



Responses to Questions on Child Support and Fatherhood Programs
from the Subcommittee on Human Resources, House Committee on Ways and Means
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I appreciate this opportunity to respond to the additional questions posed by the Subcommittee following the hearing on June 28, 2001.

1. *Some Members may believe that giving more child support money to families on welfare will make it easier for them to stay on welfare, rather than encouraging them to move off of welfare. How would you respond to these Members?*

With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), welfare became a time-limited program.¹ Giving more child support to families while they are on welfare helps them to get this important source of income in place before they leave welfare, furthering PRWORA's goal of making welfare a transitional assistance program. Wisconsin's experimental policy of passing through all child support to families receiving Temporary Assistance for Needy Families (TANF), and disregarding all of it in determining the TANF grant, has been demonstrated not to increase welfare stays. On the contrary, Wisconsin's full pass-through and disregard, as compared to a more limited pass-through policy, has stimulated an increase in child support payments that has enabled families to leave welfare more quickly, and provided additional income that can help them avoid a return to welfare.

To transform their welfare programs into programs of transitional assistance, most states have adopted policies to encourage families receiving TANF to develop the sources of income they will need when they leave TANF. Given the flexibility to develop their own policies concerning disregards for earned income, all but five states have adopted earnings disregards more generous than those that existed under the Aid to Families with Dependent Children (AFDC) program.² Although these policies also, in theory, could make it easier to stay on welfare, they have coincided with an increase in work participation and a dramatic decline in the welfare rolls. In addition, programs that increased family income as well as parental employment were found to produce improvements in child well-being that were not matched by programs that increased parental employment alone; and, the positive effects of earnings supplement programs on children were most pronounced for the children of long-term welfare recipients.³

States have had less flexibility to experiment with giving more child support to families because of the requirement that they repay the federal share of all child support collections for children receiving TANF. Wisconsin, however, was able to pursue a full pass-through and

disregard policy as part of its "W-2" program under a federal waiver it received before the passage of PRWORA. In this experiment, for most custodial parents receiving cash assistance, all child support paid was passed through to the family and disregarded in calculating their grant. A randomly assigned control group received only a partial pass-through and disregard of child support.

Wisconsin's full pass-through and disregard policy was found to increase significantly the percentage of noncustodial parents who paid support and the amount of support paid.⁴ The effects were particularly strong among parents of children without a history of AFDC receipt, because they did not have expectations based on the old system, in which payments went to reimburse welfare costs.⁵ Connecticut tested a more limited pass-through and disregard policy. In its "Jobs First" program, all child support was passed through and the disregard was increased from \$50 to \$100. Average child support payments for "Jobs First" participants were found to be higher than for the control group subject to AFDC rules.⁶

Under Wisconsin's full pass-through and disregard policy, mothers received more child support than under the old rules, in part because of the increase in child support paid and in part because they were allowed to receive more child support income. However, refuting the concerns that some Members may have that such a policy would increase welfare stays, the researchers found that:

receiving child support is associated with an increased likelihood of moving to an upper tier [in which families receive supportive services but not cash] or off the program by the end of the first year. Thus, to the extent that the reform increases support, it may also decrease W-2 participation.⁷

In addition, researchers found that the Wisconsin policy produced no difference in overall government costs, because cost savings in other programs offset the child support payments that were given to families instead of retained.⁸

Receipt of child support also reduces the length of time a family receives welfare by helping families avoid a return to welfare and increasing their well-being.⁹ Analysis of national data found that women receiving any amount of support are less likely to return to welfare; that support received by a young woman in the first years of a child's life is positively related to her later self-sufficiency; and that women who received support in each of the first five years after exiting welfare were among those who achieved modest levels of economic well-being.¹⁰ A study in Washington State found that good child support payments were associated with lower recidivism rates, which substantially increased time off of welfare.¹¹ An analysis in Texas found that for every \$100 in child support received per quarter by a caretaker who left AFDC, the probability of welfare recidivism in that quarter was reduced by one percentage point, and the receipt of child support had over a three times larger effect on recidivism than an equivalent dollar amount of the caretaker's own earnings.¹² After reviewing all of the available research, the 1999 Report to Congress on child support and welfare recidivism concluded:

