

CC: CR  
EG  
Michelle Ahern  
OMB

# FAX

Date

3/23/99

Number of pages including cover sheet

4

TO:

Andrew Kane

FROM:

Paul K. Legler  
Assistant Commissioner  
Federal Office of Child  
Support Enforcement

Phone

Fax Phone

~~313~~ 456-7431

Phone

202-401-5373

Fax Phone

202-260-4668

CC:

REMARKS:

Urgent

For your review

Reply ASAP

Please Comment

Signed copy per your request

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

**ADMINISTRATION FOR CHILDREN AND FAMILIES**  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

To: IV-D Directors

From: David Gray Ross  
Commissioner  
Office of Child Support  
Enforcement

A handwritten signature in black ink that reads "David Gray Ross".

Subject: Public Policy Supporting Two Parent Families

Attached please find PIQ-99-03 clarifying Federal policy regarding compromise of arrearages. This issue has received growing attention in the context of parents who marry or remarry and are faced with payment of large child support arrearage amounts.

It is important that we create policies that encourage the formation of two-parent households. While many single parents are successful in raising children in a single parent household, there is growing evidence that children who grow up in two parent households are less likely to be poor, less likely to become teen parents, less likely to have contact with the criminal justice system, and more likely to graduate from high school.

Currently in most States, even if the parents marry or remarry, families with TANF arrearages are required to make payments to the State as a result of the TANF requirement of assigning child support payments. This can worsen the economic situation for low-income families, thereby reducing their ability to maintain a self-sufficient two-parent household.

States such as Washington and Vermont have taken steps to help such families through their policies regarding arrearages. Washington State statute and administrative rules allow certain child support debts to be forgiven if the custodial parent and the noncustodial parent reunite. The process is managed through a "conference board" proceeding in which child support attorneys and staff review the case to determine whether the support debt creates a hardship. This process has been a useful tool to assist reconciled or remarried parents with financial difficulties. Vermont's State code allows it to suspend collection of arrears in public assistance cases when the custodial parent and noncustodial parent reunite, if the reunited family has a gross income less than 225 percent of poverty. The State arrears are reduced to a lump sum judgment but that judgment is not enforced if the parents meet the threshold poverty level and remain united.

We encourage States to examine Washington and Vermont's practices in this regard, and adopt State policies that help to encourage strong family formation.



## DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

PIQ - 99-03

DATE: March 22, 1999

TO: State IV-D Directors

FROM: David Gray Ross  
Commissioner  
Office of Child Support Enforcement

RE: Compromise of Child Support Arrearages

Question 1: Is there authority for States to accept less than the full payment of assigned child support arrearages?

Response: Yes. A State could accept less than the full payment of arrearages assigned to the State on the same grounds that exist for compromise and settlement of any other judgment in the State.

We articulated this position in PIQ-89-02 issued on February 14, 1989 and later in the preamble to final regulations at 45 CFR 303.106 pertaining to "Procedures to Prohibit Retroactive Modifications of Child Support Arrearages" which was published in the Federal Register on April 19, 1989 (54 FR 15764). Federal law at section 466(a)(9) of the Social Security Act (the Act) and implementing regulations at 45 CFR 302.70(a)(9) provide that child support is a judgment on and after the date due with the full force, effect and attributes of a judgment of the State, and not subject to retroactive modification. Such support judgments may, however, be compromised or satisfied by specific agreement of the parties on the same grounds as exist for any other judgment in the State. Judgments involving child support arrearages assigned to the State under titles IV-A, IV-E and XIX of the Act, may not be compromised by an agreement between the obligee and obligor unless the State, as assignee, also approves such an agreement. State law may further require that the court or administrative authority must endorse any agreement affecting child support orders to ensure that the best interests of the child are protected.

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We encourage caution not to confuse compromising arrearages with the statutory prohibition against retroactive modification of arrearages. The State plan requirement at section 454(20) of the Act requires States to enact laws that implement statutorily required procedures found at section 466 of the Act. Thus States must have laws that provide that child support payments become a judgment by operation of law and prohibit retroactive modification of arrearages. Retroactive modification of arrearages occurs when a court or administrative body takes actions to erase or reduce arrearages that have accrued under a court or administrative order for support. In effect, retroactive modification of arrearages alters the obligor's obligation without the concurrence of the obligee (or the State assignee) and is expressly prohibited by section 466(a)(9)(C) of the Act and 45 CFR 303.106.

Question 2: Would accepting a reduced payment for assigned child support arrearages violate existing Federal distribution law that requires sharing any assigned child support collections with the Federal government?

