Order Code RS20352
Updated December 1, 1999

Centralized Collection and Disbursement of Child Support Payments

(name redacted)
Specialist in Social Legislation
Domestic Social Policy Division

Summary

P.L. 104-193 requires state Child Support Enforcement (CSE) agencies to operate a centralized automated unit for collection and disbursement of payments on two categories of child support orders: (1) those enforced by the CSE agency and (2) those issued or modified on or after January 1, 1994, which are not enforced by the state CSE agency but for which the noncustodial parent's income is subject to withholding. The state disbursement unit generally must use automated procedures, electronic processes, and computer-driven technology to collect and disburse support payments, to keep an accurate identification of payments, to promptly disburse money to custodial parents or other states, and to furnish parents with a record of the current status of support payments. The collection and disbursement unit provisions went into effect on October 1, 1998; except that states that processed the receipt of child support payments through local courts could continue to process those payments through such courts until September 30, 1999. All of the jurisdictions with the October 1, 1998 deadline, with the exception of California, are now operating state disbursement units. Information is not yet officially available with regard to states with the October 1, 1999 deadline. (States have until December 31, 1999 to notify the Department of Health and Human Services (HHS) as to whether or not they have a centralized disbursement unit.) HHS expects that California, Nebraska, Ohio and perhaps five or six other states will not meet the October 1, 1999 deadline. Because of the total loss of CSE funding plus possible loss of Temporary Assistance for Needy Families (TANF) block grant funding for states that are not in compliance with the state disbursement unit requirements, Congress has passed legislation (H.R. 3194) that would impose a lesser alternative penalty for these states. On November 18, 1999, the House passed H.R. 3194, an omnibus appropriations bill, that contains a provision that would lessen the penalty for states that are not in compliance with the centralized state disbursement unit requirement. On November 19, 1999, the Senate passed H.R. 3194. This bill was signed into law (P.L. 106-113) on November 29, 1999. This report will not be updated.

Background

One of the major child support provisions of the 1996 welfare reform law (P.L. 104-193) was the requirement that by October 1, 1998, state CSE agencies must operate a centralized automated unit for collection and disbursement of payments on two categories of child support orders: (1) those enforced by the CSE agency and (2) those issued or modified on or after January 1, 1994, which are not enforced by the state CSE agency but for which the noncustodial parent's income is subject to withholding.

The state disbursement unit must be operated directly by the state CSE agency, by two or more state CSE agencies in different states under a regional cooperative agreement, or by a contractor responsible directly to the state CSE agency. The state disbursement unit may be established by linking local disbursement units through an automated information network, rather than operating from one location at the state level, if the Secretary of HHS agrees that the system will not cost more, take more time to establish, nor take more time to operate than a single state system. All states, including those that operate a linked system, must give employers one and only one location for submitting withheld income. The state disbursement unit must be operated in coordination with the state's CSE automated system in CSE cases.

Functions. The state disbursement unit must be used to collect and disburse support payments, to keep an accurate identification of payments, to promptly disburse money to custodial parents or other states, and to furnish parents with a record of the current status of support payments made after August 22, 1996. The disbursement unit must use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical. The disbursement unit must disburse to custodial parents all amounts payable within 2 business days after receiving the money from the employer. The disbursement unit may retain arrearages in the case of appeals until they are resolved.

Costs. If the state is incorporating the collection and disbursement unit into its statewide automated CSE system, those costs are eligible for 80% federal matching funds. After the state's share of that enhanced funding is reached, the state can receive the regular 66% federal reimbursement for the costs of the state disbursement unit.

Effective dates. The collection and disbursement unit provisions went into effect on October 1, 1998. However, P.L. 104-193 stipulated that states that processed the receipt of child support payments through local courts (as of August 22, 1996) could continue to process those payments through such courts until September 30, 1999.

