

21st Annual AB 1058 Child Support Commissioner and Family Law Facilitator Training Conference

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AB 1058 Program Updates

- The Final Rule
- The Statewide Uniform Child Support Guideline Study
- The AB 1058 Funding Allocation Joint Subcommittee

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule

- First comprehensive revision of the child support regulation since welfare reform.
- The proposed rule was originally published in November 2014.
- Final rule issued on December 20, 2016.
- Amends existing regulations to:
 - Strengthen procedural fairness
 - Streamline program operations, and
 - Update technology requirements.

Child Support Rulemaking Authority

- Section 452(a)(1) of the Social Security Act
"Establish such standards for State programs for locating noncustodial parents, establishing paternity and obtaining child support...as he determines to be necessary to assure that such programs will be effective."
- Section 454(13) of the Social Security Act
"The State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan."

Effective Date of the Final Rule

- The Final Rule is effective as of January 19, 2017.
- The compliance date when states much comply with the final rule vary depending on the regulation.
- In general, the compliance date was 60 days after the final rule was published, or February 21, 2017, except:
 - Guidelines for setting child support orders,
 - Establishment of Support Obligations, and
 - Review and Adjustment.

New Quadrennial Guideline Review Requirements

- The guidelines must be reviewed at least at least once every 4 years. The study must be published on the internet and make accessible to the public the effective date of the guidelines and the date of the next quadrennial review.
- The review must provide meaningful opportunity for public input, including low-income parents and the views and advice of state child support agencies.
- Review of the guidelines must consider economic data of raising children, labor market data by occupation and skill level for state and local job markets, impact of guideline policy on families who have income below 200% of Federal poverty level, and factors influencing employment rates and compliance with current orders.
- Guideline review must also analyze case data including rates of default and imputed orders and orders using low-income adjustments.

Child Support Order Setting

- The final rule provides that the child support order must be based on the noncustodial parent's earnings, income, and other evidence of ability to pay that:
 - Takes into consideration all earnings and income of the noncustodial parent;
 - Takes into consideration basic subsistence needs of the noncustodial parent;
 - If imputation of income is authorized by state law, the specific circumstances of the noncustodial parent must be considered.

What Specific Circumstances?

- Specific circumstances include such factors as noncustodial parent's:
 - Assets, residence, employment and earnings history, job skills, educational achievement, literacy, age, health, criminal record, and other barriers.
 - Record of seeking work,
 - Local job market, including employers willing to hire,
 - Prevailing earnings level in the local community.

Evidence Based Child Support Orders

- States must:
 - Take reasonable steps to develop a sufficient factual basis for the support obligation;
 - Gather information regarding the earnings and income of the noncustodial parent;
 - Base the recommended support obligation amount on the earnings and income of the noncustodial parent whenever available and document the basis in the record.
 - If the information is not available, then the request should be based on specific circumstances of NCP.

Review and Adjustment

- Requires both parents be notified of the right to request a review and adjustment within 15 business days of learning that the NCP will be incarcerated more than 180 days.
- Allows the state to review and adjust child support:
 - After being notified that a noncustodial parent will be incarcerated for more than 180 days;
 - Without waiting for a specific request to review;
 - After providing notice to both parents.

Medical Support

- The final rule:
 - Clarifies that health care coverage includes both public health care coverage and private insurance;
 - Removes the requirement that health insurance costs be measured based on the marginal cost of adding the child to the policy; and
 - Deletes language from the current federal regulation that prohibits Medicaid from being considered medical support.

Civil Contempt

- The state must establish guidelines for the use of civil contempt citations in title IV-D cases. Guidelines must include requirements that the title IV-D agency:
 - Screen the case for information regarding the NCP's ability to pay or otherwise comply with the order;
 - Provide the court information of NCP's ability to pay or comply with the order, to allow the court to make a factual determination re: ability to purge; and
 - Provide clear notice to the NCP that his or her ability to pay constitutes the critical question in the contempt action.

Limited Services

- Where services are being provided to non-welfare parents:
 - The state has the option of providing limited services for paternity only.
 - The state must define how this process will be implemented and establish procedures when these services are available.
 - The case will be closed when the limited service is completed.

Statewide Uniform Child Support Guideline Study

- Family Code §4054 requires that the Judicial Council review the Uniform Child Support Guidelines every four years and make recommendations about appropriate revisions to the Legislature.
- 45 CFR §302.56 also requires that each state review its guidelines at least every four years.

Statewide Uniform Child Support Guideline Study

- In January 2016, the Judicial Council contracted with the Center for the Support of Families to assist with the preparation of the guideline study.
- The review included the following activities:
 - Review of economic studies;
 - Literature review of child-rearing expenditures;
 - Measuring how frequently the guideline was applied or deviated from, as well as the reason;
 - Seeking input from Stakeholders;
 - Collecting and analyzing court case file data from recently established and modified child support orders.

