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# Low-Income Fathers

*and Child Support Debt*

A PRIMER FOR FINANCIAL LITERACY  
AND FATHERHOOD SERVICE PROVIDERS

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# Low-Income Fathers and Child Support Debt

## *A Primer for Financial Literacy and Fatherhood Service Providers*

BY JACQUELYN BOGGESS

### **Introduction**

The financial need of low-income, single-mother households has been a societal concern since long before 1935 when the Aid to Dependant Children program was codified in the Social Security Act. Then, as now, women and children who are moving toward economic security and financial stability need income support and social services. According to 2009 census data, both the poverty rate and the income disparity between the poorest and wealthiest American families are the highest they have been in fifteen and thirty years, respectively (DeNavas-Walt et al. 2010, U.S. Congress Joint Economic Committee 2010). The data also show the continuing gendered nature of poverty in the United States—women and children still suffer the deepest, most intractable poverty.

In 1995, the federal government indicated an intention to replace government aid with nonresident fathers' financial contribution as the main source of support for single-mother households. In that year, President Clinton issued an executive memorandum to the heads of executive departments and agencies directing a review of agency activity related to the role of fathers in families. The following year, Clinton “ended welfare as we know it” by signing the Temporary Assistance to Needy Families (TANF) program into law.

Fifteen years after the end of entitlement to income support for families in poverty, there is political and intellectual disagreement as to the efficacy of welfare reform. However, there is general agreement on two important points: (1) children, as a category, are the poorest Americans and (2) children and custodial families need reliable (and sufficient) financial support from nonresident parents. Most welfare policy stakeholders would go further to say that custodial families with nonresident parents must be able to rely on child support income as part of the foundation of their

household budget. This consensus has provoked policy reform and program design efforts to include both parents—fathers and mothers—in the social welfare policy notion of family.

Federal and state governments have employed two primary approaches to support and insure fathers' contribution to child well-being and family financial stability. On the one hand, fatherhood programming and social services have been developed to support low-income men's efforts to provide for their children; and, secondly, child support policy changes have been instituted to enhance enforcement tools and computer-automated case processing.

With regard to these two types of programming (fatherhood services and child support agencies), this document will refer to the parent who does not have legal physical custody of a child as “noncustodial.”<sup>1</sup> The child support system and process are derived from the legal system—specifically, the family court system—and in this context “noncustodial” is a legal term. Traditionally, when a couple with children divorced, the court determined that one of the parents would retain custody of the children and the other parent was required to pay money to the custodial parent to contribute to the financial support of those children.

Low-income or unemployed noncustodial parents (mostly men) face unique barriers to asset development and financial security, and one of the most intractable is child support debt. To help low-income parents confront these barriers to financial security, asset management and financial literacy programs that serve low-income men will benefit from a general understanding of fatherhood and child support policy and programming. Two companion documents, *Child Support Basics: Information for Financial Education and Asset Development Programs* and *Financial Literacy and Low-Income Noncustodial Parents*, explain, respectively, the basic child support process and the unique financial position of noncustodial parents in the child support system. This document is intended to provide very basic information about poor noncustodial parents and their contact and connection with the child support system.

## **Fatherhood Services**

According to an article from *The New Federalism: National Survey of America's Family*:

A new statistical portrait of the group of ABAWD's [able-bodied adults without dependents] below twice the poverty line shows its members to be twice as likely as other prime-age adults to have dropped out of high school or to earn less than two times

the minimum. More than a third live in poverty or sometimes have problems paying for food, yet three-quarters work (mostly full-time)—a rate nearly as high as that of prime-age adults generally. Another quarter participate in school or training activities each year, and very few receive government assistance (Bell and Gallagher 2001, p. 1).

The financial welfare of children in low-income families is dependent on parents who (whether or not they are married or romantic partners) pool their modest resources to provide for themselves and their children. In families where parents do not live together, the lower the adults' combined income, the more difficult it is for them to share resources across two households. For very poor families, that combined income may not be sufficient to provide even the basics—food, clothing, and shelter—for all the members of that separated family, and, in most cases, resources definitely cannot be stretched to provide health care or education or skills training.

Still—it bears repeating—children need financial support from both of their parents. In response to this ongoing need, in the last 10 to 15 years, community-based organizations and government agencies have created fatherhood programming to educate, train, and encourage noncustodial parents to provide that financial support for their children. These projects and programs are designed to help fathers find work and address barriers so they can meet the financial and emotional responsibilities of raising their children.

Programs with various elements of fatherhood, workforce development, and re-entry services have had some success in helping low-income individuals develop skills, find employment, and connect with their children. However, in order to build on these initial steps toward financial control and economic security, low-income men must be able to manage their formal child support obligation. As was suggested by an earlier publication, *Financial Literacy and Low-Income Noncustodial Parents*, only then can this population of men and other poor noncustodial parents benefit from financial management programming.

## **Child Support**

One important goal of the child support system is to move cash resources from the nonresident parent into the home of the child and her custodial family. For poor, single-parent families, child support income is essential to that family's movement toward financial security. There is, however, some concern about the impact of this system, in its current form, on poor men and their children.