Penalties For Noncompliance. Under federal law, if a state fails to implement the CSE state plan requirement mandating a statewide automated disbursement unit, the Office of Child Support Enforcement (OCSE) cannot approve the state's CSE program. Under the law, disapproval of a state's CSE plan requires suspension of all federal CSE payments, after an appeals process. Moreover, the TANF title of P.L. 104-193 provides that the Governor of a state must certify that he or she will operate an approved CSE program as a condition of eligibility for a TANF block grant. Thus, if a state did not comply with the CSE automated data processing requirements, it may be in jeopardy of losing its federal CSE funding. If a state has to update its TANF plan while the state's

CSE plan is in disapproval status, that state's TANF block grant funds also would be in jeopardy.

Administratively, a state had until December 31, 1998 (or December 31, 1999 in the case of states that at the date of enactment—August 22, 1996—processed child support payments through their local courts) to certify to OCSE via its state plan that its program is in compliance with the new federal requirements. These December dates represent the end of the quarter in which the deadline became effective. After OCSE sends out notices informing some states without an automated centralized disbursement unit that it plans to disapprove the state's CSE plan, the state will have the right to appeal the decision, which generally takes several months or longer.[1] After the appeals process has been completed and the state is found to be out of compliance, federal matching funds for the state's CSE program (and any incentive payments) are to be suspended until the state comes into compliance and has an approved CSE plan. Furthermore, pursuant to section 103(a) of P.L. 104-193, if a state cannot certify that it has an approved CSE program when it amends its Temporary Assistance for Needy Families (TANF) plan (i.e., every 2 years), it is not eligible for TANF block grant funds.

Data

The implementation date for states to have a statewide automated collection and disbursement unit was October 1, 1998 for 22 states, the District of Columbia, and the territories of Guam, Puerto Rico, and the Virgin Islands.[2] Except for California, all of the states and territories with the October 1, 1998 deadline currently have a state disbursement unit (i.e., 25 jurisdictions have state disbursement units).

States that operated their child support payment process through their local courts had until October 1, 1999 to implement a centralized automated collection and disbursement unit. There are 28 states that had October 1, 1999 as their implementation date.[3] However, Michigan, Nevada, and South Carolina, states which process child support payment through their local courts, were granted exemptions from the October 1, 1999 deadline. Michigan has been granted an exemption from the centralized disbursement unit requirement until October 1, 2001. Nevada has been granted an exemption until October 1, 2000. South Carolina's exemption does not have a time limit per se, but all exemptions are reviewable at anytime.

---

[1] In April 1999, OCSE sent California a notice of intent to disapprove California's state CSE plan for failure to comply with the state disbursement unit requirement. California has requested a hearing.

[2] P.L. 104-193 stipulates an October 1, 1998 implementation date for Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Guam, Hawaii, Iowa, Maine, Massachusetts, Minnesota, Montana, New Hampshire, New York, Oregon, Puerto Rico, South Dakota, Utah, Vermont, Virginia, Virgin Islands, Washington, and West Virginia.

[3] P.L. 104-193 stipulates an October 1, 1999 implementation date for Alabama, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Wisconsin, and Wyoming.

As noted earlier, administratively states have until December 31, 1999 to notify OCSE of whether or not the state has a centralized collection and disbursement unit. HHS has already sent the state of California a noncompliance letter and expects that Nebraska, Ohio and perhaps five or six other states have not meet the October 1, 1999 deadline.[4]

Issues

Some orders do not have to go through the state disbursement unit. Following enactment of this provision in August 1996, there was some confusion about which child support cases were to be handled by the state disbursement unit. Thus, it is useful to emphasize that not all child support orders must be a part of the state disbursement unit. First, orders issued before 1994 that are not being enforced by the state CSE agency are exempt. Second, parents can avoid both wage withholding and involvement in the CSE system if at the time the original order is issued, the judge determines that private payments directly between parents is acceptable.

Exemptions for linked systems. The general rule is that the state disbursement unit must be operated at the state level. The exception to this is that if a state requests an exemption and the HHS Secretary agrees, the state can form its state disbursement unit by linking local disbursement units through an automated information network. The Secretary is authorized by law to agree only if the state's system will not cost more nor take more time to establish or operate than one centralized system.