Based on research findings, even small amounts of child support payments reduce welfare recidivism ... As the residual [TANF] caseload decreases over time, it increasingly comprises hard-to-place individuals who face substantial barriers to employment. ...[T]he relative value of even incremental increases in child support will be greater for the hard to place. Additionally, if these individuals reside in a low-benefit State, the relative replacement value for the TANF grant will be greater. This combination of factors suggests that PRWORA distribution policies that increase child support payments to these families may have an even greater effect on welfare exits.¹³

Congress has recognized the importance of giving more child support to families that have left welfare. PRWORA gave families leaving TANF greater claims to their past-due child support than they had under AFDC. This Subcommittee is considering H.R. 1471, which would eliminate remaining exceptions to “Family First” distribution for families that have left TANF. The changes to the post-TANF assignment and distribution rules in H.R. 1471 certainly would increase the amount of child support that families leaving TANF receive, and would help them avoid a return to welfare. However, changes that also would make it feasible for states to change the distribution rules for families while they are on welfare could produce additional increases in the amount and timeliness of the child support that families receive when they leave welfare for two reasons.

First, if child support payments were passed through to families while they were on welfare, there would be no disruption in payments when they left welfare. Although families are legally entitled to receive current support payments after they leave welfare, in practice there have been delays of several months in some states in redirecting payments from the state to the family.¹⁴

Second, the incentive effects on support payments are likely to be greater if states are able to change the mission and message of the child support program in a more comprehensive way. As noted above, Wisconsin had a harder time explaining the new policy to families that had experienced the old system, and the increases in payments, although they occurred, were lower among prior recipients than among those new to the system. This suggests that the incentive effect would be greater if states could give parents a simple, consistent message: that whenever noncustodial parents pay support, whether their children are receiving assistance at the time or not, those payments directly increase their children’s well-being. This would complement the efforts of programs working with low-income fathers to encourage and help them to provide more economic and emotional support to their children.

In sum, the evidence shows that giving more child support to families on welfare will make the child support program a more effective tool for promoting self sufficiency. At a minimum, federal policy should eliminate the barriers to states’ adopting such policies.

2. *In general, what are State policies toward passing through child support to families while they are receiving TANF benefits? How many States do you think would change their policy if H.R. 1471 were enacted into law?*

As of January 1999, the latest date for which complete state-by-state information is available, slightly more than half the states (28, including the District of Columbia) did not pass through and disregard child support to families receiving TANF. Eighteen states passed through and disregarded child support up to various amounts: \$50 per month (15 states), \$40 (1 state), \$75 (1 state), \$100 (1 state). One state passed through and disregarded *all* child support for TANF recipients. Four states had policies other than a pass-through and disregard that permit TANF recipients to benefit from child support paid on their behalf. One of the four retained child support payments, but increased the TANF grant by up to \$50 per month for those on whose behalf current support is collected. (This has the same effect on family income as a \$50 pass-through and disregard, but is administered differently.) Three of the four had no specific child support disregard, but allowed recipients to use other income, including child support, to “fill the gap” between the state’s maximum benefit and the income eligibility standard. If the earnings of a family receiving TANF did not fill the gap, child support income would be disregarded. (Two states with a \$50 pass-through and disregard also had fill-the-gap policies.)¹⁵

The Congressional Budget Office estimates, based on conversations with state representatives, that if federal law were changed to eliminate the requirement that states reimburse the federal share of child support collections passed through and disregarded for TANF families, about half the states that do not currently have a \$50 pass-through and disregard would adopt such a policy (about 14 states). In addition, 10 to 20 percent of states that have a \$50 pass-through and disregard would increase it (two to three states).¹⁶

I know of no other estimates of the number of states that would change their policies in response to the legislation. However, organizations representing states have expressed both considerable interest in experimenting in this area and concerns about fiscal impacts in some states,¹⁷ suggesting that state responses will vary.

