

IVD Child Support Distribution Training

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Two Questions

Assignment and distribution rules answer two questions about cash support collected by the IVD program:

1. Who has a claim to the support?
2. Who is first in line to be paid?

Who Has a Claim?

The general rules in effect on Oct. 1, 2000 are that:

- Cash support owed during the time a family receives assistance belongs to the state.
- Cash support owed while a family is not receiving assistance belongs to the family.
- Cash support owed to a family that never received assistance belongs to the family.

42 USC Section 657(a) (1)- (3).

Who is First in Line?

The general rules in effect on Oct. 1, 2000 are that:

- When the family is receiving assistance, the state's claim is paid first.
- When the family is not receiving assistance, the family's claim is paid first.

42 USC Section 657(a)(1)-(2).

Exceptions to the Rules

1. Support assigned to the state before Oct. 1, 1997 belongs to the state (not the family) under old AFDC distribution rules. 42 USC Section 657(b)
2. Pre-assistance arrears collected through a federal income tax intercept can be claimed by the state and are paid to the state first. 42 USC Section 657(a)(iv)
3. The state may not keep more support collected through the IV-D program than the amount of unreimbursed assistance. 42 USC Sections 657(a)(1) and 608(a)(3)(A).

See, also OCSE-AT-97-17 and OCSE-AT-98-24.

Overview of Federal Child Support Assignment and Distribution Requirements

- As a condition of eligibility for TANF assistance, a family must assign to the state any support rights it has. This includes pre-assistance arrears and current support owed during the time the family receives assistance. 42 USC Section 608(a)(3)(A).
- If support is collected while the family receives assistance, the money is split between the state and the federal governments to reimburse the cost of that assistance. 42 USC Section 657(a)(1).
- The state may keep its share or give some or all of it to the family. If it gives some to the family, that may or may not count as income for TANF purposes. 42 USC Section 657(a)(1).

When Does/Doesn't Assignment Apply?

Assignment applies:

- to families receiving TANF “assistance.”
- when assistance is “paid to the family.”

Assignment does not apply if:

- a family is not receiving “assistance.”
- assistance is not “paid to the family.”
- assistance is not TANF assistance.

42 USC Sections 608(a)(3)(A) and 657(a)(1). See, also OCSE-AT-98-14.

What is TANF “Assistance?”

- “Cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses)” under the TANF program.
- Supportive services such as transportation and child care provided to families who are **not** employed.

45 C.F.R. §260.31.

What is Not “Assistance”?

- Non-recurrent, short-term benefits designed to deal with a crisis that are not intended to meet ongoing needs and will not extend beyond four months.
- Work subsidies (payments to employers or third parties).
- Supportive services such as child care and transportation provided to employed families.
- Services and benefits outside the TANF program.

45 C.F.R. §260.31.

When is Assistance “Paid to the Family?”

- Assistance is “paid to the family” if provided to the family in a form of a money payment in cash or checks (e.g., **not** vouchers or third-party payments).

OCSE-AT-99-10

Is An Assigned Required?

Example 1. Ms. McCoy, who is employed, receives a child care subsidy paid directly to her and transportation vouchers from the TANF agency. *She is not required to assign her support rights to the state because she is not receiving TANF “assistance”.*

Example 2. Mrs. Vong, who is not employed, receives a child care cash subsidy and transportation vouchers from the TANF agency. *She is required to assign her support rights to the state because she is receiving TANF “assistance”.*

During Assistance Arrears

- Support that is owed but not paid during the period the family receives assistance is “during-assistance arrears.” If this amount is less than the unreimbursed assistance paid to the family, it belongs to the state. Any amount in excess of unreimbursed assistance belongs to the family.