Several of the states that processed receipt of child support payments through the courts requested an exemption to the centralized system so that their court-based system could be linked through a computerized network. HHS has only granted a few exemptions. HHS generally contends that centralized disbursement units are more cost-effective and faster than linked systems. They also maintain that states have more control over a centralized system.

Alternative to "nuclear" penalty. Federal law prohibits CSE funding for states without an approved CSE plan. If the state CSE plan requirements are not met, HHS cannot approve a state's CSE program. Before 1988, CSE state plan requirements applied only to matters that were procedural in nature (i.e., enabling legislation by states, etc.). Departing from these pro forma requirements, P.L. 100-485 added as a state plan requirement the mandate that states have in effect an operational statewide automated data processing and information retrieval system for their CSE programs. Because many states did not meet the October 1, 1997 deadline for the automated systems requirement, they were in jeopardy of losing all of their CSE funding and possibly TANF funding as well. The 105th Congress resolved this problem by passing H.R. 3130 which authorized an alternative penalty for states that did comply with the CSE automated data processing and information retrieval systems plan requirement.

---

[4] California, Nebraska, and Ohio are states that have yet to implement a certified statewide automated data processing and information retrieval system, the implementation date of which was October 1, 1997. States must have a statewide automated CSE data processing and information retrieval system in order to have a centralized automated state disbursement unit.

P.L. 105-200, the Child Support Performance and Incentive Act of 1998 (enacted July 16, 1998), gives the HHS Secretary an alternative to assessing a 100% penalty (i.e., loss of all CSE funding and potential loss of federal TANF funding) on states that failed to comply with the October 1, 1997 statewide automated system requirements. Under the new law, the alternative penalty is available to states that the HHS Secretary determines have made and are continuing to make good faith efforts to comply with the automated system requirements (and have submitted a "corrective action plan" that describes how, by when, and at what cost the state will achieve compliance with the automated system requirements). The alternative percentage penalty is equal to 4%, 8%, 16%, 25%, and 30% respectively for the first, second, third, fourth, and fifth or subsequent years of failing to comply with the data processing requirements. The percentage penalty is to be applied to the amount payable to the state in the previous year as federal administrative reimbursement under the child support program (i.e., the 66% federal matching funds).

Many policy makers suggested a similar alternative penalty for states that do not comply with the CSE state plan requirements concerning an automated centralized state disbursement unit. Moreover, since a state cannot operate a state disbursement unit without first having a statewide automated CSE system, some states argue that they should not be penalized twice.

Legislative Activity

Congress has passed legislation (H.R. 3194) that would impose a lesser alternative penalty for these states. On November 18, 1999, the House passed H.R. 3194, an omnibus appropriations bill, that contains a provision that would lessen the penalty for states that are not in compliance with the centralized state disbursement unit requirement. On November 19, 1999, the Senate passed H.R. 3194. The President signed the bill into law (P.L. 106-113) on November 29, 1999.

P.L. 106-113 imposes an alternative penalty on states that are not in compliance with the centralized state disbursement unit requirement, but which have submitted a corrective compliance plan by April l, 2000, that describes how, by when, and at what cost the state would achieve compliance with the state disbursement unit requirement.

The HHS Secretary is required to reduce the amount the state would otherwise have received in federal child support payments by the penalty amount for the fiscal year. The penalty amount percentage is 4% in the case of the first fiscal year of noncompliance; 8% in the second year; 16% in the third year; 25% in the fourth year; or 30% in the fifth or any subsequent year. If a state that is subject to a penalty achieves compliance on or before April l, 2000, the HHS Secretary is required to waive all penalties. If a state achieves compliance on or after April 1, 2000, and on or before September 30, 2000, the penalty amount percentage will be 1%.

In addition, P.L. 106-113 provides for coordination of the penalty (mentioned above) so that states that fail to implement both the CSE automated data processing requirement and the state disbursement unit requirement are subject to only one alternative penalty process.

The alternative penalty procedure in P.L. 106-113 is identical to that contained in H.R. 3073 (passed in the House on November 10, 1999) and S. 1844 (passed in the Senate on November 2, 1999).