

KELLOGG DEVOLUTION INITIATIVE PAPER

BEYOND WELFARE: THE CASE FOR CHILD SUPPORT ASSURANCE

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Center for Law and Social Policy
CLASP

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OVERVIEW

One of the most promising approaches to ending the poverty of children being raised in single parent families is Child Support Assurance (CSA). In a CSA system, children for whom a child support order has been obtained are guaranteed that they will receive a certain amount of child support regularly and on time each month. This regular child support supplements the earnings of their custodial parent so that the children can be raised in a family with income above the poverty line.

To fund the guaranteed payment, the state collects the child support owed by the noncustodial parent. If it is unable to collect, the state still provides child support to the family at the guaranteed level and pursues the obligated parent for reimbursement. If a low-income noncustodial parent pays support but the amount is less than the guaranteed level, then the state supplements that parent's payment up to the guaranteed level.

For example, imagine a CSA system that provides a child a guaranteed child support payment of \$250 per month. Assume that, under the child support guideline, the child's father should pay 20 percent of his income each month in child support. The father is low-income, earning \$700/month. His support obligation then is \$140 (20% x \$700). Each month the government will send the child \$250. It will partially offset this by collecting \$140 from the father, paying the rest (\$110) from government funds. If the child's mother leaves the state's Temporary Assistance to Needy Families (TANF) program for a 30 hour a week minimum wage job, the combination of her earnings and the CSA payment would give the child a family income above poverty. If the mother worked full-time, the family income would be 25 percent above poverty. Without child support assurance, the child would be living below poverty even though both the mother and the father were working and meeting their obligations to support their child.

CSA can also help moderate-income children. For example, assume the same facts except this time the father is lower middle-income, earning \$2,000/month. He should pay \$400 (20% x \$2,000) in child support. The state will guarantee a payment of \$250 each month. If it collects the full amount owed from the father, the child will get \$400. If the father changes jobs, there will likely be a gap in payment. The mother may go for several months without regular support until a new income withholding order can be put in place. In the meantime the rent or utility bill may go unpaid or the child may not receive needed health care. Under a CSA system, instead of no payment, the child will get \$250 each month. This will make the family's income more stable and reliable and allow the child to avoid such catastrophes as homelessness.

THE POLICY CONTEXT¹

Nearly half of American children will spend at least part of their childhood in a single parent family. This means that the success or failure of the nation's child support system effects more children than any government program except education.

Most commonly (85% of the time), the custodial parent is the children's mother. The poverty rate among mother-only families is high: 33 percent. When these parents receive child support, their poverty rate drops 11 percentage points. The substantial anti-poverty effect of child support has two sources. One is the money itself: the average payment provides an additional \$3,732 a year to the custodial parent family.² The other is that there is a strong correlation between the receipt of child support and the custodial parent's work effort. The economic stability provided by the supplemental child support income allows mothers to be more stable employees. This is especially true for low-income mothers leaving public assistance.

Unfortunately, over 40 percent of custodial parents do not even have a child support order. Moreover, those who have orders rarely receive the full amount due.³ As a result, many turn to government-funded child support agencies for help. Since the late 1970's, every state (as well as Guam, Puerto Rico, the Virgin Islands, and the District of Columbia) has operated a program under Title IVD of the Social Security Act to provide such help. These IVD agencies are authorized to locate absent parents, establish paternity, establish and periodically modify child support orders, and enforce those orders. A total of 8.7 million families now participate in this system. Most of these families have low or moderate income.⁴ Sadly, while state IVD programs have made some improvements in recent years, nationally, they still make collections in only 22% of their cases.⁵

Because of the failures of the child support system, many custodial parents have to work two or three jobs or rely on welfare to support their children. A study conducted in 1992 showed that in the year after family breakup, 25% of custodial parents went to work for the first time and another 34% took a second or third job. They borrowed from friends (87%), turned to charities (26%) and churches (44%), used food banks (47%) and second-hand clothing shops (57%) to keep their children housed, fed and clothed. When these strategies proved insufficient, they applied for AFDC (40%), Food Stamps (47%) and Medicaid (41%).⁶

¹ Unless otherwise noted the child support statistics in this section come from the Census Bureau publication CHILD SUPPORT FOR CUSTODIAL MOTHERS AND FATHERS:1995, P60-196 (March 1999).

