

STATE OF WEST VIRGINIA

**Update of the
PRELIMINARY PERFORMANCE REVIEW OF THE
BUREAU FOR CHILD SUPPORT ENFORCEMENT OF THE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

Annual Adjustment Rate Has Decreased
from 31% to 25%

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
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December 1999

PE 99-25-151

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December 1999

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Antonio E. Jones, Ph.D.
Director

December 12, 1999

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable Vicki Douglas
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting an Update of the Preliminary Performance Review of the *Bureau for Child Support Enforcement* of the Department of Health and Human Resources, which will be reported to the Joint Committee on Government Operations on Sunday, December 12, 1999. The issue covered herein is "*Annual Adjustment Rate Has Decreased from 31% to 25%.*"

We conducted an exit conference with DHHR on November 3, 1999 and received an agency response on November 10, 1999.

Should you have any questions, let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Antonio E. Jones".

Antonio E. Jones

AEJ/wsc

Joint Committee on Government and Finance

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Executive Summary

The Bureau for Child Support Enforcement (BCSE) is the state agency designated by the state of West Virginia to provide services federally mandated in Title IV-D of the Social Security Act. The Bureau reports directly to the Secretary of the Department of Health and Human Resources. The Bureau has four primary functions: 1) establish paternity; 2) locate absent parents; 3) establish child support orders; and 4) enforce support orders through collecting and distributing child support obligations.

The Legislative Auditor's Office conducted a preliminary performance review of the BCSE in 1997. The original audit examined only the function of enforcing child support obligations. The primary finding was that inaccurate financial data were present in nearly one-third of the agency's cases with court orders to enforce. These errors led to incorrect enforcement actions such as collecting the wrong amount from non-custodial parents, and distributing the wrong amount to custodial parents. In these cases, the agency must make adjustments to the financial information. Although the agency has reported significant improvement in the adjustment rate, the way in which it has been reported is misleading. **This update of the agency's progress indicates that there has been only marginal improvement in reducing the adjustment rate.**

In this update, the following categories are used to describe the degree of compliance of the Bureau with the 1997 recommendations.

Levels of Compliance
<u>In Compliance</u> - The Bureau has corrected the problems identified in the performance evaluation.
<u>Partial Compliance</u> - The Bureau has partially corrected the problems identified in the performance evaluation.
<u>Planned Compliance</u> - The Bureau has not corrected the problems but has provided sufficient documentary evidence to find what they will do in the future.
<u>In Dispute</u> - The Bureau does not agree with either the problem identified or the proposed solution.
<u>Non-Compliance</u> - The Bureau has not corrected the problem identified in the performance evaluation.
<u>Requires Legislation</u> - Cannot be addressed by the Bureau because statutory change is necessary.

There were 12 recommendations made in the original report. The BCSE is *In Compliance* with 4 recommendations, and in *Partial or Planned Compliance* with 7 recommendations. Recommendation 9 requires Legislation.

Issue Area 1: In 1996, almost one-third of cases in the agency's database required adjustments to case information, since then the adjustment rate has decreased to 25%.

This update indicates that since 1996, the adjustment rate shows marginal improvement. The BCSE, as well as the Cabinet Secretary for the Department of Health and Human Resources, have reported to the Legislature and to the public that internal assessments for calendar year 1998 show an adjustment rate of less than 10%. However, the way in which the agencies have reported the adjustment rate is misleading. The Bureau is calculating adjustment rates only on a quarterly basis. The way the agency calculated the quarterly adjustment rates is similar to the way the Legislative Auditor's Office calculated it on an annual basis. There is nothing wrong with calculating the adjustment rate on a quarterly basis, however, it should be noted that calculating the growth rate of anything for a shorter time period will result in a smaller growth rate. It may be appropriate to measure on a quarterly basis, provided that the statistic is *annualized*. Table 1 illustrates the Bureau's internal assessment reports provided to the Legislative Auditor's Office.

Table 1
1998 Quarterly Adjustment Rates

Quarter	Adjustment Rate
January to March	7.73%
April to June	5.79%
July to September	5.84%
October to December	5.81%
Annual Adjustment Rate	25.1%
<i>Source: 1998 OSCAR Case Processing Gauge Reports, Bureau for Child Support Enforcement</i>	

It is true that for a particular quarter of 1998 the adjustment rate is less than 10%. However, to represent a quarterly number as the adjustment rate without annualizing it can be easily misunderstood to mean that less than 10% of the agency's cases are impacted by adjustments in a year's time, which would not be true. **When the adjustment rate is calculated to represent the entire year, it is 25.1%.** The longer time period provides a more appropriate reflection of the number of people that are affected by incorrect data than a three month period. Annualizing a monthly or quarterly statistic is similar to the way the federal government reports the growth rate of the economy, or the way banks report interest earnings. Statistics covering a short time period will be smaller than for longer time periods, and the longer time period is more meaningful and representative in most cases. (The Bureau's monthly adjustment statistics are available in Appendix A.) Calculations for calendar years 1996, 1997 and 1998 based on the agency's quarterly internal reports are available in Table 2.

