



## Resolution on Paternity Performance Penalty Revisions

### Introduction:

The National Child Support Enforcement Association (NCSEA) proposes revisions to the paternity establishment performance rules that can currently penalize states which have achieved maximum federal incentives for performance in their paternity programs. The provisions at 42 USC 658 and 42 USC 652 are inconsistent because, on the one hand, a State that achieves a paternity establishment percentage of 80% is rewarded by receiving maximum child support incentive funding under the incentive payment formula. Yet, on the other hand, that same State could face a penalty against the TANF block grant if the State does not increase its performance by 2% or more each year, as required under 42 USC 652. It is inconsistent to reward a state that achieves a paternity establishment percentage of 80% with maximum child support incentive funding, but impose a penalty against the State's TANF funding if a 2% increase is not achieved between 80% and 90% performance.

### **THEREFORE, the National Child Support Enforcement Association (NCSEA) resolves that**

the paternity establishment penalty provisions at 42 USC 652 be amended. The NCSEA recommends the paternity establishment penalty provisions set the upper threshold at 80%, which will then make it consistent and uniform with the existing incentive formula under which a state that has a paternity establishment percentage of 80% or more receives 100% of the weight allowable for that measure. Specifically, amend 42 USC 652(g)(1) (A) by deleting "90" and inserting in lieu thereof "80"; and amend 42 USC 652(g)(1)(B) by deleting "90" and inserting in lieu thereof "80". 42 USC 652(g)(1)(A) & (B) would then read as follows:

"(g)(1) A State's program under this part shall be found, for purposes of section [409\(a\)\(8\)](#), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1994, its paternity establishment percentage for such fiscal year is based on reliable data and (rounded to the nearest whole percentage point) equals or exceeds—

(A) 90 80 percent;





(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 80 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;”.

**Background:**

The federal incentive payment provisions at 42 USC 658 were enacted to reward States for achieving and improving performance in five key areas of performance measurements. These five performance measurements are 1) paternity establishment percentage; 2) support order establishment percentage; 3) current collections performance level; 4) arrears collection performance level; and 5) cost-effectiveness performance level. The incentive formula provides that a State that achieves a paternity establishment percentage of 80% or more will receive 100% of the applicable state collection base for that measure.

The performance standards for State paternity establishment programs at 42 USC 652(g) establish threshold levels of performance that must be achieved in order to substantially comply with the requirements of Part D Title IV of the Social Security Act. For a State with paternity establishment percentage achievement at a level between 75% and 90%, the Social Security Act requires the State to increase its paternity establishment percentage by two percentage points. If the State fails to increase the paternity establishment percentage by two percentage points after a corrective action period, the state is penalized by a reduction in its State’s TANF funding. Some of the states facing corrective action plans and perhaps penalties against the TANF block grant qualify for full incentives to the child support program for achieving a paternity establishment percentage of 80% or higher under 42 USC 658a(b)(6)(a). These contradictory standards award incentives to the child support agency on the one hand, and then penalize the state’s TANF block grant on the other hand for the same performance on paternity establishment.

**Adopted by the NCSEA Board of Directors, April 4, 2005**

**Re-ratified by the NCSEA Board of Directors, August 11, 2018**