Case File Review

- As part of the Guideline Study, a case file review of title IV-D and family law cases with child support orders established or modified in 2016 was conducted.
- The same 11 courts participated in the case file review that have previously participated.
- Unexpected challenges arose during the case file review:
 - 11 courts are no longer representative of the state.
 - Difficulty in identifying qualifying child support orders in Family Law cases.

Options for Consideration for the Legislature

- The K Factor – Consider an adjustment of the K factor and change the anchor from 0.25 to 0.21 and consider adjusting the income intervals to reflect inflation.
- Analyze payments on orders based on its individual characteristics.
- Increase training to courts and stakeholders on:
 - Use and application of low-income adjustment;
 - Deviating from the guideline formula amount; and
 - Inclusion of child support attachment forms.

Comment Period

- The Family and Juvenile Law Advisory Committee invites public comment until September 22, 2017 at 5:00 p.m.
- Public comments become part of the public record and submitted to the Legislature for consideration.
- Comments can be submitted by e-mail to ab1058@jud.ca.gov or by regular mail to Anna L. Maves, Judicial Council of California, 2860 Gateway Oaks Drive, Suite 400, Sacramento, CA 95833

AB 1058 Funding Allocation Joint Subcommittee

- At its February 26, 2016 meeting, the Judicial Council reappoint the AB 1058 Funding Allocation Joint Subcommittee and instructed the joint subcommittee to:
 - Develop a workload-based funding methodology to begin implementation in FY 2018-2019.
 - Coordinate with DCSS on their review of funding allocations for LCSAs.
 - Establish CSC and FLF subject matter expert groups to provide input and expertise, as part of the joint subcommittee's funding methodology determination, and
 - Determine whether different workload measures could be obtained for FLF funding.

Joint Subcommittee Conference Calls

- Since its reappointment, the Joint Subcommittee held multiple conference calls to discuss:
 - WAFM and RAS and their implications for the AB 1058 funding models
 - Status of DCSS funding methodology review
 - Update from the work of the SME groups
 - Update on the work of the MAXIMUS consultant hired by DCSS to provide information to the Joint Subcommittee about the available data to measure workload and develop 3-5 possible funding models for consideration.

Work of Subject Matter Expert Groups

- A CSC SME group and a FLF SME group was formed. Each group was comprised of representatives from courts of varying sizes and locations.
- The SME groups conducted several activities, including the following:
 - 1-2 conference calls per month to discuss factors which may impact workload
 - Surveyed CSCs and FLFs to assess possible trends in AB 1058 courts
 - Received input from roundtable sessions at the 2016 AB 1058 conference
 - Worked with Maximus consultant to provide valuable information in his development of potential funding models
 - Prepared a final report with recommendations to the Joint Subcommittee re: possible factors for consideration in a workload based funding model.

Involvement of MAXIMUS Consultant

- MAXIMUS analyzed data sets, including, but not limited to, data from the Census, JBSIS, the FLF Electronic Database, DCSS.
- MAXIMUS met with the SME groups and other stakeholders to gather input and also conducted the following activities:
 - Delphi sessions: Meetings with a group of CSCs and a group of FLFs to get time estimates on various AB 1058 tasks.
 - Stopwatch time study: 4 courts (LA, Sacramento, Ventura, and Yolo) tracked time in both the CSC and FLF programs to estimate times to conduct various AB 1058 tasks.
 - Observational time study: MAXIMUS independently tracked time in 4 courts (Fresno, Alameda, San Bernardino and Monterey/San Benito) in both the CSC and FLF programs to estimate times to conduct various AB 1058 tasks.
- 4 conceptual models (without actual numbers) were presented to the SME groups for their consideration

Joint Subcommittee In-Person Meeting

- On May 11, 2017, an in-person meeting was held by the Joint Subcommittee. The meeting included:
 - Presentation and discussion of the CSC SME groups' final reports
 - Presentation and discussion of the FLF SME groups' final report
 - Update on the status of the Resource Assessment Study and DCSS funding review
 - Presentation by MAXIMUS consultant regarding:
 - Work with the SME groups and the courts to gather data and time estimates and
 - 4 potential funding models for consideration.

Next Steps of AB 1058 Joint Subcommittee

- The Executive and Planning Committee of the Judicial Council has directed the subcommittee to defer its work for at least one additional fiscal year.
- Trial Court Budget Advisory Committee's Funding Methodology Subcommittee is currently evaluating and considers revisions to the Workload-based Funding and Allocation Methodology (WAFM) model.
- The Joint Subcommittee meeting originally scheduled October 3rd has been cancelled. It is anticipated that the next meeting will take place in mid-November or early December.
- That meeting will focus on identifying clear high level objectives for a funding methodology that can then drive decisions in building equitable and effective models.
