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New Federal Final Rules Affecting Child Support Enforcement Issued

Final rules that affect the child support enforcement program were issued by the federal Administration for Children and

Families, Office of Child Support Enforcement on December 20, 2016. *The Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*, updates guidelines for the establishment and enforcement of child support orders, and makes the following key changes to policy:

- Requires that state child support guidelines provide that a child support order be “based on the noncustodial parent’s earnings, income, and other evidence of ability to pay,” and must take into consideration the basic subsistence needs of the noncustodial parent who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve. If income imputation is authorized under a state’s child support guidelines, the guidelines must take into consideration the specific circumstances of the noncustodial parent to the extent known when determining the amount of imputed income, and may not use a standard amount in lieu of fact gathering for each specific case.
- Establishes criteria that child support agencies must use to determine which cases to refer to court for a civil contempt action and how they prepare cases for a civil contempt proceeding. The criteria must include requirements that the child support agency screen the case for information regarding the noncustodial parent’s ability to pay or otherwise comply with the order; provide the court with this information in order to assist the court in

determining the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

- Requires states to increase their efforts to ensure that child support orders reflect a parent's true ability to pay, and that they consider a low-income noncustodial parent's specific circumstances when the order is set, rather than taking a one-size-fits all approach. The rule also requires that states take the investigative steps necessary to ensure that all relevant information about the noncustodial parent's circumstances are collected and verified.
- Prohibits states from excluding incarceration from consideration as a substantial change in circumstances, requiring states to notify parents of their right to request a review and adjustment of their order if they will be incarcerated for more than six months, and ensuring that child support orders for those who are incarcerated reflect the individuals' circumstances while continuing to allow states significant flexibility in setting orders for incarcerated parents.
- States are prohibited from treating incarceration as "voluntary unemployment," as is the current practice in 25 states. The designation prevents incarcerated parents from obtaining a review and adjustment of their orders upon a showing of a substantial change in circumstances.
- Allows, but does not require, states to close a child support enforcement case in particular situations, such as: when there is no current support order and all arrearages are owed to the state; when there is an intact two-parent household; when limited services have been provided, or when there is an inappropriate referral.
- Requires state child support agencies to make payments directly to a resident parent, legal guardian, or individual designated by the court instead of to third-party child support collection agencies.
- Allows states to incorporate discussions of visitation and parenting time into child support orders, which could formalize noncustodial parents' involvement with their children. States can also use federal child support funding to offer education and resources to parents and to the general public on "responsible" parenting and co-parenting, as well as on other issues such as family budgeting.

<https://www.acf.hhs.gov/css/resource/final-rule-resources>

<http://satprnews.com/2017/01/22/new-rule-will-increase-regular-child-support-payments-to-families/>

<https://www.americanprogress.org/issues/poverty/news/2015/06/18/115417/3-facts-you-need-to-know-about-the-obama-administrations-proposed-child-support-rules/>

Early Indications of Proposed Cuts to Social Services by Trump Administration

A report from The Hill describes the Trump administration's plans to reduce federal spending by more

than \$10 trillion over 10 years. The cuts are based on a blueprint from the Heritage Foundation, and include privatizing the Corporation for Public Broadcasting, eliminating in full the National Endowment for the Arts and National Endowment for the Humanities, and implementing a wide-ranging set of cuts to the budgets at the Departments of Commerce, Energy, Transportation and State.

Many of the cuts were included in a 2017 budget adopted by the conservative Republican Study Committee (RSC), a caucus that represents a majority of House Republicans. The administration's full budget, including appropriations language, supplementary materials and long-term analysis, is expected to be released in April. Before then, the budget offices of the affected departments (headed by Trump appointees) will be able to review the proposals, offer feedback and appeal for changes before the president's budget goes to Congress.

The Heritage Foundation blueprint guiding Trump's budget proposals includes the following cuts that affect domestic social services:

- The elimination of Violence Against Women Grants and the Legal Services Corporation, the Office of Community Oriented Policing Services, and reduced funding for the Civil Rights and its Environment and Natural Resources divisions at the Department of Justice.