Response: No. Federal law does not prohibit State (or private) settlement of a judgment obligation, consistent with State law governing settlement of any other money judgment. While an agreement to compromise or settle the amount owed under the judgment and assigned to the State affects the amount payable for reimbursement to the Federal government, the Federal interest is contingent upon the State's collection of the debt. The Federal interest does not vest until support is available for distribution. Any amount collected under the judgment must be distributed in accordance with section 457 of the Act.

Some States have given consideration to compromise of arrearages when the custodial parent and the noncustodial parent marry or reunite (if they have been legally separated). For example, Washington State statute and administrative rules allow certain child support debts to be "written off" (RCW 74.20A.220, WAC 388-14-385). The process is managed through a "conference board" proceeding in which a Division of Child Support (DCS) attorney and one or more other DCS staff members review the case to determine whether the support debt creates a hardship. Generally the Conference Board bases the hardship determination on a comparison of the family income to the State needs standard for the family size. This process has been a useful tool to assist reconciled or remarried parents with financial difficulties. DCS is careful not to use this remedy in such a way that it would encourage domestic violence or coercion.

There may be other circumstances that warrant consideration of compromising arrearages in accordance with State law. However, States should use caution not to send a message that obligors can ignore support obligations because of the possibility that the State may eventually accept less than the full amount owed in satisfaction of the debt.

We hope this information will prove helpful.



W. J. ...  
Eric

THE WHITE HOUSE

Domestic Policy Council

DATE: 3/15

FACSIMILE FOR: Michele Aherm

FAX: 5-0851  
PHONE:

FACSIMILE FROM: Andrea Kane

FAX: 202-456-7431  
PHONE: 202-456-5573

NUMBER OF PAGES (INCLUDING COVER): 5

COMMENTS: This is guidance OCSE plans to release to remind states of their option under current law to 'compromise' arrangements of child support assignments when parents marry or remarry. This came up when we discussed whether should be highlighted as a state option in the new reauthorization.

I'd suggest the changes noted to the letter. Let me know if you have any other suggestions. I'll tell Paul we need another day or two before they send out.

# FAX

*EHC*  
Michelle Ahern, OMB

Date

3/12/79

Number of pages including cover sheet

4

TO:

Andrea Kove

FROM:

Paul K. Legler  
Assistant Commissioner  
Federal Office of Child  
Support Enforcement

Phone

Fax Phone

456-7431

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202-401-5373

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REMARKS:

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Reply ASAP

Please Comment

This includes the cover letter we discussed.  
We did not change the P/Q because the law  
does not specifically mention marriage/remarriage.  
This has not been sent to OMB. Could  
you forward it to Michele?

If you have comments, let me  
know by COB Monday. Otherwise we  
will send this out as is.

Thank you!

*Paul*



DEPARTMENT OF HEALTH & HUMAN SERVICES

DRAFT

ADMINISTRATION FOR CHILDREN AND FAMILIES  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

To: IV-D Directors  
From: David Gray Ross  
Commissioner  
Office of Child Support  
Enforcement  
Subject: Public Policy Favoring <sup>Supporting</sup> Two Parent Families

DRAFT

Attached please find PIQ-99- \_\_\_ clarifying Federal policy regarding compromise of arrearages. This issue has received growing attention in the context of parents who marry or remarry and are faced with payment of large child support arrearage amounts.

Public policy ought to promote the establishment of two-parent families. Having two parents living together within marriage generally provides children with more emotional and financial support than having two parents living apart. Of course, some single parents do a tremendous job of raising children in a single parent household, but growing evidence suggests, as a general rule, children are ~~better off~~ in two parent households. <sup>are less likely to be poor,</sup> For families with TANF arrearages, even if the parents marry or remarry, payments are required to be made to the State as a result of the TANF assignment requirement. This can make low income families even poorer and reduce their chances of maintaining a self-sufficient two-parent family.

might be better to be more specific here

States such as Washington and Vermont have already taken steps to help such families by their policies regarding arrearages. Washington State statute and administrative rules allow certain child support debts to be written off if the custodial parent and the noncustodial parent reunite. The process is managed through a "conference board" proceeding in which child support attorneys and staff review the case to determine whether the support debt creates a hardship. This process has been a useful tool to assist reconciled or remarried parents with financial difficulties. Vermont's State code allows it to suspend collection of arrears in public assistance cases when the custodial parent and noncustodial parent reunite, if the reunited family has a gross income less than 225 percent of poverty. The State arrears are reduced to a lump sum judgment but that judgment is not enforced if the parents meet the threshold poverty level and remain united.

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DEPARTMENT OF HEALTH & HUMAN SERVICES

DR. T

PIQ - 99 -

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FROM: David Gray Ross  
Commissioner  
Office of Child Support Enforcement  
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