However, money can only be moved from the debtor parent to the custodial family if that debtor parent has access to income or assets himself. The majority of adults in the child support system are poor—custodial and noncustodial parents alike. The income level of many of the participants in that system is below the official poverty line, and the household income of many more families in the system is well below the national median (Gardiner et al. 2006). The demographic and economic reality is that low-income families are poor, low-skilled, unemployed parents and children who live in economically depressed, jobless communities.

## ASSIGNMENT

Under current federal and state law, custodial parents who apply for cash assistance through the Temporary Assistance to Needy Families (TANF) program are required to assign their right to child support payments over to the state.<sup>2</sup> Because of this assignment, when child support is paid, the state can retain that payment as reimbursement for cash welfare benefits made by the state to the custodial family.

For some children, even when their parent pays child support, the child’s family may not receive the full amount of that payment. Therefore, some of the poorest families in the child support system who are receiving—or have previously received—cash welfare benefits cannot directly benefit from payment. In 2009, current and former recipient families made up 56% of the child support caseload. The federal Office of Child Support Enforcement reports the caseload as follows:

Cases currently receiving welfare assistance	13%
Cases formerly receiving assistance (AFDC or TANF)	43%
Cases that never received assistance	44%

(OCSE 2010)

For years, advocates, parents, and some child support enforcement agency administrators have been concerned about how families are affected when the state retains the child support paid by low-income noncustodial fathers. Child support provisions in the 2005 Deficit Reduction Act (the legislation that reauthorized the



TANF program) changed the federal law to provide the option for states to pass through at least a portion of the retained payment amount to families.<sup>3</sup> That legislation also changed federal law so that custodial parents assign their right only to the child support paid during the time she receives assistance, rather than for an amount that equals the total cash paid to her in benefits.<sup>4</sup>

## **Child Support Debt**

Child support debt (arrears) results from current support that is periodically due, but not paid. Arrears can be owed to the custodial parent or to the state and federal governments. If the family ever received welfare cash benefits, some portion of the child support debt may be owed to the government as reimbursement for those benefits. Child support debt owed to the government is the result of an assignment of the court-ordered child support payment from the custodial parent to the state.

The nature of child support debt makes it difficult for debtors to avoid or ignore the automated insistence on payment. The state is authorized to use a broad spectrum of enforcement tools, some of which greatly distinguish child support from other types of debt. Child support enforcement includes responses to nonpayment ranging from credit reporting to the most extreme sanction of incarceration. Also, in a bankruptcy action, child support debt is a priority collection and cannot be discharged (this is the case whether the money is owed to the custodial parent or to the state).

Many low-income, underemployed, and low-skilled workers face child support debt that they will never be able to pay. In 2009, the total child support debt owed by noncustodial parents amounted to 107 billion dollars (OCSE 2010). According to a report from the Center for Law and Social Policy, in that year, 80% of unpaid child support debt was owed by parents with less than \$15,000 net income (Turetsky 2007).

The figures suggest that poverty and unemployment contribute to the nonpayment of child support and the accumulation of child support debt (see “A Snapshot of Child Support Debtors” on page 10). Child support debt might also be accelerated by a number of institutional child support agency policies and practices. The following sections contain brief summaries of some of the most impactful practices.

## **A Snapshot of Child Support Debtors**

Over half of child support debt is owed by debtors with less than \$10,000 in income, but more than \$20,000 in debt.

Among parents with reported annual incomes of \$10,000 or less, the median child support order represents 83% of their income.

27% of child support debt is unpaid interest.

Debtors who paid all of their current support order had median annual income of \$30,579.

Debtors who paid some of their current support order had median annual income of \$16,800.

Debtors who paid none of their current support order had median annual income of \$66.

Nearly half (48%) of those who paid none of their current support order had no reported income.

(Sorensen et al. 2007)

## DEFAULT ORDERS

When a noncustodial parent fails to respond to a summons or to appear in court, a default order can be entered by a court or an administrative child support authority in his absence. The order can legally establish that he is the father of the subject child and direct him to pay a stated amount of support on a periodic basis.

Default orders are not unusual. The court or administrative agency often has no information as to the employment or income of the defendant. In those situations, many courts and child support agencies impute a full-time, minimum wage job as the basis of the payment order. Default orders of this nature are at the root of many of the cases that result in child support debt (Turetsky 2007).

## RETROACTIVE SUPPORT

In some jurisdictions, a child support order that is established months (or even years) after a child is born can create retroactive child support debt. This amount may reflect payment for all of the months of the child's life from the date of birth, or for some

shorter period or amount as determined by the court or by state law. Retroactive debt can set a noncustodial parent on a course of child support arrearages even when a current child support payment is never missed.

## ABILITY TO PAY AND IMPUTATION

A child support order that is determined immediately after a child is born and in the presence of the noncustodial parent might still be set at an amount beyond the current ability of the low-income parent to pay. A parent may be incapable of documenting or articulating employment barriers and may have no access to legal services or resources that would help him navigate the process. Moreover, regardless of presentation or representation, judges and child support officials encounter numerous parents with similar stories about unemployment and insufficient income. It is not surprising that many officials become skeptical and question whether the situations are real or are excuses made up to avoid responsibility. This skepticism can make decision makers less inclined to consider, investigate, or accommodate any specific circumstances.

