



June 2022

## Quick Facts: Child Support Assignment, Pass-Through, and Distribution for Families receiving Public Assistance

**This Quick Facts guide provides information about the assignment, pass-through, and distribution of child support for parents who receive Temporary Assistance for Needy Families (TANF).**

The Child Support Program<sup>1</sup> is a successful federal-state-tribal partnership that seeks to promote economic stability for children whose parents live apart. The program collects \$5.27 for every \$1 in public funds invested. In FY 2021, \$34 billion was collected in 12.7 million cases for 13.2 million children.<sup>2</sup>

### The Assignment of Child Support

Under the Social Security Act, recipients of TANF-funded assistance are required to assign to the government the recipient's rights to child support as a condition of receiving assistance.<sup>3</sup> Thus, there are two parties who have an interest in child support collected by the state child support agency: the parent who receives support ("the family"), and the state and federal government.

Under current law, TANF recipients must assign to the state all child support that accrues during the period the family receives assistance. Prior to October 2009 (or 2008 at state option), TANF recipients had to assign child support that accrued both prior to and during the period of assistance. However, states now have the option to discontinue certain assignments of arrearages, so these arrearages are owned by the family again.<sup>4</sup>

### Pass-Through Payments

#### Families Receiving TANF Assistance (Current Assistance Families)

As a general rule, child support collected on behalf of families currently receiving TANF is retained by the state and divided between the state and the federal government as reimbursement for the assistance paid to the family. The percentage of retained collections

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

<sup>2</sup> Office of Child Support Enforcement (OCSE) FY 2021 Preliminary Report.

<sup>3</sup> 42 U.S.C. § 608.

<sup>4</sup> For a more detailed explanation of child support assignment, see Title IV-D of the Social Security Act, or [OCSE Action Transmittal 07-05 Assignment and Distribution of Child Support Under Sections 408\(a\)\(3\) and 457 of the Social Security Act](#).





that a state is required to pay to the federal government is equal to the state's Federal Medical Assistance Percentage (FMAP).<sup>5</sup>

However, federal law allows exceptions to this retention rule at state option. States may pass through to the family certain amounts of assigned support 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 determining the amount and type of assistance provided to the family.

For collections that exceed the \$100/\$200 threshold (otherwise known as the “excepted portion”), states may choose to retain the state share or pay it to the family. However, the federal share of the amount collected in excess of the excepted portion must be paid to the federal government.

Currently, about half of the states pass through some amount of child support to families receiving TANF assistance.<sup>6</sup> The amounts passed through range from \$50 per month to up to 75 percent of all assigned support collected by the state child support agency.

#### Families No Longer Receiving TANF Assistance (Former Assistance Families)

For former assistance families, all current support collected is paid to the family. However, even after the family has stopped receiving TANF assistance, the parent paying support continues to owe a debt to the government for any remaining assigned arrears. This debt is separate and apart from any arrears that may be owed to the family, and any collections applied to these assigned arrears are retained by the state and federal government, up to the amount of assistance paid to the family.

However, states have the option to pass-through to former assistance families any or all collections applied to assigned arrears, without the requirement to pay the federal share to the federal government.<sup>7</sup> As of June 2022, Wisconsin is the only state that has implemented this option.<sup>8</sup>

### **Child Support Distribution in Current and Former Assistance Cases**

#### Distribution in Current Assistance Cases

The distribution of child support in current assistance cases follows federal statutory

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<sup>5</sup> 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.

<sup>6</sup> *Ensuring Families Receive Child Support Payments: Child Support Fact Sheet*, August 2020, The Aspen Institute, available at: <https://ascend-resources.aspeninstitute.org/resources/child-support-policy-fact-sheet-paying-support-to-families/>.

<sup>7</sup> 42 U.S.C. § 657(a)(6)(A).

<sup>8</sup> Wisconsin passes through to the family all support collected in former assistance cases. Wis. Stat. Ann. § 49.1452.





requirements as laid out in section 457(a)(1) of the Social Security Act (the Act).<sup>9</sup> In current assistance cases, all collections are first applied to assigned support (both current support and assigned arrearages) before applying any collections to arrearages owed to the family. However, if a state has implemented a pass-through policy, some or all of the collections applied to assigned support may be passed through to the family. If the pass-through amount exceeds the “excepted portion” (\$100/\$200) limitation, the state must pay to the federal government the federal share of the collection that exceeds the excepted portion.

### Distribution in Former Assistance Cases

The distribution of child support in former assistance cases follows the federal requirements as provided under section 457(a)(2) of the Act.<sup>10</sup> In general, except for the distribution of Federal Tax Refund Offset (FTRO) collections, states are required to pay to former assistance families all current support and family-owned arrears before paying arrears that are assigned to the government.

Under current law, states have the option to apply FTRO collections in former assistance cases in the same way as any other type of collection (first to current support, then to family arrears, then to assigned arrears). This option became available under the Deficit Reduction Act of 2005 and is referred to as DRA Distribution.<sup>11</sup>

States also have the option to continue to apply FTRO collections using the distribution rules under former section 457(a)(2)(B) of the Act. Under former section 457(a)(2)(B), states were required to apply FTRO collections first to assigned arrears and then to family arrears, but never to current support. This type of FTRO distribution is referred to as PRWORA Distribution.<sup>12</sup>

As of June 2022, only seven states distribute child support using DRA Distribution rules; the vast majority of states continue to use PRWORA Distribution.<sup>13</sup> The primary reason most states have not adopted DRA Distribution rules is due to the expense of updating state automated systems to support the new rules. However as states modernize their automated systems, opportunities may be available to implement the new distribution rules.

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<sup>9</sup> 42 U.S.C. § 657(a)(1).

<sup>10</sup> 42 U.S.C. § 657(a)(2).

<sup>11</sup> See OCSE-AT-07-05, *Assignment and Distribution of Child Support under sections 408(a)(3) and 457 of the Social Security Act*, Section IV(b): Distribution of Federal Tax Refund Offset Payments, available at: <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

<sup>12</sup> PRWORA Distribution is based on the distribution rules as required under the Personal Responsibility and Work Opportunity Act of 1996, P.L. 104-193.

<sup>13</sup> DRA Distribution states as of June 2022: Alaska, California, Pennsylvania, Puerto Rico, Vermont, West Virginia, and Wyoming. Maryland plans to adopt DRA Distribution when its new child support automated system is fully implemented in 2023 (source: Office of Child Support Enforcement, Intergovernmental Reference Guide, available at: <https://ocsp.acf.hhs.gov/irg/welcome.html>).