Example 1: Ms. Alpha received TANF-funded cash assistance in the amount of \$450 per month from January 1 to June 30, 2000). As of January 1, there were no child support arrears. However, during the time she received assistance, her son’s father owed but did not pay, \$300 per month in child support. On June 30, he paid the entire amount he owed. “During assistance arrears” equal \$1800 (6 x \$300). Unreimbursed

assistance equals \$2700 (6 x \$450). The state keeps the full \$1800 to reimburse itself for “during assistance arrears.” Mr. A has now paid off the child support assigned to the state.

Example 2: Mrs. Beta received TANF cash assistance in the amount of \$350 per month from January 1 to June 30, 2001. There were no arrears prior to her receipt of assistance. However, during the time she received assistance, her ex-husband owed but did not pay \$400 per month in child support. On June 30th, he paid the entire amount. The “during assistance arrears” are \$2400 (6 x \$400). The unreimbursed assistance is \$2100 (6 x \$350). The state is entitled to \$2100 of the payment and will then be fully paid off. Mrs. Beta should receive the additional \$300.

42 USC Section 657(a)(1) and OCSE-AT-97-17.

Pre-Assistance Arrears

- Support owed prior to the time the family began receiving assistance is “pre-assistance arrears.”
- This amount is “temporarily assigned” to the state while the family receives assistance. If the state collects the money while the family is receiving assistance, it may retain it up to the amount of unreimbursed assistance provided to the family.

Example: On September 30, 2000, Ms. Cato was owed \$3000 in child support arrears. On October 1, 2000, she began receiving \$600 a month in TANF-funded cash assistance. From October to December, her ex-partner accumulated another \$600 in arrears. In late December, his bank account was attached and \$2000

was seized. Of this, the state can keep \$600 for “during assistance arrears”. It can also keep \$1200 in pre-assistance arrears. At this point, all the unreimbursed assistance of \$1800 (3 x \$600) is paid off . The remainder (\$200) should go to Mrs. Cato.

- When a family leaves assistance, the “temporarily assigned arrears“ become “conditionally assigned arrears.” If these arrears are collected through a federal tax intercept, the state can keep the collection to pay off the conditionally assigned arrears.
- If “conditionally assigned arrears” are collected through **any other mechanism**, they belong to the family until all arrears owed to the family are paid off.

42 U.S.C. Sections 608(a)(3) and 657; OCSE-AT-97-17; OCSE 98-24; OCSE-AT-99-10.

Unreimbursed Assistance (URA or TANF Debt)

- “Unreimbursed assistance” means “the cumulative amount of assistance paid to a family which has not been repaid by assigned support collections.”
- The total amount of unreimbursed assistance a state may recover *through the IV-D program* is limited by the total amount of the assigned support obligation.
- In some states, the URA is called the “welfare debt.”

[OCSE-AT-97-17]

Understanding URA

- **“cumulative amount of assistance”**: the amount of assistance received by the family. It is a cumulative balance: there is no month-by-month reconciliation.
- **“paid to the family”**: Only TANF-funded assistance in the form of cash or a cash-like payment is included in the balance.
- **“which has not been repaid”**: Recovered support under all assignments reduces the balance, even if passed through to the family.
- **“limited by the total amount of the assigned obligation”**: If the assigned support obligation is less than the cumulative amount of unreimbursed assistance, the state is limited to recovery of the assigned support obligation (including assigned pre-assistance and during-assistance arrears).

OCSE-AT- 97-17, OCSE-AT- 98-24

URA Examples

Example 1: Ms. Perez has a monthly support order of \$400. Nothing is paid. Her monthly TANF cash grant is \$340. She receives assistance for 12 months, then leaves. The URA is \$4,080 (12 x \$340).

Example 2: Ms. Lee has a monthly support order of \$200. When she began receiving assistance, she was owed \$800 in arrears. Nothing has been paid. Her TANF cash grant is \$640. She receives assistance for 3 months. At that point, the URA is \$1920 (3 x \$640). The assigned support obligation is \$1400 (\$600 in assigned “during assistance arrears” and \$800 in “temporarily assigned” pre-assistance arrears). If it

makes a collection at this point, the state may not keep more than \$1400.