Violence Against Women Act (VAWA) grants fund services for survivors such as transitional housing, legal assistance, law enforcement training, and support for people who have been sexually abused within the prison system. Since the passage of VAWA in 1994, intimate partner violence has decreased by 64%.

The Legal Services Corporation is the largest source of funding for civil legal aid. Legal services attorneys work to ensure the rights of poor individuals and families, providing legal help and access to representation for people who cannot afford an attorney.

- The elimination of the Minority Business Development Agency, the Economic Development Administration, the International Trade Administration and the Manufacturing Extension Partnership.

Congress might take action to prevent some of the cuts, however, despite its Republican majority. Moderate Republicans and Democrats on the Appropriations Committee did not support earlier versions of a similar budget, and are not likely to support some of the cuts being considered by Trump, according to The Hill.

In another preview of the Trump administration plans, the Washington Post reports evidence of proposed executive actions that would further restrict the ability of immigrants to live in the country. According to the Post, the drafts are circulating among administration officials, and it is unclear whether President Trump has decided to move forward with them or when he might sign them if he does decide to put them in place. One of the draft executive actions would affect work visas and restrict social services for legal immigrants who are already in the United States. The draft orders would (quotations around actual language of the draft order):

- Restrict every type of immigration and foreign travel to the United States, denying admission to any “alien who is likely to become a public charge.”
- Develop standards for “determining whether an alien is deportable...for having become a public charge within five years of entry,” meaning that the individual receives some amount of public assistance, including Food Stamps, Temporary Assistance for Needy Families (TANF) and Medicaid.
- Eliminate the “jobs magnet” that is “driving illegal immigration to the United States,” by rescinding any work visa provisions for foreign nationals found not to be in “the national interest” or in violation of US immigration laws.
- Attempt to make the country’s immigration program “more merit based,” calling for site visits at companies that employ foreign workers, and requiring the Department of Homeland Security (DHS) to produce a report twice a year on the total number of foreign-born people, not just nonimmigrant visa holders, who are authorized to work in the United States.
- Instruct DHS and the State Department to submit a report on “the steps they are taking to combat the birth tourism phenomenon,” referring to an assertion that noncitizens come to the United States to have children, who in turn gain citizenship, which has never been demonstrated to be a significant trend.

It should be noted that current federal law prevents new permanent residents or green-card holders from qualifying for welfare and other public benefits during their first five years of residency, and that immigrants who enter the United States illegally also are unable to obtain federal welfare benefits.

Although no formal action has been proposed by the administration regarding the Consumer Financial Protection Bureau (CFPB), the Heritage Foundation has issued a strong appeal for the elimination of the bureau by repealing Title X of the Dodd–Frank Act, which created and empowered the CFPB.

<http://thehill.com/policy/finance/314991-trump-team-prepares-dramatic-cuts>

<http://www.motherjones.com/politics/2017/01/donald-trump-end-violence-against-women-grants>

https://www.washingtonpost.com/world/national-security/trump-administration-circulates-more-draft-immigration-restrictions-focusing-on-protecting-us-jobs/2017/01/31/38529236-e741-11e6-80c2-30e57e57e05d_story.html?utm_term=.467eb9adc851

<http://www.heritage.org/research/reports/2016/02/time-to-eliminate-the-consumer-financial-protection-bureau>

Wisconsin Governor Seeks Stricter Requirements for Assistance Recipients, Increases State EITC for Some Families

Wisconsin Governor Scott Walker has been revealing a slate of new proposals under a package called “Wisconsin Works for Everyone,”

aimed at low-income families, which he will formally announce in his upcoming budget address. With his recent advisory role to the Trump/Pence administration on implementing on a federal level his state actions restricted collective bargaining for public sector unions, Walker appears to be seeking a new level of national prominence for his role in reforming labor and welfare programs. His proposals would:

- Cut food stamp benefits and housing vouchers for parents who work fewer than 80 hours a month and require parents who receive food stamps or housing vouchers and who have children between the ages of 6 and 18 to attend job training and search for work five days a week.
- Condition the receipt of FoodShare (food stamp) benefits on the cooperation of the custodial parent with child support enforcement to establish paternity and a child support order for the absent parent. Noncustodial parents would face similar requirements (reverting to a 2007 policy that had been eliminated under former Governor Jim Doyle).
- Require custodial and noncustodial parents to comply with child support orders in order to get FoodShare benefits.
- Establish a “honeymoon” period in which newly married couples can claim the highest level of state Earned Income Tax Credit (EITC) that they received prior to marriage, or what they would receive under current rules, for the first three years of marriage.
- Increase the state EITC for families with one child, currently low compared to other states with credits. The credit would be increased from a 4 percent match on the federal credit to an 11 percent match, increasing the maximum benefit to \$371—but only for low-income, one-child working parents.
- Promote a “Success Sequence” to young adults, built on the belief that they can be persuaded to follow such a sequence once they learn that if a person graduates high school, gets a job, and then waits until age 21 and marries before having children, he or she has a 75 percent chance of joining the middle class and a 2 percent chance of being in poverty as an adult. The proposal allocates \$1 million for the Department of Children and Families to

implement a public messaging campaign based on the “Success Sequence” and emphasizing father involvement in children’s lives.

- Make new investments in the Family Foundations Home Visiting (FFHV) program, which seeks to support pregnant women and families and to help parents of children from birth to age five develop the skills to raise children who are physically, socially, and emotionally healthy.

Walker has also written to President Trump asking for a federal waiver to allow Wisconsin to require drug tests for some people receiving food stamps.

It should be noted that the work requirements for food stamp and housing assistance recipients will require a federal waiver, since they do not conform to current federal law.

To view a recent CFFPP blog post on these proposals, see <http://cffpp.org/wisconsin-works-for-some/>

<https://walker.wi.gov/press-releases/governor-walker-presents-strengthening-families-component-wisconsin-works-everyone>

Study Finds States Spending Only Half of TANF Funds on Core Welfare Programs

The Center on Budget and Policy Priorities (CBPP) has released a report on the use of TANF funds by states that “provides compelling evidence on why basic safety net programs

should not be block-granted.” This evidence is particularly timely given proposals in Congress to create block grants for healthcare as a replacement for the Affordable Care Act. The study found that:

- Nationally, states use just 51 percent of their TANF funds for basic assistance, work-related activities, work supports/supportive services, and child care. Seven states spent less than 10 percent of their TANF funds on basic assistance in 2015.
- The actual amount spent on basic support was reduced further because the TANF block grant itself has lost a third of its value since its creation in 1997, due to inflation. After adjusting for inflation, the amount of spending by states on basic assistance fell by 62 percent since 1997.
- In 2015, states used only 7 percent of their TANF funds for work activities and another 3 percent on work supports or supportive services. Ten states spent less than 5 percent of their funds on work activities and work supports and services combined.
- At its first implementation, TANF spending on childcare subsidies rose dramatically, but it has fallen by one-third since 2000. The intent of welfare reform was to increase work participation, and childcare subsidies were to be a key part of the program. In 2015, 9 states spent more than 30 percent of

their TANF funds in this area, 9 spent 20-30 percent, 13 spent 10-20 percent, and while 20 states spent less than 10 percent, and 10 of these 20 spent less than 3 percent; a few states spent *no* TANF funds on childcare.

- The key areas of spending outside of core welfare support include: child welfare services (34 states, representing 7% of TANF spending); Pre-K/Head Start (22 states, representing 6% of TANF spending); Earned Income Tax Credits (20 states, representing 10% of TANF spending); and other areas such as program management (10% of spending), preventing out-of-wedlock pregnancies (4%), and supporting marriage (4%).