² This is the average for all custodial parents. For those with incomes below poverty, the average amount received is \$2,531. For these families, child support amounts to 37 percent of their yearly income.

³ Only 39% of those with orders on which payments were due receive the full amount owed them. The other 61% of those with orders on which payments were due received partial payments (30%) or no payments (31%). As a result, over \$10 billion in arrears accumulates each year.

⁴ 41% of families participating in the IVD program have incomes below the poverty line and fully two-thirds have incomes below 200 percent of poverty. CHARACTERISTICS OF FAMILIES USING TITLE IVD SERVICES IN 1995 (MAY 1999).

⁵ Some states do considerably better than this, however. Washington State, for example, collects in 38% of its cases, Minnesota achieves a 43% collection rate and Vermont has a 44% collection rate. TWENTY-SECOND ANNUAL REPORT TO CONGRESS FROM THE FEDERAL OFFICE OF CHILD SUPPORT ENFORCEMENT (1999).

⁶ Paula Roberts et al., CHILDHOOD'S END, National Child Support Assurance Consortium (January 1993).

Since that time, changes in the welfare system have brought new urgency to the need for improved child support. AFDC has been replaced by Temporary Assistance to Needy Families (TANF). Cash assistance is now time limited for most families. State TANF programs now emphasize the need for parents to enter the paid labor force as quickly as possible. As a result, welfare rolls have plummeted. Unfortunately, many families have simply exchanged welfare poverty for wage poverty.⁷ There is growing concern about the plight of the children living in these families.

At the same time, there is also growing awareness that many of the fathers of children who receive (or until recently received) cash assistance are themselves quite poor. They are usually not connected to the formal child support system. Even if they were, they would not be able to contribute a substantial amount to their children.⁸ Some efforts are underway to provide employment and training services to this population.⁹ However, in the foreseeable future, the efforts of these fathers will have to be supplemented if their children are to move out of poverty.

BASIC OUTLINE OF A PROGRAM

The child support system can and should provide regular, reliable child support to children, freeing them from poverty and limiting their need for public assistance. It could do so if:

- ❖ paternity were established for all children at or around the time of their birth. For marital children this is done both by state law and through the birth records process. For non-marital children this can be done through the voluntary paternity acknowledgment program now available at all hospitals and birthing facilities as well as state birth records offices. We are moving in this direction with some states establishing paternity for over 80 percent of their newborns.
- ❖ support orders were obtained for all children whose parents are not living together. These orders should be set under the states' child support guidelines. States that have not already done so would benefit from implementing an administrative hearing officer system so that the process could be expedited. Children should not go without support while waiting for time on overcrowded court calendars.
- ❖ orders were periodically adjusted. All orders should be periodically reviewed. In the alternative, a cost-of-living (COLA) adjustment should be built into all support orders. New York is now implementing such a COLA process.

⁷ Marsha Regenstien, Jack Meyer and Jennifer Dickemper Hicks, "JOB PROSPECTS FOR WELFARE RECIPIENTS: EMPLOYERS SPEAK OUT, *New Federalism Issues and Options for States*, Series A, No. A-25, The Urban Institute (August 1998).

⁸ See Elaine Sorenson, "Welfare Reform and Low-Income Non-custodial Fathers", *Challenge* 41, no.4 (July/August 1998): 101-116.

⁹ For an excellent discussion of recent developments in this regard, see, Dana Reichert, BROKE BUT NOT DEADBEAT: RECONNECTING LOW-INCOME FATHERS AND CHILDREN, National Conference of State Legislatures (July 1999).

