

FAX COVER



Income Maintenance Branch

Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503



To:

Eric Zoult / Jenie Chough

Organization:

Fax Number:

From:

Michele Ahern

Date/Time:

Number of Pages:

Cover + 4

Notes:

Child support Q's and A's

*SDU INFO
FOR 6/9
CS MEETING*

Income Maintenance Fax Number: (202) 395-0851

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Talking Points

- The Child Support Enforcement program is key to ensuring that children receive the financial support of both parents. In addition, child support is an important support for families who have moved from the welfare system to the workforce, helping these families to maintain their independence.
- I understand that there is renewed attention and commitment to the array of child support issues facing California and I applaud you for that and urge you to continue working towards developing a certifiable statewide automated child support enforcement system and a centralized State Disbursement Unit (SDU). I look forward to receiving California's request for the alternative penalty and its corrective compliance plan for an automated statewide system.
- I commend you on efforts to understand the issues and to work together toward a viable solution to the issues California is facing.
- I, along with Assistant Secretary Olivia Golden and OCSE Commissioner Judge Ross, am committed to providing whatever technical assistance we can to California to support your efforts to ensure that all children are supported by both parents. As an example, Assistant Secretary Golden, when she was in California earlier this year, committed technical assistance in the form of technology transfer opportunities, which would allow state staff and legislators and their staff to travel to other states to see how their systems are operated.

Qs and As on SDU

Q: We are planning to lobby Congress for relief from the SDU penalty, perhaps by folding the SDU penalty into the alternative penalty for automated CSE systems. Would you support such a measure in Congress?

A: I hope that California will focus its efforts on implementing the SDU, rather than lobbying, because the operation of an SDU has been shown to get payments to children faster and more efficiently than non-centralized approaches. That being said, at this point HHS would not support or oppose SDU penalty relief for California.

Q: Are other States complying with the SDU requirement?

A: States are making considerable progress in meeting the SDU requirements. The effective date for the SDU requirement was October 1, 1998. However, if a State processed child support payments through local courts when PRWORA was enacted, the State is not required to establish its SDU until October 1, 1999.

Currently, all States except California either have an operational SDU or have until October 1, 1999 to implement an SDU. Twenty-two States and four territories have successfully implemented SDUs. The following States have until October 1, 1999, to implement an SDU and all are at various stages of the implementation process: Alabama; Florida; Georgia; Illinois; Indiana; Kansas; Kentucky; Louisiana; Maryland; Michigan; Mississippi; Missouri; Nebraska; Nevada; New Jersey; New Mexico; North Carolina; North Dakota; Ohio; Oklahoma; Pennsylvania; Rhode Island; South Carolina; Tennessee; Texas; Wisconsin; and Wyoming.

Q: Could California apply for an exemption to the SDU requirement?

A: The statute provides for exemptions to be granted to States wishing to establish an SDU through "linked" local units, upon meeting certain criteria. To qualify for an exemption, a State must prove that it will be no more costly, nor more time-consuming, to establish or operate an SDU through linked local units than to do so through a central unit. Even if granted an exemption, the State must still provide one location to which income-withholding monies shall be sent.

California has not submitted an exemption request from the SDU requirement; however, the State has submitted several documents that outline various options for implementing an SDU. The State maintains that the best approach is to design its statewide automated system to meet both SDU and computer systems requirements. Due to the State's desire to consolidate systems and SDU implementation, the State does not envision full compliance with the SDU requirement until 2002. This is 4 years beyond the statutorily required date for California.

As background, eleven States have submitted exemption requests; however, only South Carolina's request met the statutory test for an exemption to allow the State to use linked local units. Requests from Kentucky, Missouri, Indiana, Tennessee and Wyoming were denied.

Requests are pending in Nevada, Michigan and Texas. Mississippi withdrew their request and subsequently has implemented an SDU. Georgia also withdrew their request and the State is working towards implementing a fully centralized SDU.

Q: Are there any other options available to States like California that are having difficulty implementing the SDU besides a permanent exemption request?

A: Yes, a number of States with October 1, 1999 compliance dates, including Michigan and Nevada, are facing possible delays in completing their SDUs because their statewide automated systems are not complete. These States have consulted with Federal officials and are seeking a time-limited exemption that will bring them to full compliance within a reasonable period of time. Regardless of whether States request a permanent or time-limited exemption, States must still meet the statutory requirements for an exemption, i.e., cost and timing.

Q: What will happen to California now that the State is out of compliance with the SDU requirement?