Table 2
Full Calendar Year Adjustment Rates

YEAR	ADJUSTMENT RATE
1996	36%
1997	40%
1998	25%
Source: Annualized calculations based on the agency's quarterly OSCAR Case Processing Gauge Report.	

Half of the Adjustments Result from External Sources

A random sample of 162 out of 17,796 adjustments from calendar year 1998 was taken to highlight the causes and effects of adjustments. Table 3 indicates the effects on parents and children of incorrect information.

Table 3
Impact on Clients

Check owed to Non-Custodial/or Custodial Parent	50 cases	30.8%
Custodial Parent Overpaid and Required to Repay	25 cases	15.4%
Source: 1999 Sample of Child Support Adjustments taken by the Legislative Auditor's Office.		

Table 4 shows a list of the types of corrections that are made to case information.¹ Some of these corrections are clearly the result of **agency errors**, such as *Conversion Incorrect, Case Set Up Incorrectly, Court Order Entered Incorrectly, and Previous Adjustment Incorrect*. There are other adjustments that resulted from **OSCAR programming deficiencies**, such as *Judgement Only, Judgement with Support, Out of State Order and Hierarchy Error*. These types of corrections are needed because OSCAR cannot adequately handle events that are outside of the standard case types. **External sources** also cause errors in case information. The largest external source of adjustments are in *Affidavit, Modification*, which are to a large extent the result of the state's court system. Other external sources are *Bank Errors, Employer's Error, IV-A Interface Problem, Arrears Updated from OOSA, Moving CP/Child, and NCP paid CP Directly*. (See Appendix B for full definitions of

¹Of the 162 adjustments that were sampled, only 140 had a reason code indicating why there was a need for the adjustment. The remaining 22 adjustments could not be used for Table 4.

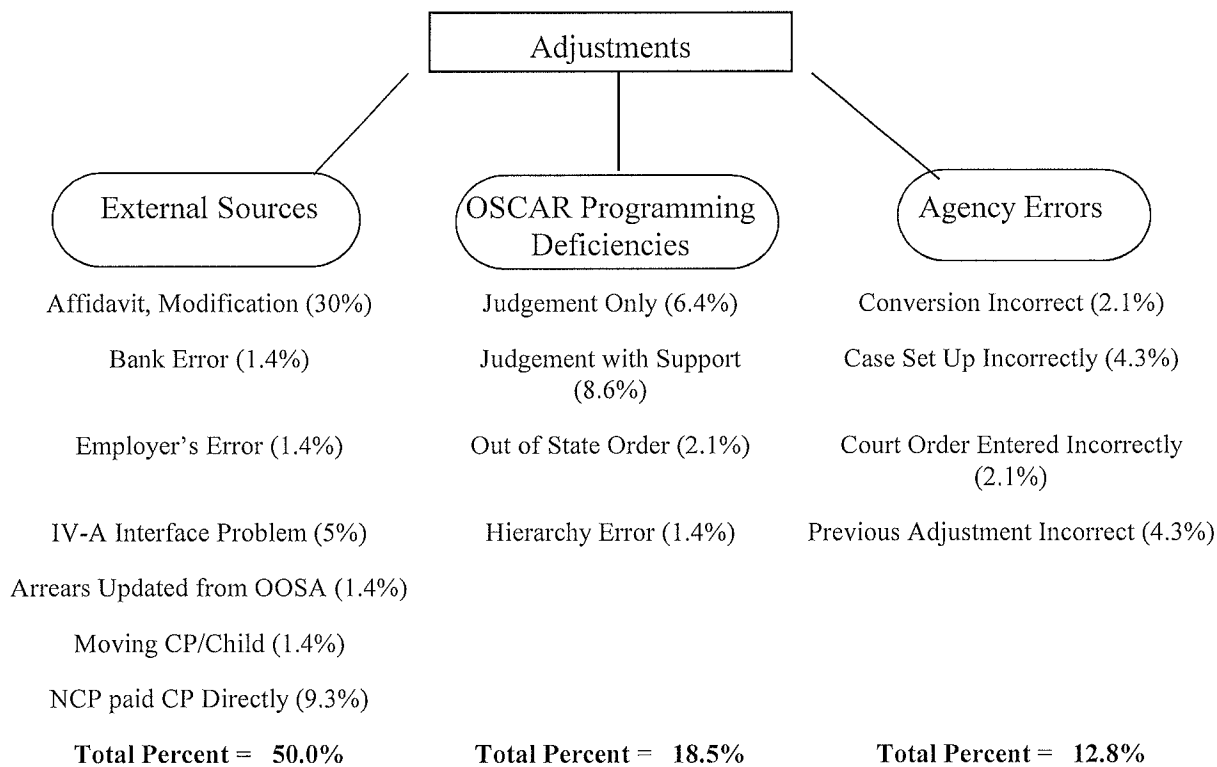
adjustment codes.)