- 3. Please expand on the importance of requiring review and modification of child support orders for TANF recipients every three years and for reviewing the child support cases of families leaving TANF.*

Making an extra effort to ensure that families leaving TANF receive appropriate child support and medical support would benefit families and reduce returns to welfare (see research cited in response to question 1, above). Unfortunately, few IV-D agencies are systematically undertaking such an effort. Requiring that IV-D agencies conduct a full review of the cases of families leaving TANF would ensure that states make a priority of improving services to this vulnerable population.

Under PRWORA, periodic reviews of child support orders are no longer required in TANF cases. States are supposed to notify all parents, TANF and non-TANF, custodial and noncustodial, every three years, of their right to request a review of their order. However, a 1999 review of state policies and practices in this area by the Office of Inspector General of the Department of Health and Human Services found that 18 states did not notify parents of their right to request a review, and nine had no plans to do so, despite the requirements of federal law.

No state used proactive measures to promote review requests from parents close to exiting public assistance. And, although all states reported that it was their policy to check for and add medical support to orders they reviewed, in seven of the ten states visited by the OIG, the IV-D staff interviewed said that they did not always pursue medical support if the order did not otherwise require adjustment.¹⁸ Without adequate notice to parents, including the financial information parents need to make an informed decision about whether to request a review, the current “on-request” review and modification system will not ensure that orders reflect the changing circumstances of parents and children.

Requiring that IV-D offices conduct a full case review for families leaving TANF and take additional actions, if appropriate, to locate noncustodial parents, establish paternity and support awards, review and modify awards, and collect support, could produce significant increases in child support. In 1999, only 24 percent of current assistance cases had collections as compared to 42 percent of never-assistance cases.¹⁹ The main reason for the difference was that fewer current assistance cases had orders: 44 percent as compared to 64 percent of never-assistance cases. Once an order was established, the difference in collection rates was smaller; 56 percent of current assistance cases with orders had collections, as compared to 66 percent of never-assistance cases.

Intensively working the cases of parents who are about to leave welfare will require additional resources -- but can produce results. In Minnesota, for example, several years ago the state legislature offered performance bonuses to counties for establishing paternities, reviewing orders, and enrolling children in the noncustodial parent’s insurance plan. Hennepin County substantially increased its staffing in those areas -- and increased the number of paternities established each month by 40 percent, conducted four times as many modification reviews, and increased threefold the number of children enrolled in the noncustodial parent’s medical insurance plan. Moreover, results were obtained even in the older AFDC cases.

“[C]lients are now better prepared for self-sufficiency because more cases have orders and older orders now have higher amounts. We were much better prepared for welfare reform than we would have been without this program.”²⁰

4. *Dr. Johnson’s testimony (in his attachment “NPCL Peer Learning College,” Page 4) cites a report that suggests that...*

“...arrearages will remain high unless child support agencies enter realistic orders in low-income cases, compromise uncollectible arrearages, and work cooperatively with community-based organizations and state agencies that can help noncustodial parents overcome the underlying problems that prevent them from getting and keeping the kinds of jobs needed to support their children.”

Would you agree with his statement? What does it take to, for example, “compromise uncollectible arrearages?”

I would agree generally with the statement, but emphasize that it refers to low-income

obligors and to arrears owed to the state, not to custodial parents. Some arrearages accumulate because noncustodial parents with the ability to pay have avoided paying child support; however, those noncustodial parents and those arrearages are not the subject of Dr. Johnson's testimony, or this response.

