

**CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES**

P.O. Box 419064, Rancho Cordova, CA 95741-9064



April 2, 2001

CSSIN LETTER NO. 01-11

TO: ALL IV-D DIRECTORS  
ALL DISTRICT ATTORNEYS  
ALL COUNTY ADMINISTRATIVE OFFICERS

Reason for this Transmittal

- State Law or Regulation Change  
 Federal Law or Regulation Change  
 Court Order or Settlement Change  
 Clarification requested by One or More Counties  
 Initiated by DCSS

SUBJECT: FINAL FEDERAL RULE ON INCENTIVES, PENALTIES AND AUDIT  
AND STATE/COUNTY PERFORMANCE ON THE FEDERAL  
PERFORMANCE MEASURES

The federal Office of Child Support Enforcement's (OCSE) Action Transmittal 01-01, dated January 3, 2001, contains the federal regulations on the new performance based incentive system, performance penalties, and standards for certain types of audits required by the Child Support Performance and Incentive Act of 1998. A brief summary is attached. The Action Transmittal can be accessed at the following cite:

<http://www.acf.dhhs.gov/programs/cse/pol/at-01-01.htm>.

These regulations govern the federal performance measures and incentives paid on those measures. In order to qualify for the federal incentives beginning with Federal Fiscal Year 2001 (the current year), our data must meet or exceed a data reliability standard of 95 percent for each performance measure. In addition, failure to meet minimum performance standards in the areas of paternity establishment, order establishment, or collection of current support can result in a penalty of one to two percent of the state's Temporary Assistance for Needy Families (TANF) block grant for the first occurrence, increasing to two to three percent for the second occurrence and three to five percent for each subsequent occurrence.

Based on the most recent data submitted for Federal Fiscal Year 2000, California's performance on the collection of current support measure has dropped below the minimum performance standard of 40%. California is at risk of losing eligibility for any incentive funds for this measure. Failure to improve in this measure can result in substantial penalties in addition to loss of incentive funding. It is critical that we take all steps necessary to improve performance on this, as well as all performance measures.



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At the state level, the Department of Child Support Services is working on several initiatives to improve performance including a work group reviewing default order policies, a duplicate case project, an improved locate project through the Interim Federal Case Registry, and a case closure project.

For your information, the attached chart lists your county's performance on the federal performance measures (as reported on your CS 157), in addition to the statewide (from the OCSE 157) and national averages (from Preliminary FFY 99 Report). If you identify any problem with the data for your county, please advise Donna Martin at (916) 464-5033 (or email at [donna.martin@dcss.ca.gov](mailto:donna.martin@dcss.ca.gov)) immediately. Beginning July 1, 2001, DCSS will report county performance to the Governor, the Legislature and the public on an annual and quarterly basis as required by Family Code Section 17602(e).

We are very interested in hearing about successful county practices, particularly in the area of collection of current support. If you have any questions concerning this letter or ideas to improve program performance, please call Linda Patterson at (916) 464-5035 or send email to [linda.patterson@dcss.ca.gov](mailto:linda.patterson@dcss.ca.gov).

Sincerely,

LEORA GERSHENZON  
Assistant Director  
Office of Research and Program Design

Enclosures

# Summary of Key Provisions

## Final Rule on Incentives, Penalties and Audit

45 CFR Parts 302, 304, and 305

Effective: December 27, 2000

### Description of Regulatory Provisions – Incentives and Administrative Review

305.2, *Performance Measures*, describes the performance measures that will be used in the incentive and penalty systems. The child support incentive system will measure State performance levels in five areas: paternity establishment, child support order establishment, collections on current support, collections on arrears, and cost-effectiveness. It also requires that the penalty system measure State performance in these three areas: paternity establishment, child support order establishment, and collections on current support. States have the choice of being evaluated on one of two measures regarding paternity establishment – the IV-D or the statewide Paternity Establishment Percentage (PEP). Each State will earn five scores based on performance on each of the five measures. The first three measures (paternity establishment, order establishment, and current collections) earn a maximum of 100 percent of the collections base. The collections base is determined as follows:

$2 \times (\text{Current Assistance collections} + \text{Former Assistance Collections}) + \text{all other collections}$

The last two measures (collections on arrears and cost-effectiveness) earn a maximum of 75 percent of the collections base.

