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IMPLEMENTATION OF THE FAMILY SUPPORT ACT OF 1988
PUBLIC LAW 100-485
Field Hearing, San Diego, California
March, 26, 1990

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Issue: Distribution of Collections and Disregard Provisions

Reference:

45 CFR 232.20(d) Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.
Authority: 42 USC 1302

45 CFR 302.32(1)(b) and (2)(i) Collection and distribution of support payments by the IV-D agency.
Authority: 42 USC 651 through 658, 660, 664, 666, 667, 1302, 1396a(a)(25),1396b(d)(2),1396b (c), 1396(p), and 1396(k).

Proposed Rule, Published in Federal Register September 13, 1989
Specifically changes to Section 302.51 an Section 303.100

Discussion:

The regulations cited govern the distribution of support collections distributed to reimburse AFDC payments made to the family. The problem lies in the complexity of the procedure for distribution to accomplish payment of a $50 disregard to the family for each month's current payment.

If the absent parent has some kind of income withholding and the support payment withheld does not reach the IV-D agency within the month in which it was withheld, the IV-D agency must treat the payment as current for the month in which it was withheld rather than when it is received. As a result the payments must always be treated as adjustments. The IV-D agencies have been advised by OCSE that both automated and manual accounting programs must be rewritten to be able to treat a payment received month(s) after the current support was due as a current payment.

This seems entirely appropriate. The absent parent should not be assessed interest on an arrears that has accrued because the entity at the point of withholding did not forward the payment to the IV-D agency. The family receiving AFDC should be entitled to the $50 disregard for the months that withholding was made from the absent parent's income. The problem is that the cost of maintaining accounts in this manner and the cost of dealing with the complaints from the family about the delay in receiving the missing disregard payment are substantial.

The disregard law is unfair to certain AFDC families who will never receive a disregard payment because the absent parent is deceased, disabled, incarcerated, or in a country where there is no reciprocity. There seems to be two schools of thought on the reason for the disregard payment. One, is to encourage AFDC recipients to cooperate in establishing and enforcing the support obligation. Two, is that it was a way to raise the AFDC benefits to families without making an increase in appropriations. The problem is that because of the very complicated procedures, timeframes, and multiplicity of agencies responsible, the administrative cost of paying the families the disregard may exceed the costs of simply increasing the AFDC grants by $50 per month.

The California Family Support Council commented on the Proposed Rule that was published in April 19, 1989 on the issue of the disregard payment. The following concept was discussed in the comments submitted.

> The distribution of payments by the IV-D Agency to the IV-A Agency on a cash basis requires substantial change to any automated or manual system now in place. For those entities now utilizing automated distribution schemes there are programming changes necessary at considerable cost. There will be increased operations costs for processing these distributions to the IV-A Agency on a daily basis. There will also be a substantial increase in IV-A administrative costs to assimilate the data, pay the disregard as soon as the collections passed to them on a daily basis reach $50, and to identify those cases where less than $50 is collected then pay that amount to the recipient within 20 days of the end of the month. In an automated program this is increased data processing operations costs, in a manual program it certainly requires additional staff.

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The entire area of law and regulation leads us to suggest a different approach:

Distribute all support payments to the family in the manner that payments are distributed to the non-welfare families. The IV-A Agency then will determine the amount of any entitlement the family should have. This way the family would have the advantage of the support payments when they are paid;

There would be no wait for disregard computations; there would be no wait for redetermination of eligibility based on computation of the amount of the support payment which exceeds the grant in any one month;

The family would enjoy the psychological benefit of knowing the absent parent is contributing on a timely basis. There would be a strengthening of family ties, the absent parent would feel better about the payment going to the family and there would be improved custodial parent cooperation;

There would be no need for the IV-D Agency to notify the family of support collections, they would know because they have received the payment;

There would be no need to change distribution programs in any IV-D Agency because they are already programmed to distribute payments to non-welfare families, they could simply distribute all collections in the same manner and report the collections to the IV-A Agency so that eligibility determinations could be made;

If a family received support payments it would not be necessary for the IV-A Agency to obtain advance payments by the county, state and federal IV-A funding agencies, abatements on claims and drawdowns would be net after the child support payment not in advance.

This would be a much more cost effective and service oriented way of doing business, and should answer the concerns of Congress and others interested in the amounts paid to AFDC families, the timeliness of those payments, and the relationships within families.

The law and regulation regarding the disregard payment may seem a small investment of resources to gain the benefits suggested, better cooperation of the AFDC recipient with the IV-D agency and/or an easy way to increase the grant to the family without increasing the appropriation for AFDC payments, however, the requirement imposes service and administrative procedures without effective results.