The authors point out that the block grant has resulted in a diversion by states of a significant portion of TANF funds from supporting needy families to filling state budget holes.

<http://www.cbpp.org/research/family-income-support/policy-brief-how-states-use-funds-under-the-tanf-block-grant>

State and Regional News

- Thousands of TANF families in **Washington, DC** are set to lose benefits this fall as the DC government nears its first time limits since the establishment of TANF more than twenty years ago. TANF created a lifetime limit for receiving benefits of 60 months; if benefits are provided beyond the limit, states must use their own funding to pay for the benefit. The district has avoided cutting families from assistance by using its own revenue, but in recent years has moved toward a policy conforming to the federal law. Enforcing the 60-month rule in October would mean that about 5,700 households, with about 12,000 dependent children, or almost 40 percent of the city's 15,000 welfare cases, would lose their benefits. The DC Council and Mayor Muriel Bowser are considering criteria for hardship extensions that would allow many long-term recipients to continue receiving public assistance, but have not yet taken action on the recommendations.
- Changes to **Missouri** state laws that prohibit the extension of food stamp benefits to childless adults beyond a 3-month limit have led approximately 41,000 state residents to lose food stamp benefits since 2015. The state has also cut TANF benefits to about 19,000 Missouri children this year as a result of a 45-month lifetime limit on TANF benefits, which was shortened from the federal limit of 60 months.
- The **Wisconsin** Department of Children and Families (DCF) has proposed a rule to reduce the amount of child support paid by parents who earn between \$300,000 and \$500,000. For parents earning more than \$500,000 annually, a judge would be responsible for determining what percentage of income would be paid in child support. The state has been criticized for the

time and resources used to consider and implement the proposal because it would affect an estimated 123 child support orders out of a total of 315,689 child support orders enforced by the child support agency in the state. The proposal is similar to one made by a Republican lawmaker in 2014, which was withdrawn after it was revealed that a multimillionaire business owner and his attorney helped write the bill in order to reopen the lawmaker's own divorce case and reduce his personal child support obligations.

- A bill introduced in the **Delaware** legislature would lift a ban on the receipt of TANF benefits for persons convicted of a drug felony. State Representative David Bentz said the bill is aimed at lifting a barrier that makes it difficult for families when a person is released from prison after a drug felony. Federal welfare law imposes a lifetime ban on the receipt of federally funded food stamps and TANF benefits for anyone convicted of a drug-related felony, even after completing a sentence or overcoming an addiction. The law does give states the option of passing legislation to limit the ban or eliminate it altogether, however, and most states have reversed the ban for both food stamps and TANF benefits. Just ten states (including Delaware) retained the lifetime ban on TANF benefits as of August 2016; a lifetime ban on food stamps is still in place for just four states.
- With passage of a “Blue Lives Matter” law, **Louisiana** became the first state in the country to consider public safety workers a protected class under hate-crime laws. Targeting police officers, firefighters and emergency medical service personnel now fall under Louisiana’s hate crime law. St. Martinville Police Chief Calder Hebert has interpreted the law to mean that anyone who resists arrest or gets physical with an officer could be charged with a felony hate crime, meaning that a Louisiana resident who resists arrest for even a minor crime can be charged with a felony hate crime if the arresting officer claims the resident resisted. The determination of resisting is vague, and can be applied to such minor actions as pulling one’s arm away from being grabbed. The hate crime designation can be punishable by up to 10 years in prison.
- Lawmakers in **Texas** are repeating their call for drug testing of TANF recipients as a condition of eligibility, despite the fact that less than 1% of the state’s population receives TANF benefits. Texas would be joining other states including Alabama, Arkansas, Georgia, Kansas, Michigan, Mississippi, Oklahoma, North Carolina and West Virginia that already have some form of screenings and drug testing requirements for TANF applicants. Rebecca Robertson, legal and policy director for the ACLU of Texas, said the state should instead focus on increasing access to drug counseling programs. “TANF only goes to a very small number of Texans, and those are the neediest people in our state,” Robertson said. “There’s this misperception we

have this large class of people taking advantage of the benefit to support drug habits, and that's not the case."