Example 3: Ms. Johnson, who is not employed, has two monthly support orders. One is \$200 per month. The other is \$300 per month. On June 1, 2001, \$600 in arrears is owed on the first order and \$900 on second order. On that day, Ms. Johnson began receiving \$300 per month in child care cash payments and \$30 per month in transportation vouchers from the TANF agency. She receives such benefits for 6 months. During this time, no child support is paid. The URA is \$1800 (6 x \$300). The assigned support obligation is \$4500 (\$1500 in “temporarily assigned” pre-assistance arrears and \$3000 in “during assistance arrears”). The state may not keep more than \$1800.

Example 4: Same as (3), except that the father of one of the Ms. Johnson's children now makes a \$200 payment and the father of the other child pays \$1000. The URA is now \$600.

Seven Distribution Buckets

Bucket #1: Monthly support

Bucket #2: Never-assigned arrears

Bucket #3: Permanently-assigned arrears

Bucket #4: Temporarily-assigned arrears

Bucket #5: Conditionally-assigned arrears

Bucket #6: Unassigned pre-assistance
arrears

Bucket # 7: Unassigned during-assistance
arrears

Monthly Support

Bucket #1: Monthly support

- Monthly support is allocated first (except if support is collected through a federal tax offset).
- If the family currently receives assistance, a federal share is deducted from the payment. The remainder may be retained by the state, given to the family, or shared by the state and the family.
- Former TANF families get all monthly support.
- Families who never received assistance get all monthly support.

Arrears

Bucket #2: Never-assigned arrears (Go to family)

- all arrears owed to families that have never received assistance.
- all post-assistance arrears for families that once received assistance but no longer do so.

Bucket #3: Permanently-assigned arrears (Go to the state)

- Support owed for the period during which the family receives assistance. These are also known as “during assistance arrears”.

- support assigned before Oct. 1, 1997 up to the amount of assistance provided to the family.

Bucket #4: Temporarily-assigned arrears (Go to the state)

- pre-assistance arrears assigned to the state after Oct. 1, 1997 which are collected while the family is receiving assistance.
- However, note that once URA is paid off, this money goes to the family.

Bucket #5: Conditionally-assigned arrears (It depends)

These are pre-assistance arrears, which were temporarily assigned to the state while the family received assistance. When the family leaves assistance, who gets this money depends on how it is collected.

- if collected through a federal tax offset, the money goes to the state.

- if collected by **any** other means, the money goes to the family.

Bucket # 6: Unassigned pre-assistance arrears (Go to the family)

- the amount of pre-assistance arrears that exceeds the URA at the time the family left assistance.

Bucket #7: Unassigned during-assistance arrears (Go to the family)

- the amount of during assistance arrears that exceeds the URA.

Which Bucket Should be Used

When arrears accrue:	They are applied to one of these distribution “buckets”:
Before the assistance period	<ul style="list-style-type: none"> →Temporarily-assigned arrears →Conditionally-assigned arrears →Unassigned pre-assistance arrears
During the assistance period	<ul style="list-style-type: none"> →Permanently-assigned arrears →Unassigned during-assistance arrears
After the assistance period (or family never received assistance)	<ul style="list-style-type: none"> →Never-assigned arrears

Order of Distribution: Current TANF Families

What is the order of distribution?

1. The state must apply collections first to monthly support [Bucket #1].
2. The remainder is applied to permanently-assigned arrears and temporarily-assigned arrears in the order prescribed by state rules [Buckets #3 and #4].
3. The URA is reduced by the amount collected. When the URA hits “0”, any remaining during-assistance and pre-assistance arrears are distributed to the family [Buckets #6 and #7].

Who gets the money?

1. The federal government is paid the federal share “off the top”.
2. Under federal law, the state may keep or pass through to the family some or all of the state share of the collected support.
3. Support collected in excess of the URA goes to the family, and may count as income in the TANF program.