305.31, *Amount of Incentive Payment*. The State incentive payment is equal to the incentive payment pool multiplied by the State incentive payment share for the fiscal year. A State's maximum incentive base amount for a fiscal year is the combined sum of the State's collections base for the paternity establishment, support order, and current collections performance measures; and 75 percent of the State's collections base for the arrearage payment and cost-effectiveness performance measures. A State's maximum incentive base amount for a fiscal year is zero, unless a federal audit determines that the data submitted by the State is complete and reliable. Reliable data means the most recent data available found by the Secretary to be reliable for the purposes of computing the paternity establishment percentage. Data for computing each of the measures must be sufficiently complete and error free to be convincing for their purpose and context. For purposes of incentives and penalties, data must meet a **95 percent** standard of reliability beginning in the fiscal year 2001. This determination will be made using data submitted no later than December 31 of each year.

305.33, *Determination of Applicable Percentages Based on Performance Levels*. This section sets out explicit instructions and tables for determining the State's applicable percentage according to the level of performance on each performance measure.

305.35, *Reinvestment*. States are required to use incentive payments to supplement and not supplant other funds used by the State to carry out IV-D program activities, or funds for other activities to improve program efficiency including cost-effective contracts with local agencies. To ensure compliance with this requirement, a base year level of program expenditures is necessary. The base amount of State spending will have to be maintained in future years. Incentive payments are to be used in addition to, and not in lieu of, the base amount. Requests for approval of expending incentives on activities not currently eligible for funding under the IV-D program must be submitted in accordance with instructions issued by the Commissioner of the Office of Child Support Enforcement. Instructions requesting such approval will be disseminated by Action Transmittal.

305.36, *Incentive Phase-In*. The incentive system will be phased-in over a three-year period during which both the current system and the new system will be used to determine the amount a State will receive. For fiscal year 2000, a State will receive two-thirds of what it would have received under the old incentive formula, and one-third of what it would have received under the new formula set forth in Part 305. In fiscal year 2001, a State would receive one-third of what it would have received under the old incentive formula and two-thirds of what it would have received under the new formula. In 2002 and thereafter, all of a state's incentive will be based on the new incentive formula.

*New/Former Audit and Penalty Process.* The former regulations required HHS to conduct an audit at least once every three years to evaluate the effectiveness of each State's program in carrying out the purposes of title IV-D. These audits were the sole basis for imposing a penalty. Under the new regulations, amounts otherwise payable to the State under IV-A will be reduced if, based on data submitted by the State for review, the State program fails to achieve the set performance standards; if an audit finds that the State data is incomplete or unreliable; or if the State fails to comply substantially with one or more IV-D requirements and the State fails to correct the deficiencies in the following fiscal year. However, the State will be found to be in substantial compliance if the Secretary determines that the noncompliance or unreliability of the data is of a technical nature which does not adversely affect the performance of the State's IV-D program.

*305.40, Penalty Performance Measures and Levels.* Before any penalty will be imposed, there will be an automatic statutory corrective action period of one year. If, at the end of the corrective action period the deficiency is not corrected, the penalty will be taken.

*305.60, Timing and Scope of Federal Audits.* OCSE will conduct audits at least once every three years to assess data reliability, determine the adequacy of financial management of the IV-D program, and for such other purposes as necessary. Substantial compliance audits are triggered based on evidence of a failure by the State to meet IV-D program requirements.

*305.61, Penalty for Failure to Meet IV-D Requirements.* A State is subject to a financial penalty if the State's program failed to achieve minimal standards for paternity establishment, support orders and current collections; or the results of an audit show the State did not submit complete and reliable data or failed to substantially comply with one or more of the requirements of the IV-D program. A penalty will be applied only if the State fails to correct any identified deficiencies by the end of the automatic corrective action year. If applied, the penalty reductions will be made for the quarters following the end of the automatic corrective action year and will continue until the State has been in compliance for a full quarter. The penalty is one to two percent of the state's Temporary Assistance for Needy Families (TANF) block grant for the first finding; two to three percent for the second consecutive finding; and three to five percent for the third or a subsequent consecutive finding. Total penalties may not exceed 25 percent of the TANF grant.

*305.62, Disregard of a Failure Which is of a Technical Nature.* A State may be determined to have submitted adequate data or to have achieved substantial compliance with IV-D requirements if the Secretary determines that deficiencies are of a technical nature and do not adversely affect performance measure percentages.

*305.63, Definition of Substantial Compliance with IV-D Requirements.* Under the new regulations, a State may be audited on one, some, or all of the requirements and may be assessed a penalty if found not in compliance. Assessment of a penalty could therefore be based on a targeted audit. The State must meet the requirements under the following areas in at least 90 percent of the cases reviewed: establishment of cases and case closure criteria. The State is required to meet the requirements in the following areas in at least 75 percent of the cases reviewed: collection and distribution of support payments; establishment of paternity and support orders; enforcement of support obligations; review and adjustment of child support orders; medical support; and disbursement of support payments.