A: California has 60 days to request a formal hearing regarding the disapproval of its state plan. Regardless of California's rationale for not submitting a time-limited exemption, California is clearly not compliant with the State plan requirement under the Social Security Act, and thus ACF sent a Notice of Intent to disapprove California's State plan. When a State fails to comply with the SDU requirement, its State plan is subject to disapproval by OCSE.

Q: What is the financial penalty that California is facing if the State's IV-D plan is disapproved?

A: A determination that California's IV-D plan is disapproved will result in suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. According to preliminary FY 98 numbers, the Federal share of California's IV-D expenditures is \$335,601,000. In addition, in order to be eligible for a block grant for Temporary Assistance to Needy Families (TANF), a State must certify that it will operate a child support enforcement (IV-D) program. Therefore, TANF funding would also be jeopardized if the State failed to enact the required child support legislation on a timely basis. California's 1998 TANF Block Grant is \$3,733,817,784.

Qs and As on Automated Systems Requirement

Q: Do you support the efforts in the California State legislature to reorganize the child support enforcement system?

A: The organizational structure of the child support system is a state decision. As such, we have no position on pending state legislation.

Q: What is the alternative penalty that California can request?

A: The graduated alternative penalty for automated systems is 4% the first year, then 8%, 16%, 25% and 30%. For California, this would be as follows:

4% of FY 98 penalty base is - \$11,964,063

8% of FY 99 penalty base is - \$26,948,314

The FY2000 penalty base can't be established until we receive previous year's expenditures, but we estimate CA's FY2000 to be approximately \$58 million.

Q: What is the current status of other state child support computer systems?

A: Almost all states, even if not certified, are now operating child support computer systems. There are 3 states with results of certification reviews pending. They are Alaska, District of Columbia, and Pennsylvania. There are 9 states and one territory subject to penalty or state plan disapproval. They are California, Indiana, Kansas, Michigan, Nebraska, Nevada, North Dakota, Ohio, South Carolina and the Virgin Islands.

Q: Has any other state submitted an alternative system configuration that was approved?

A: Not under the new requirements of the Child Support Performance and Incentives Act (CSPIA) which was passed by Congress last year. Although Indiana, Nebraska and Michigan are considering it.

Q: What about Y2K (Year 2000) problems facing California?

A: On September 14, 1998 we concurred with California's assertion that an emergency exists under 45 CFR 95.605 that warranted California's immediately undertaking certain limited interim system enhancements, including Year 2000 (Y2K) compliance while the State progresses toward implementing a Statewide system that meets statutory and regulatory requirements. We approved federal funding for software enhancements necessary to make no more than four interim systems Y2K and PRWORA-distribution compliant and migrate all remaining counties to one of these interim "safe harbor" systems. We also authorized the State to procure and implement the necessary hardware for child support automation in all counties to ensure Y2K compliance as long as the hardware installed is compatible with the interim system being transitioned to as well as the eventual statewide system.

States that may be affected by the Feinstein amendment

Very likely to take advantage of the Feinstein provision

1. California
2. Ohio
3. Indiana

States unlikely to be affected if they maintain SDU exemption

4. Michigan - we are working with them on a SDU Exemption request
5. Nevada- we granted them an SDU Exemption request and they have issued the RFP for the SDU
6. South Carolina- we granted them an SDU exemption request and they haven't requested the alternative penalty yet.

Possible but only if willing to accept 16% penalty in FY 2000

7. Nebraska- except they are trying to have their system compliant by Sept 99 so they wouldn't be under a penalty in FY 2000 and thus not eligible for Feinstein amendment
8. Kansas- same as Nebraska

Unlikely

9. North Dakota - Has SDU, scheduled to be compliant by Sept 99
10. Virgin Islands - Has SDU, chance of being compliant by Sept 99
11. Alaska- Has SDU, scheduled to be compliant by Sept 99 hasn't requested penalty
12. DC- Has SDU, scheduled to be compliant by Sept 99 hasn't requested penalty
13. PA- Has contracted for SDU and is not under penalty so ineligible unless they fail certification.

Legislation

→ relief from SDU is being pushed for statewide computer sys

HHS rec:

- ① Do not oppose → or will work w/Hill on legis that will help states w/ technical problem
- ② Support

closure → Timeline after 45 days on statewide sys

→ F includes PRA/FOIA systems as well (may want to amend)

→ narrow criteria / political-technical distinction

→ what would SDU approach be for states not covered under Feinstein

6/10/99

Now 41 cent
13 not

STATES WHOSE CHILD SUPPORT SYSTEMS ARE NOT YET CERTIFIED

Alternative System Penalty Taken

Kansas – CCP approved – penalty taken
N. Dakota – CCP approved – penalty taken
Indiana – CCP approved – penalty pending**

8 of 13 think
they will be in
compliance by Sept

Next Steps: None needed.

