can provide the true expertise needed for a successful and efficiently-run program.