Order of Distribution: Former TANF Families

What is the order of distribution (except tax offset collections)?

1. The state must apply collections first to monthly support [Bucket #1].
2. If there is a remainder, it is applied to never-assigned arrears. These are arrears accruing after the family left assistance. [Bucket #2].
3. If there is still a remainder, it is applied to conditionally assigned arrears and unassigned pre-assistance arrears in the order prescribed by state rules, and paid to the family. These are arrears accruing before the family began receiving assistance. [Buckets #5 and #6].

4. If there is still a remainder, it is applied to permanently-assigned arrears (arrears accruing during the assistance period). These are retained by the state and shared with the federal government. [Bucket #3].

5. In addition, the URA is reduced by the amount collected. Any during-assistance arrears that exceed the URA are paid to the family [Bucket #7].

Who gets the money?

1. The family's current support is paid first.
2. The family's post-assistance arrears are paid next.
3. The family's pre-assistance arrears are paid third.
4. The state and federal claims are paid next.
5. Anything remaining belongs to the family.

42 USC Section 657(a)(2) and OCSE-AT-97-17, OCSE-AT-98-24 and 45 CFR Section 302.51

Order of Distribution: Former TANF Families

What is the order of distribution if the collection comes from a tax offset?

1. The collection is first applied to permanently-assigned arrears and conditionally-assigned arrears in an order prescribed by state policy. These are arrears accruing during and before the assistance period. [Buckets #4 and #5].

2. The URA is reduced, and any excess collections are paid to the family in the order prescribed by state policy. [Buckets #2, #6 and #7]

Who gets the money?

1. The state's claims to permanently-assigned arrears and conditionally-assigned arrears are paid first in the order prescribed by state policy.

2. The family's claims to post-assistance arrears and pre-assistance arrears are paid last.

42 USC Section 657(a)(2)(B)(iv) and 45 CFR Section 302.51(a)(3).

Case Study #1

Ms. Adams has never received AFDC or TANF cash assistance. Her support order is \$300 per month. On April 30, 2001, the non-custodial parent is \$2000 in arrears. On May 1, the child support program collects \$500.

1. What buckets does the money go into?
2. Who gets the money?

Case Study #2

On November 1, 2000, Mrs. Brown began receiving \$500 a month in TANF cash assistance. The child support office obtained a \$200 support order for her child on February 1, 2001 (3 months later) and instituted withholding for current support on May 1, 2001 (3 months later).

1. What buckets does the money go into?
2. Who gets the money?
3. What is the URA as of April 30?

Case Study #3

Ms. Cleveland has a monthly support order of \$200. The non-custodial parent had not paid for 3 months when Ms. Cleveland began receiving TANF cash assistance on March 1, 2001. Her grant is \$400 per month which she receives for 3 months. She leaves TANF on May 31, 2001. On May 30, the state collects \$1000.

1. What buckets does the money go into?
2. Who gets the money?
3. What is the URA as of May 31?
4. What is the maximum amount the state can keep?
5. Would your answers be different if the money had been collected on June 2?

Case Study #4

Same facts as above except that the collection takes place on November 1, 2001 rather than May 31. The collection is made by placing a lien on the obligors bank account.

1. What buckets does the money go into?
2. Who gets the money?
3. What is the URA after the collection?
4. Would your answers be different if the collection was made through a state income tax offset? A federal income tax offset?

Case Study #5

Ms. Davis has a support order of \$200 per month. Her ex-partner is 5 months in arrears on payment. On December 1, 2000 she begins receiving a TANF cash assistance grant of \$400 per month. On March 31, 2001 she leaves TANF having received benefits for 4 months. On December 1, 2001 (8 months after she has left assistance), the child support office collects \$3000 through a federal tax offset.

1. What is the URA before the collection?
2. What buckets will the money go into?
3. Who will get the money and how much will they get?
4. What is the URA after the collection?