TABLE 4
Reasons for Adjustments
1998

Conversion Incorrect	3 cases	2.1%
Affidavit, Modification	42 cases	30.0%
Judgement Only	9 cases	6.4%
Judgement with Support	12 cases	8.6%
Case Set Up Incorrectly	6 cases	4.3%
Court Order Entered Incorrectly	3 cases	2.1%
Previous Adjustment Incorrect	6 cases	4.3%
Bank Error	2 cases	1.4%
Employer's Error	2 cases	1.4%
IV-A Interface Problem	7 cases	5.0%
Out of State Order	3 cases	2.1%
Arrears Update from OOSA	2 cases	1.4%
Hierarchy Error	2 cases	1.4%
Moving CP/Child	2 cases	1.4%
NCP paid CP Directly	13 cases	9.3%
Arrears Paid in Full	18 cases	12.9%
Other	8 cases	5.7%
Source: From 1999 Sample of Child Support Adjustments		

The following flow chart illustrates how these adjustments are categorized between **External Sources**, **OSCAR Programming Deficiencies**, and **Agency Errors**. Of the sample of 140 adjustments with known reason codes, 70 (or 50%) of the adjustments resulted from external sources. The large majority of these come from delays in receiving modifications to existing court orders. For the most part, the agency is not at fault in these cases, except in cases in which it contributed to the delay in preparing the new order (see recommendation 1). The delay in receiving

the modification causes the agency to continue enforcing the existing order (as it is required to by law). However, once the new order is received, the financial balances will be incorrect for the previous months the new order was effective. In some of these cases the non-custodial parent will be due a refund or the custodial parent will be due a check for support not received because of the delay. In some cases the custodial parent may have been overpaid and is required to pay back to the agency the amount overpaid (see Table 3).



There are some situations in which the OSCAR system does not make the correct enforcement action. These types of corrections account for about 18.5% of the adjustments. For example, when court orders have a judgement amount with or without child support, OSCAR does not enforce (collect) the judgement amount from the non-custodial parent. The previous report identified that a programming deficiency prevents OSCAR from detecting when it should be enforcing these judgements. It was common for custodial parents to call the agency to inform it that the judgement was not enforced. Also, there are times when a non-custodial parent has more than one case in the system, and money should be split between these two cases. Sometimes the split was not done correctly by OSCAR. This is an Hierarchy Error.

Agency errors account for approximately 12.8% of the adjustments. Some errors are setting up the case incorrectly or entering the court order incorrectly. In the previous report, there were instances in which the caseworker did not make necessary changes to reflect that a child turned 18 years of age. When this is not done, child support continued to be collected and distributed when

it should not have. The error resulted in the non-custodial parent overpaying child support, and the custodial parent required to pay back the amount overpaid.

There are 5.7% of adjustments that were categorized as “*Other*”, which had insufficient information to categorize as either external, programming deficiency or agency errors. Also, 12.9% of the adjustments were for “*Arrears Paid in Full*”, which are conducted on a case to ensure that the complete obligation has been paid.

Recommendation 1:

The Bureau for Child Support Enforcement should reduce delays in preparing support orders by delivering proposed recommended orders to Family Law Masters within seven days from the final hearing. BCSE should also reduce the number of days it takes to enter support orders into the OSCAR system after they are entered by Circuit Clerks, by developing a system which ensures the timely pick up of the order from the courthouse and timely entry of the order into OSCAR.

Level of Compliance: **Partial Compliance**

The BCSE issued a directive to its attorneys, available in Appendix C, in September 1997. It requires them to submit proposed recommended orders to Family Law Masters within seven working days of a hearing. The directive also addressed the process for entry of orders into the OSCAR system. The directive is available in Appendix C. The BCSE conducted a review of 540 hearings in which BCSE attorneys participated during the month of February 1999 in order to determine compliance with the requirement on the preparation of orders. Compliance with the seven day standard could not be determined in 220 cases (40%) due to a lack of documentation. In total, 75 of the 540 cases were in compliance with the seven day standard.