Though judges have discretion to order any amount of child support, fairly strict state guidelines require a written explanation for deviation from the indicated payment amount. And, given the statutory requirement and general prevalence across state agencies of efficient, cost-effective administrative processes, guidelines are frequently applied. Administrative processing and computer automation make it difficult for child support orders to reflect barriers to compliance.

## INTEREST

A key element of quickly accruing child support debt is interest. Many states currently charge interest rates on unpaid child support on a regular basis, and others do so intermittently (Sorensen et al. 2007). Although interest charges can serve the purpose of compensating a custodial parent for not receiving timely payment, much of the total unpaid interest owed by noncustodial parents is owed to the state and not to custodial parents (OCSE 2010). Because of the interest charged, the debt keeps growing at a rate that gets further out of reach for noncustodial parents.

## ORDER MODIFICATION

Parents have a legal right to request a modification of the ordered amount if that amount does not reflect the noncustodial parent's current income or circumstances,

but modifications (particularly downward modifications) are difficult to obtain (Turner and Sorensen 1997). Statistically, requests for modifications are granted less often for noncustodial parents whose families receive welfare than for other groups (ibid.). It is clear that many custodial single-parent families are in great need of the income provided by child support payments. However, child support orders that do not reflect low-income noncustodial parents' circumstances or ability to pay only serve to accumulate debt.

When a downward modification is granted, any arrears owed under the previous order are still due. The modification cannot retroactively change the amount of the previously unpaid child support.

## ENFORCEMENT

All of the aggressive child support enforcement mechanisms (which are necessary to induce payment from those who are unwilling to pay) are also used against those who do not—at the moment of judgment and entry of the order—have the ability to pay the amount ordered. The moment of judgment is important because the process that follows is based on consistent payment of the amount set at that time. When that payment is not forthcoming, the automated, computerized system is unremitting and sure.

For noncustodial parents who do have income and assets, but refuse to pay month after month, automatic recourse to these enforcement techniques results in payment. In contrast, men who simply cannot pay—who do not have access to loans or collateral property that can be liquidated—will definitely accumulate debt. These tactics can also contribute to loss of employment and an inability to obtain employment. Unemployment aggravates and increases child support debt. Nonpayment also subjects low-income parents to the possibility of license revocation (both driver's and professional licenses are sometimes necessary to continue working) and even incarceration for criminal nonpayment or civil contempt of court.

Moreover, incarceration—even for relatively minor offenses—can result in the accumulation of unpayable debt. Some states have policies that allow for the suspension of child support during incarceration, provided that the noncustodial parent has income and assets below a certain benchmark. Some courts have taken the position, however, that incarceration is “voluntary unemployment” and should not be rewarded by a break in one's child support obligation.

## Family Supportive Child Support Services

The majority of noncustodial parents in the child support system can and do pay at least some portion of the child support amount ordered. Government child support agencies facilitate that process. To the extent that the objective of child support policy is to transfer existing income and assets from nonresident parents into the households of their children, agency services are essential to the financial security of many single-parent families.

For 2009, the federal Office of Child Support Enforcement reported the collection and distribution of 26.3 billion dollars in child support, of which over 90% was distributed to children and families (OCSE 2010).

### Collections Distributed to Families and Foster Care

Assistance cases	27%
Former assistance cases	88.8%
Never assistance with Medicaid	98%
Never assistance	99.9%

OCSE further recognizes the barriers to employment and financial security encountered by many low-income parents. Recent child support agency policy and practice includes an intentional attempt to become more family supportive and to try to meet the needs of low-income children and their families. In recent years, child support agencies and administrators in various parts of the country have crafted, supported, and encouraged demonstration and pilot debt management projects and services.

Also, child support enforcement agencies at both state and federal government levels are working to provide more holistic services to noncustodial parents that extend beyond enforcement and punishment for nonpayment. Many local agencies, for example, are providing employment services and other social welfare services to men who are unemployed. This recognition and response from the child support system to the issues faced by low-income parents is welcome and restorative.

## Conclusion

In order to support all parents and to facilitate delivery of services for the special case of very low-income child support debtors, providers and programs should become familiar with the basics of the child support system and its processes. This document, along with the supplementary and companion documents listed above, will be helpful tools in such an endeavor. Program developers and service providers might also engage with experts and professionals (e.g. lawyers and child support agency representatives) to learn about the system and its processes from a more local perspective.

Fathers who have a court-ordered obligation for child support can and should take advantage of the education and support provided by financial management services. With education and guidance informed by the information provided here, they can move beyond income stability to educational mobility and financial success for their families.

## Footnotes

1. Over time, the legal designations of “custodial” and “noncustodial” have gotten more complex as parents, courts, and legislative policy makers have attempted to share parenting time and decision making between two parents. Low-income fathers who have been ordered to pay child support are noncustodial by definition.
2. 42 USC 608 (a)(3)(A)
3. 42 U.S.C. 657 (a)(3)(B)(i)
4. 42 U.S.C. 608(a)(3)(A)





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