The large arrearages that many low-income noncustodial parents owe to the state are a problem not only for them, but for custodial parents and children, as representatives of both groups explained in the "Common Ground" project of the National Women's Law Center and the Center on Fathers, Families, and Public Policy.²¹ Many states pursue a variety of policies that create particularly high arrears for the low-income parents of children receiving public assistance. For example, the vast majority of states order noncustodial parents to pay retroactive support in public assistance cases, and a few order parents to reimburse Medicaid birthing costs, creating large debts to the state as soon as an order to pay support is entered. Orders may be entered that are unrelated to ability to pay; some states set a high percentage of their orders by default, and set the amount of the award by imputing income when the obligor's income or earning capacity is unknown. In the case of low-income obligors who have very low and sporadic earnings, these imputed orders may far exceed the obligors' ability to pay. Or, awards that are realistic when entered may be difficult or impossible to modify when circumstances change.²²

Policies that create huge arrearages for low-income noncustodial parents make it less likely that these parents will make current support payments. The Inspector General found that noncustodial parents who were charged for more than 12 months of retroactive support were two and a half times more likely to make no support payments following the establishment of an order than noncustodial parents who were not charged retroactive support.²³ Noncustodial parents that owe large arrearages, and face the prospect of having up to 65 percent of their wages garnished indefinitely for repayment of the debt, may quit their jobs, move, or join the underground economy, which is already an important source of income for some.²⁴ Programs that work with low-income noncustodial fathers have found arrearage policies, along with policies that give current support payments to the state instead of to their children, to be major barriers to recruiting participants and encouraging them to participate in the formal child support system.²⁵ Thus, harsh and unrealistic arrearage policies can deprive children of badly needed support, and ultimately increase public costs.

In addition to developing policies that prevent the build-up of arrearages, some states have begun to consider compromising arrears owed to the state. Under federal law, a child support obligation becomes a final judgment when it comes due and cannot be retroactively modified. 42 U.S.C. § 666(a)(9). However, as with other judgments, the individual or entity to whom the child support judgment is owed may agree to a compromise. Thus, states already have the ability to compromise arrearages permanently assigned to the state.²⁶

States can consider a variety of factors in determining when and how they will compromise arrearages owed to the state. For example, the state could consider the source of the arrearage. Was it the result of an on-going failure to pay a support order by someone with the ability to pay? If so, compromise might be rejected. Or did it arise all at once, as retroactive support or for Medicaid reimbursement? Was the order, when set, based on unrealistic assumptions about the

obligor's ability to pay? Did the arrearage accumulate while the obligor was unemployed, incapacitated, or incarcerated? States also could link forgiveness of the debt to current behavior; for example, tying adjustments to payment of current support or participation in a program. States also might treat forgiveness of interest or fees differently from forgiveness of the obligation, or limit forgiveness policies to low-income obligors.²⁷

Principled policies allowing the compromise of arrearages owed to the state are consistent with the message of parental responsibility that the child support program seeks to convey. They recognize that some debts to the state are not only uncollectible today, but may have been unrealistic from the beginning, and that securing parental support for children should take precedence over cost recovery.

5. *In his testimony, Ron Haskins raises the issue that, as the welfare caseload declines, there are fewer potential child support collections for parents on welfare. This has been a partial funding source for operating child support programs. Aside from simply expecting the State or Federal governments to provide more funds to fill this gap, can you offer us any other creative ideas for addressing this problem, which is likely to be with us for the long term?*

I would emphasize to the Subcommittee that the financing gap that is projected in the child support program is the result of declining welfare caseloads; state child support agencies have increased their collections per welfare case. If federal and state welfare policies are to continue to emphasize family self-sufficiency, with only transitional use of public assistance, then state and federal governments must be prepared to provide adequate and stable financing for the child support program to help families become self-sufficient and enforce the legal responsibility of parents to support their children.²⁸

There is no easy alternative. Attempting to finance the child support system by charging families for the child support services they receive will not provide the child support enforcement system with a stable source of financing and would significantly harm the low and moderate income families who depend on the IV-D system. Over 75 percent of the families served by the IV-D program have incomes below 250% of poverty.²⁹ They can ill afford to lose part of their child support income. Agencies might consider charging fees only to higher income families; but the small amount that could be collected from this small group of families would hardly justify the administrative expense.