*305.64, Audit Procedures and State Comments.* Federal auditors will hold entrance and exit conferences with the State IV-D agency. The IV-D agency will receive a copy of the interim report and will be able to submit written comments on any part of the report the agency believes to be in error. The notice will explain any deficiencies, indicate the amount of the potential penalty, and give reasons for the finding. The notice will further specify that the penalty will be assessed if the State has failed to correct the deficiency cited in the notice during the next fiscal year.

**COUNTY PERFORMANCE MEASURES**

COUNTY PERFORMANCE MEASURES SUMMARY FOR THE FEDERAL FISCAL YEAR

	Paternity Establishment Percentage	Cases With Support Orders	Collections on Current Support	Cases with Collections on Arrears	Cost Effectiveness
NATIONWIDE (1999 data)	N/A	60.35%	53.03%	54.38%	\$3.92
STATEWIDE	60.37%	68.99%	39.95%	53.32%	\$3.23 <sup>a/</sup>
Alameda	85.90	87.55	53.22	66.66	4.50
Alpine	41.94	77.97	41.78	46.28	1.52
Amador	71.79	89.84	61.62	69.61	3.17
Butte	31.51	63.47	39.79	49.50	2.39
Calaveras	57.62	72.05	51.03	2.02	4.44
Colusa	70.16	85.58	62.74	70.51	3.59
Contra Costa	66.92	61.92	46.07	59.28	2.88
Del Norte	46.65	81.35	49.15	57.30	2.72
El Dorado	80.38	86.57	47.58	65.96	3.21
Fresno	80.38	83.79	40.35	62.53	4.11
Glenn	46.67	76.85	56.97	43.98	3.51
Humboldt	111.72	89.93	53.94	67.95	2.82
Imperial*	0.00	82.60	39.33	54.18	3.07
Inyo	69.32	88.33	53.55	58.18	4.03
Kern	68.80	73.89	31.48	53.15	2.37
Kings	71.32	85.32	53.84	62.19	2.79
Lake	38.12	64.83	49.36	60.45	2.66
Lassen	74.04	79.22	55.08	63.87	3.55
Los Angeles	50.00	58.47	32.12	46.74	2.93
Madera	53.20	78.17	49.46	92.52	3.73
Marin	68.09	79.85	57.65	67.04	2.18
Mariposa	74.68	90.03	64.43	72.76	2.66
Mendocino	58.87	78.00	47.69	66.26	3.18
Merced	71.37	86.88	54.18	63.97	3.10
Modoc	42.82	70.48	53.75	61.64	2.38
Mono	40.77	59.54	64.21	70.34	3.17
Monterey	73.40	76.59	50.01	59.01	3.32
Napa	44.42	79.82	56.79	28.07	3.15
Nevada	58.20	80.74	41.22	50.35	2.53
Orange	67.95	75.23	42.57	56.90	3.58
Placer	63.83	77.24	48.46	64.42	2.43
Plumas	72.91	88.40	56.32	64.96	2.96
Riverside	73.09	61.53	36.56	52.10	3.19
Sacramento	49.57	57.33	42.92	62.67	4.35
San Benito	42.37	65.45	49.98	34.41	2.73
San Bernardino	52.89	53.75	41.27	32.21	3.58
San Diego	75.14	85.40	27.44	36.23	3.32
San Francisco	67.84	85.95	59.77	61.88	2.18
San Joaquin	67.82	78.97	49.37	65.23	3.54
San Luis Obispo	93.94	92.64	57.50	65.25	3.50
San Mateo	67.99	82.52	54.23	63.01	2.82
Santa Barbara	70.25	75.16	58.67	71.95	3.05
Santa Clara	56.90	69.20	46.72	59.49	2.70
Santa Cruz	72.43	73.33	47.11	64.25	2.66
Shasta	61.53	81.54	36.18	60.41	3.19
Sierra	97.37	91.51	58.62	65.00	3.22
Siskiyou	72.18	88.72	49.86	62.04	2.33
Solano	70.13	80.62	47.60	61.65	3.03
Sonoma	68.43	86.06	58.59	65.71	2.23
Stanislaus	91.95	80.66	46.57	63.31	3.51
Sutter	63.96	68.68	62.14	75.02	2.69
Tehama	60.82	88.75	40.46	38.42	3.83
Trinity	68.09	77.67	45.76	57.92	3.00
Tulare	62.51	81.23	44.08	56.08	2.42
Tuolumne	76.47	75.54	28.36	36.48	4.70
Ventura	75.25	76.74	46.62	58.95	2.75
Yolo	44.40	72.18	46.14	55.56	2.25
Yuba	44.33	55.06	36.66	22.99	3.74

a/ Draft data. Includes all state costs

\* County data not available for FFY 1999