- ❖ aggressive enforcement was done so that once an order was established, it would likely be paid. Income withholding for all new orders has brought substantial improvement in collection from those who are employed. Tax refund intercepts have also been useful. More needs to be done with the self-employed and those who frequently move from job to job.
- ❖ children were guaranteed that a minimum amount of child support would be paid regularly and on time each month. In most cases, the support would come from the noncustodial parent. If that parent failed to pay, the government would prepay the guaranteed minimum amount to the children, and aggressively pursue the non-paying parent. If the noncustodial parent were too poor to pay the minimum amount, the government would supplement his/her actual payment up to the guaranteed minimum amount.

The first four steps are necessary so that the maximum number of children will have the child support order that is a prerequisite to their participating in the CSA program.¹⁰ Knowing that a CSA payment will be made once an order is obtained should encourage active involvement by custodial parents in the process. At the same time, lower income noncustodial parents may become more interested in participating in the formal child support system, as their contribution to child support will leverage a larger guaranteed payment.

Once these steps are taken, the state is ready to address the specific CSA design issues. These include the size of the CSA payment, relationship of CSA to public assistance and administration of the program. In this regard:

- ❖ *The amount of the guaranteed child support payment should vary incrementally with the number of children in the family just as child support guidelines vary for family size.* For example, a CSA program could provide \$250 per month for the first child, \$125 for the second and \$65 for each subsequent child.¹¹ These numbers are consistent with typical monthly child support awards so they reflect amounts a state might anticipate collecting from the noncustodial parent. This will help program costs within reasonable bounds.
- ❖ *CSA should be an alternative to cash assistance for working parents.* Participation in a CSA program should be voluntary. However, those who choose to participate in CSA should be ineligible for TANF cash grants or other state –funded cash assistance programs.¹² A work requirement might be built in to the program, although this is probably not necessary. (Since CSA payments are lower than those generally available through state cash assistance programs, only working custodial parents are likely to opt into the CSA program.)

¹⁰ While having a child support order is the usual prerequisite to participating in a CSA program, exceptions can be made for cases in which domestic violence issues make establishment/enforcement of an order inadvisable. For example, New York does not require domestic violence victims to obtain a support order to participate in its CAP program (described below).

¹¹ This is the benefit structure contemplated in the original version of legislation that passed the Montana House of Representatives this year. HB 313 was introduced by Rep Bob Raney on January 18, 1999 and was passed by the House on March 25, 1999. As passed, the bill called for \$200 for the first child, \$100 for the second and \$65 for each subsequent child.

¹² CSA families can and should be eligible for Food Stamps, Medicaid/CHIP and subsidized child care so long as they met the eligibility requirements for those programs.

- ❖ Since most of the funding for the CSA payment will come from the non-custodial parent's child support payment, *the existing state IVD program should administer the program*. The IVD program's State Disbursement Unit (SDU) would collect support owed to participating families. The SDU would log in child support payments, make sure they were credited to the proper account, and then disburse either support collected or the guaranteed payment.

FUNDING A CSA PROGRAM

Some—but not all—of the funding for a CSA program comes from noncustodial parents. The rest comes from public funds. An appropriation from the state treasury would be the simplest way to fund the program and would give the state the most flexibility in program design. However, most states are not in a position to fund CSA through direct appropriation. In the alternative, one possible source of funds is the state's TANF block grant. Many states have surplus TANF funds and are looking for positive ways to spend them. Since CSA encourages work and rewards the efforts of both parents to support their children it is a logical candidate for TANF program funding.

However, there are some TANF rules that do not work well with the CSA concept. Of particular concern are time limits and the distribution of child support collected for families receiving TANF-funded cash assistance. Most families can only receive TANF-funded benefits for a maximum of five years: some states have set even shorter time limits. Such time limits are not consistent with the goal of a CSA program. They also complicate program administration.¹³ Just as critical, when child support is collected for a family receiving TANF-funded cash assistance, the child support must be split between the state and federal governments. As a result, the federal share of the obligated parent's child support will not be available to fund the child's CSA payment, making the program more costly to the state.

