

Quick Facts: Assignment, Pass-Through, and Distribution

This Quick Facts guide provides information about child support collection and distribution for parents who receive state financial assistance.

The Child Support Program¹ is a successful federal-state-tribal partnership that seeks to promote economic stability for children whose parents live apart. It serves one in five children nationwide² and collects \$5.12 for every \$1 in public funds invested. In FY 2018, \$34 billion was collected in 13.9 million cases for 14.7 million children.³

Under the Social Security Act, recipients of TANF-funded assistance are subject to two primary child support requirements. First, they are required to cooperate with the State to establish a child support order, unless they show good cause not to do so. They are also required to assign certain rights to support to the government as a condition of receiving assistance. Thus, generally speaking, there are two parties who have an interest in child support collected by the Title IV-D Child Support Enforcement program: the custodial parent/guardian (“the family”) and the state/federal government.

Under current law, new TANF recipients must assign support that accrues during the time that the family receives assistance. Prior to October 2009 (or 2008 at state option), TANF recipients had to assign arrears that accrued both prior to as well as during the period of assistance. For these earlier TANF enrollees, States have the option to eliminate certain categories of older assignments of arrears.⁴

Current Assistance Families

As a general rule, child support collected on behalf of families currently receiving TANF is retained and divided between the state and the federal government as reimbursement for the assistance paid to the family. The percentage of retained collections that a state is required to pay to the federal government is equal to the state’s Federal Medical Assistance Percentage (FMAP).⁵

¹ Title IV, Part D of the Social Security Act (42 U.S.C. 651, *et seq.*).

² https://www.acf.hhs.gov/sites/default/files/programs/css/2018_infographic_national.pdf

³ <https://www.acf.hhs.gov/css/resource/fy-2018-preliminary-data-report>

⁴ For a more detailed explanation of child support assignment, see Title IV-D of the Social Security Act or Action Transmittal 07-05 “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act.”

⁵ 42 U.S.C. 657(c)(3) defines “Federal medical assistance percentage” as 75 percent, in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or the Federal medical assistance percentage (as defined in section 1905(b)), as such section was in effect on September 30, 1995) in the case of any other state.



However, federal law allows exceptions to this rule at state option. States may pass through to the family certain amounts of assigned collections as long as both the federal and state share are paid to the family. For current assistance families, states may opt to pass through up to \$100 in collections per month for families with one child and up to \$200 per month for families with two or more children, provided that such amount is disregarded in the determination of eligibility or degree of need for assistance.

The federal share of the child support collection is calculated net of the amount that is passed through and disregarded (up to the \$100/\$200 per month limit.) For collections above the amount that is passed through and disregarded and after paying the remaining federal share, states may choose to retain the state share or pay it to the family.

As of September 2016, half of states passed through some amount of child support to families without reducing their TANF assistance.⁶ The amounts passed through range from \$50 up to the maximum \$100/\$200 based on family size.

Former Assistance Families

A different set of distribution rules applies to former assistance families. In this situation, all current support collected from the noncustodial parent is paid to the family. Yet, even after the family has stopped receiving TANF assistance, the noncustodial parent continues to owe a debt to the government for any remaining assigned arrears that accrued during the time the family received assistance, and, depending on the state option, may owe unpaid support that accrued prior to the TANF period, up to the total amount of assistance paid to the family. This debt is separate and apart from any arrears that may be owed to the family.

For former assistance families, payments towards arrears are generally paid first towards family-owed arrears before assigned arrears. Whether a payment is retained to pay off assigned arrears depends on the distribution rules followed by the state and how the money was collected. States may elect to follow either Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) or Deficit Reduction Act of 2005 (DRA) distribution rules.

Under PRWORA distribution, most, but not all, collections are paid first towards arrears owed to the family. A major exception to the “Family First” rule is that child support collected through the Federal Tax Refund Offset (FTRO) process is used first to pay off arrears assigned to the state. Once assigned arrears are satisfied, then Federal Tax Offset collections may be used to pay arrears owed to the family. Under PRWORA, there is also

⁶ National Conference of State Legislatures “Child Support Pass-Through and Distribution Policies”
<http://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx>





one category of family-owned arrears that is not paid until after all assigned arrears are satisfied.

As an alternative, DRA distribution rules increase the amount of collections paid to families. After current support is satisfied, payments are made first toward any and all family-owned arrears before assigned arrears, with no exceptions. This includes Federal Tax Offset collections which follow the same “Family First” rule as all other collections. As of March 2019, six states reported electing to follow DRA distribution rules in former assistance cases.⁷

States also have the option to pass through to former assistance families payments toward assigned arrears. Similar to pass-through for current assistance families, the federal share of collections is waived to the extent that the state pays both the federal and state share to the family. For former assistance families, there is no limit on the amount of assigned collections that states can pass through. Thus, under this option, states may pay all collections to former assistance families and forego any retention of payments toward assigned arrears.

“Family First” Rules and State Budgets

When deciding whether to pass-through support collections, as well as how much to pass through and how to apply FTRO payments, a major consideration for a state legislature is the cost of the policy. Any level of pass-through can provide significant benefit to economically vulnerable families. Since the federal share is waived on these collections and included in the pass-through amount, the value of the benefit to families is two to four times the value of the loss to the state in retained support collections. Nevertheless, the impact on state budgets has been cited as a barrier to wider implementation of pass-through policy.

⁷ April 20, 2017 search of US HHS Intergovernmental Reference Guide (IRG), Question F16 "Does your state follow PROWRA or DRA distribution ordering rules in former assistance cases?"