It is for these reasons that few states make significant use of fees against voluntary users of the IV-D system. According to a report on the financing of the IV-D system done for the Department of Health and Human Services, child support fees collected from parents represented only two percent of the funds states use to finance their child support programs. And, although when the study was conducted state and federal governments were already aware that falling welfare caseloads would mean falling welfare collections, it also found that most states were not contemplating making greater use of fees.³⁰

Some have suggested that fees could be paid by noncustodial parents instead of deducted from support. In the end, this approach also is likely to result in lower child support payments, especially for low-income families. Excessive fees could discourage parents from paying through the formal system, increase administrative costs as cases moved in and out of the IV-D system, and increase tensions between custodial and noncustodial parents. Child support awards could be reduced to adjust for the amount being charged in fees. Finally, for low-income noncustodial parents, assessing large fees could simply increase uncollectible arrearages, and ultimately reduce the amount of child support paid.

Ensuring that children receive support from both parents by enforcing support obligations and helping low-income parents to provide support is a vital public function. Effective child support enforcement not only increases family income and reduces reliance on public assistance, but is linked to reductions in divorce and nonmarital birth rates,³¹ and to increases in children's educational attainment.³² Moreover, child support enforcement is a function that must be performed and financed jointly by the state and federal governments.

There are a number of important financing questions to consider: how much of the funding should come through incentive payments and how much through matching funds; whether the incentive system could work more effectively if the pool of funds was not capped; when states should be able to use TANF or TANF MOE funds for functions related to child support. However, the focus should be on restructuring public financing. Low-income families that are struggling to support themselves without public assistance should not be expected to continue to bear the burden of financing the child support enforcement program.

Endnotes

1. Congress set a 60-month lifetime limit on federally funded TANF benefits and 20 states have adopted shorter time limits. State Policy Documentation Project (SPDP), *State Time Limits on TANF Cash Assistance*, (February 2000), <http://www.spdp.org/tanf/timelimits/tlovervw.pdf>.
2. SPDP, *Financial Eligibility for TANF Cash Assistance* (June 2000), <http://www.spdp.org/tanf/financial/finansumm.htm>; *Treatment of Earnings as of January 2000*, <http://www.spdp.org/tanf/financial/treatmentearnings2000.PDF>.
3. Pamela Morris et al., *How Welfare and Work Policies Affect Children: A Synthesis of Research*, ES-4-ES-6, Manpower Demonstration Research Corporation (March 2001).
4. Daniel Meyer and Maria Cancian, *W-2 Child Support Demonstration Evaluation Phase 1: Final Report*, Executive Summary, Institute for Research on Poverty, University of Wisconsin (2001), <http://www.ssc.wisc.edu/irp/csde/phase1-vol1-es.htm>.
5. *Id.*, Volume II, Chapter 2, at 6-7.
6. Dan Bloom et al., *Jobs First: Implementation and Early Impacts of Connecticut's Welfare Reform Initiative* 119, 117, Manpower Demonstration Research Corporation (2000).
7. *Id.*, Volume I, Chapter 4, at 49-50.
8. *Id.*, Executive Summary.