The legislation would disqualify applicants who fail their drug tests from TANF for six months, and disqualify them from benefits for a year after a second failed test, allowing them to reapply after six months only if they are enrolled in or have completed a program of substance abuse counseling. A third failed drug test would ban them permanently. The bill would attempt to avoid punishing children for a parent's drug use by providing benefits to the family through a "protective payee" who would accept the cash assistance.

- **Virginia** Republicans in the state's General Assembly are proposing welfare legislation with a number of provisions that include cutting the number of months a family can receive TANF benefits from the state's already low 24 months to 12 months, and checking welfare rolls against lists of dead people, prisoners and lottery winners, in addition to measures aimed at preventing the resale of EBT (food stamp) cards. A spokesperson for the proposals said that the legislators had "brought the ideas back from meetings with the Foundation for Government Accountability," a conservative group with close ties to the American Legislative Exchange Council (ALEC) that has pushed for welfare restrictions in a number of states.

OF NOTE

- An upsurge in identity theft affecting persons applying for the Earned Income Tax Credit (EITC) in recent years will have the effect this year of delaying tax refunds for more than 40 million low-income families. The IRS states that international organized crime syndicates are to blame. The EITC is one of the federal government's largest anti-poverty programs, but it has been plagued by billions in improper payments each year, including overpayments, underpayments and fraud.
- A new study by JAMA Internal Medicine looked at the groups most likely to lose coverage if the Affordable Care Act is repealed. Approximately 20 million people have gained health care coverage after the ACA was passed in 2010, according to the study. Since it is not clear exactly how or in what form the ACA would be repealed, researchers chose the most likely scenario, in which the tax credits provided by the ACA would be stopped and Medicaid expansion would be repealed. The analysis found that the people most likely to be affected by an ACA repeal were minorities, the poor, unemployed people and people with chronic medical conditions. The study also found that these people were more likely to have been to an emergency room at least once or have seen a doctor 10 or more times in the previous year.

- On their *Working Economics Blog*, The Economic Policy Institute considers the feasibility of the Trump administration's goal of creating 25 million new jobs over the next ten years. The blog points out that even if their plan were successful, it would require raising employment rates beyond what is realistic, given the aging of the population and the way that employment rates work. EPI suggests that the Trump administration might have arrived at their high jobs goal by simply taking the most recent job growth numbers, almost 2.5 million jobs in 2016, and multiplying this by 10. This ignores the fact that if that rate of job creation were to continue, it would take a short time for excess unemployed workers to find jobs, and the goal could only be met if the growing population of senior citizens went back to work or if the administration increased the rate of immigration to the United States.
- A new book, "Fatherhood in America: Social Work Perspectives on a Changing Society," by Carl Mazza (Author, Editor) and Armon R. Perry (Editor) compiles a range of research on the involvement of men with their children, focused on the ethnically diverse population of fathers in America. According to its synopsis, the book offers a wide range of vantage points from the fields of social work, family studies, marriage and family therapy, counseling, sociology, psychology, gender studies, anthropology, cultural and ethnic studies, urban studies, and health. Five parts look at numerous facets of modern fatherhood. Part I defines the concept of fatherhood and family composition, becoming a father, young fathers, single fathers, fathers and daughters, and examines the father-son relationship. Part II looks at nonresident fathers, homeless fathers, incarcerated fathers, and never married fathers. Part III reviews biological fathers, stepfathers, male foster caregivers, fatherhood and adoption, and gay fathers. Part IV examines the cultural dimensions of fatherhood, focusing on Latino, African American, and Native American fathers. Part V explores the fatherhood service delivery system and culturally competent services, measuring the father's involvement, and describing initiatives to support fathering.