Requested Alternative System Penalty

Nebraska – CCP submission incomplete**
Nevada – CCP not submitted
Virgin Islands – CCP not submitted
Ohio – CCP not submitted
Michigan – CCP not submitted

~~except~~
Calo Much
Ohio Newby
S.C.

Next Steps: Notify State that if it fails to submit/perfect corrective compliance plan (CCP) within the next 45 days, we will schedule a State plan disapproval hearing.

State has not Requested Alternative System Penalty

California

→ S. Carolina**

Waiver of contract

Next Steps: If State hasn't submitted a request for the alternative penalty and a corrective compliance plan by June 15, notify the State that we are scheduling a State plan disapproval hearing. (NOTE: CA has sent a letter of intent indicating that they will request the alternative system penalty and submit the CCP on June 15th)

Reviewed in FY98 – Will Not be Certified

Alaska

D.C. – notify tomorrow or early next wk

Next Steps: Issue final certification report and letter offering alternative penalty. If State fails to request alternative penalty in 60 days, schedule State plan disapproval hearing.

Review Pending

Pennsylvania

Next Steps: Complete review of distribution test deck results. If system is certifiable, no further action is necessary. If system is not certifiable, then issue negative report and inform State of alternative penalty. If State doesn't request alternative penalty within 60 days, schedule State plan disapproval hearing.

** State may request alternative system configuration waiver

Status of States with Uncertified CSE Systems

States	Requested Penalty	Approved CCP	Penalty Taken	Meetings	Comments
KS	Yes	Yes	14-Apr	On-site	
ND	Yes	Yes	14-Apr	On-site	
IN	Yes	Yes	14-Jul	Yes,	Likely to request Alternative Systems Config
NE	Yes	Pending		Yes, 12/98 Lt. Gov	Alternative System Config ACF requested additional info
NV	Yes			Yes, 4/12/99	2 on-site meetings to assist Governor NV staff in submitting CCP
OH	Yes	Draft submitted		Yes 3/5/99	Submitted June 7th
MI	Mailed June 2nd			Yes 12/98	Mailed June 2nd, We have Fax But requesting penalty taken in last quarter and use TANF
CA	Ltr of intent Not final			Yes	Will submit by mid-June
VI	Yes			Gov & A.G. 4/8/99	2 on-site meetings to provide TA related to CSE system
SC	No			Yes, 3/99	Meetings with Elizabeth Paterson
PA	No				Statewide as of 2/99 Review 4/99 May be certifiable-still analysing
AK	N/A yet				Report should be sent 6/7/99 Likely to be compliant before State Plan Disapproval hearing complete
DC	N/A yet				Report likely to be sent 6/14/99

Child Support Systems Requirements and Penalties

June 10th Meeting Agenda

- I Update on states' progress in meeting child support systems requirements
- II Update on implementation of graduated penalties for non-compliant states
- III Update on California
- IV Discussion of the Administration's position on the Feinstein bill
- V Discussion of possible alternatives for addressing California and other states which may miss the 10/1/99 state disbursement unit (SDU) deadline

106TH CONGRESS
1ST SESSION

S. 1033

To amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements.

IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title IV of the Social Security Act to coordinate the penalty for the failure of a State to operate a State child support disbursement unit with the alternative penalty procedure for failures to meet data processing requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Child Support Penalty
5 Fairness Act".

1 **SEC. 2. ALTERNATIVE PENALTY PROCEDURE FOR FAILURE**
2 **TO OPERATE STATE DISBURSEMENT UNIT.**

3 (a) **IN GENERAL.**—Section 455(a)(4) of the Social
4 Security Act (42 U.S.C. 655(a)(4)) is amended by adding
5 at the end the following:

6 “(E) The Secretary may not disapprove a
7 State plan under section 454 against a State
8 with respect to a failure to comply with section
9 454(27) for a fiscal year as long as the State
10 is receiving a penalty under this paragraph with
11 respect to a failure to comply with either sec-
12 tion 454(24)(A) or 454(24)(B) for the fiscal
13 year.”.

14 (b) **EFFECTIVE DATE.**—The amendment made by
15 this section shall take effect as if included in the amend-
16 ments made by section 101 of the Child Support Perform-
17 ance and Incentive Act of 1998.

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