9. *See generally*, U.S. Department of Health and Human Services (DHHS), Office of Child Support Enforcement (OCSE), *1999 Report to Congress: Analysis of the Impact on Welfare Recidivism of PRWORA Child Support Arrears Distribution Policy Changes*, <http://www.acf.dhhs.gov/programs/cse/rpt/1999rpt/1999report.htm>.
10. Daniel Meyer and Marcia Cancian, “Child Support and Economic Well-Being Following an Exit from AFDC,” in OCSE, *XIX Child Support Report* (May 1997).
11. Carl Formoso, “Early Findings of the Effect of Child Support and Self-Sufficiency Programs in Washington State on Reducing Direct Support Public Costs,” in OCSE, *XXI Child Support Report* (January 1999).
12. Deanna Schnexnayder et al., *The Role of Child Support in Texas Welfare Dynamics* 6, Center for the Study of Human Resources, Lyndon B. Johnson School of Public Affairs (1998).
13. *1999 Report to Congress, supra*, Executive Summary.
14. Vicki Turetsky, *What If All the Money Came Home?* 6, Center for Law and Social Policy (2000), <http://www.clasp.org/pubs/childenforce/pilr2300.htm>
15. Paula Roberts, *State Policy Re: Pass-through and Disregard of Current Month's Child Support Collected for Families Receiving TANF-Funded Cash Assistance As of January 1, 1999*, CLASP (1999), <http://www.clasp.org/pubs/childenforce/1999cht.htm>.
16. Information about the assumptions CBO used in estimating the cost of H.R. 4678 (106th Congress) and H.R. 1471 (107th Congress) obtained in conversations between NWLC staff and CBO analyst Sheila Dacey in fall 2000 and spring 2001.
17. *See, e.g.*, American Public Human Services Association, *Crossroads: New Directions in Social Policy* 62 (2001), <http://www.aphsa.org/reauthor/crossroads.pdf>; National Governors’ Association Policy Position, *Child Support Financing Policy, Passthrough*, § 14.3.1 (2001), http://www.nga.org/nga/legislativeUpdate/1,1169,C_POLICY_POSITION^D_530,00.html.
18. DHHS, OIG, *Review and Adjustment of Support Orders* 7-8, OEI-05-98-00100 (1999).
19. OCSE, *Child Support Enforcement FY 99 Preliminary Data Report*, Table 2 (2000).
20. OCSE, *Compendium of State Best Practices and Good Ideas in Child Support Enforcement 2000*, Fifth Edition, “Management Methods (Hennepin County Bonus Incentive Program),” quoting Barry Bloombren, Hennepin County Child Support Division Manager, <http://www.acf.dhhs.gov/programs/cse/pubs/reports/best/minnesota.html#N15ad>.
21. National Women’s Law Center and Center on Fathers, Families and Public Policy, *Family Ties: Improving Paternity Establishment Practices and Procedures for Low-Income Mothers, Fathers and Children* 9-11, 28, <http://www.nwlc.org/pdf/commgmd.pdf>.
22. DHHS, OIG, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents*, OEI-05-99-00390 (July 2000); Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents*, CLASP (2001).
23. OIG, *Establishment of Child Support Orders, supra*.
24. Fragile Families Research Brief No. 3, *Unwed Fathers, the Underground Economy, and Child Support Policy*, Bendheim-Thoman Center for Research on Child Wellbeing and Social Indicators Survey Center, Columbia University (January 2001).
25. Fred Doolittle and Suzanne Lynn, *Lessons for the Child Support Enforcement System from Parents Fair Share*, Manpower Demonstration Research Corporation (1998); Wendell Primus and Kristina Responses to Questions, Joan Entmacher, National Women’s Law Center, July 12, 2001, p.9

Daugirdas, *Improving Child Well-Being by Focusing on Low-Income Noncustodial Parents in Maryland*, Abell Foundation (September 2000).

26. David Gray Ross, Commissioner, OCSE, "State IV-D Program Flexibility with Respect to Low-Income Obligor," PQI-00-13 (September 2000).

27. For more details on these and other options see Roberts, *An Ounce of Prevention*, *supra*.

28. See Turetsky, *What If All the Money Came Home*, *supra*.

29. DHHS, ASPE, *Characteristics of Families Using Title IV-D Services in 1995* (1999).

30. Michael Fishman, et al., *State Financing of Child Support Enforcement Programs*, Final Report to DHHS/ASPE, Lewin Group (1999).

31. Irwin Garfinkel, Theresa Heintze, and Cheien-Chung Huang, *Child Support Enforcement: Incentives and Well-Being* 14, Paper Presented at the Conference on Incentive Effects of Tax and Transfer Policies, Washington, DC (2000); Burt Barnow et al., *The Potential of the Child Support Enforcement Program to Avoid Costs to Public Programs: A Review and Synthesis of the Literature* 39-45, Final Report Prepared for DHHS (April 2000).

32. Barnow, *Potential of the Child Support Program*, *supra*, at 46-48.