A funding source that provides more flexibility is the money each state must expend on what is called its TANF maintenance of effort (MOE) obligation. Essentially, in order to draw down its federal TANF money, a state must spend an amount of its own money equal to 80% what it historically spent on programs for needy families. This state money is called maintenance of effort (MOE) funds. A state can spend its MOE funds in the TANF program, or it can choose to use the funds to create one or more state programs wholly separate from TANF that serve needy families. If this money is kept in a separate program, the time limits and child support distribution rules applicable to TANF do not apply. A separate MOE-funded CSA program need not have time limits. Moreover, child support collected for families in the CSA program need not be split with the federal government. Thus, by structuring its CSA program as a separate state program funded by MOE dollars, the state can maximize the amount of the CSA payment that comes from the child support paid by noncustodial parents. This emphasizes the important contribution those parents are making to their children's well being.

¹³ For example, the state would have to track month-by-month whether the CSA payment came from child support collected from the noncustodial parent (in which case there would be no TANF-funded subsidy and thus the month would not count toward the family's time limit) or whether the payment was subsidized with TANF funds (in which case the month would count toward the time limit).

To use the MOE approach, however, the state will have to establish a means test for CSA participant families. This means test need not be the same as the means test for participation in a TANF-funded program; the state can choose any reasonable standard. One way to think about this issue is to look at means tests for other programs. The new Children's Health Insurance program (CHIP) allows families that have incomes up to 200 percent of poverty to participate in the program. Families with incomes up to 185 percent of poverty receive subsidies from the School Lunch Program. Section 8 housing subsidies are available to families whose income is below 80 percent of the state median income. Any of these would be acceptable means tests for CSA participant families.

STATE CHOICES: SOME EXISTING MODELS

New York has run a CSA-like program for more than a decade. The New York Child Assistance Program (CAP) began as a demonstration project to test CSA as an alternative to welfare. The demonstration phase was rigorously evaluated and was found to be one of the most successful anti-poverty programs ever offered.¹⁴ Now, any county that wishes to do so can offer CAP as an alternative to TANF.

The success of CAP persuaded the California legislature to authorize a similar demonstration project. Sites were selected in June 1999 and programs should begin operation in 2000.

Other states with a history of CSA involvement include:

- ❖ *Wisconsin and Iowa* both of which developed state CSA plans. However, to date, neither has implemented these plans.
- ❖ *Virginia* which conducted a successful pilot Child Support Insurance program in the City of Richmond in the mid-1990's. In this program, long-term welfare recipient families which had a child support order were eligible to receive assured child support when they left AFDC for work.
- ❖ *Minnesota* whose legislature, has had a long-standing interest in the CSA concept. In 1994, the legislature required the Commissioner of Human Services to report on possible parameters for a Minnesota child support assurance program. In 1998, the state also sought and obtained federal demonstration project funds to continue work in this area. The 1999 legislature authorized use of these funds to continue planning a demonstration project planning grant to design a program for implementation in.
- ❖ *Colorado* that recently sought and obtained a federal demonstration project planing grant to establish a CSA demonstration project in Larimer County.

¹⁴ William Hamilton, Nancy Burstein, August Baker, Allison Earle, Stephanie Gluckman, Laura Peck and Alan White, THE NEW YORK CHILD ASSISTANCE PROGRAM: FIVE YEAR IMPACTS, COSTS AND BENEFITS, Abt Associates, 1996.

For information on these and other CSA efforts advocates may want to consult the CSA section of the CLASP web site.

CONCLUSION

The initiation of an MOE funded child support assurance system offers states a significant opportunity to improve the well being of children being raised in single-parent families. It also strengthens the role of child support as an income source for such families and reduces the number of families likely to need TANF-funded cash assistance. Moreover, as compared to TANF-funded assistance, a CSA system is less costly to the state and more reassuring to the noncustodial parent (since his/her payments go to the family). CSA also emphasizes the principle that it is the parent's efforts—through wages and child support—that are the primary sources of support for children. Government's role is to assist parents to fulfill their obligations and to back up—not supplant-- those efforts.

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