Although compliance varied significantly between staff attorneys, the BCSE report found that it is possible for its attorneys to comply with the seven day standard. Some attorneys achieved high levels of compliance, while others had no cases in compliance with the seven day standard. The BCSE is aware that it must implement stricter and regular management oversight to achieve a consistent and high level of compliance with this recommendation.

Recommendation 2:

BCSE should consider expediting the establishment of support orders through creating a uniform and simplified support order. (Temporary Order)

Level of Compliance: **In Compliance**

An amendment to Rule 18 of the Rules of Practice and Procedure for Family Law was

promulgated by the West Virginia Supreme Court of Appeals effective November 1, 1998. The rule requires that “[a]t the conclusion of every hearing in which child support is established or modified, the Family Law Master or Circuit Judge shall enter a Temporary Child Support Order...” A copy of the form is available in Appendix D. In May 1999, the BCSE completed a review of the implementation of the temporary order. The Agency found that by February 1999, Law Masters had not begun using the temporary order to any significant extent.

Recommendation 3:

The BCSE should give higher priority to providing the necessary programming changes to the OSCAR system in order that every court ordered judgement is enforced automatically.

Level of Compliance: Planned Compliance

Specifications for issuing automatic wage withholdings on new hire matches were completed in January 1999. Programming is expected to be complete by August 31, 1999. Acceptance testing will begin shortly thereafter with pilot implementation dependant on the outcome of the testing. Once the BCSE successfully implements automatic enforcement with the new hire matches, it will consider expanding automatic enforcement into: deductions from Unemployment Compensation; Worker’s Compensation benefits; interfacing with the Department of Motor Vehicles to complement/enhance license denial; filing of liens once an interface with the Department of Tax and Revenue is implemented, and; attachments on bank accounts based on data matches with financial institutions.

The use of automatic enforcement to collect child support arrears is hampered by two events since 1997. First, a statutory change made by the Legislature in 1998 states that an income withholding for arrears in a case must be tied to the latest current child support obligation in the case. Previously, there were specified statutory percentages of net income that were subject to withholding for arrears. The new requirement involves specific information from the individual case. This complicates the use of an automatically generated income withholding for arrears.

Secondly, The Supreme Court of Appeals’ decision in *Layne v. West Virginia BCSE* constrains the ability of BCSE to issue withholdings for arrears. *Layne* prohibits a withholding for arrears unless the arrearage amount has been reduced to a decretal judgement or has otherwise been the subject of a formal court filing with notice to the alleged debtor. According to the Bureau, the requirements of this ruling make it very difficult and perhaps impossible to use automatic enforcement actions for anything other than a current child support obligation.

Recommendation 4:

Additional training should be provided to Field Adjustment Workers and Legal Assistants who are involved in providing information to the Adjustment Unit within BCSE in order to reduce

the number of adjustments that are returned to the field because of missing information or incorrect application of policy.

Level of Compliance: In Compliance

The BCSE created a training position in the Central Financial Unit. In April 1998 the responsibility for training was transferred to the OSCAR Training Unit. Training consists of four separate sessions, totaling 14 days of classroom instruction. Training is provided to centrally located case financial workers and to staff located in field offices.

In 1998 the BCSE hired 29 accounting assistants in the field offices. The accounting assistants took over the responsibility for performing financial audits on cases. The Bureau found that these specialized staff members are more efficient and effective than the legal assistants who previously performed this task.

Recommendation 5:

BCSE and the State Department of Tax and Revenue should develop a cooperative agreement to allow BCSE to update state tax offset information electronically and to allow BCSE to electronically receive state tax offset collections data from the State Tax Department.

Level of Compliance: Planned Compliance

The BCSE reports difficulty in securing the attention and cooperation of the Department of Tax and Revenue. In a letter to the Legislative Auditor, the Tax Department reports that it is willing to enter into an agreement with the BCSE that will allow an automated exchange of information. According to the Tax Department, the main impediment to progress is the lack of programming, and other resources on the part of the BCSE. (The complete letter from the Assistant Tax Commissioner is available in Appendix E.) The Bureau should examine its resources and priorities in regards to this recommendation.

Recommendation 6:

BCSE should comply with its own administrative policy and review each case annually for the purpose of checking the accuracy of financial information.

Level of Compliance: Partial Compliance

Beginning in May 1998, the BCSE initiated a project to review every open case in its caseload. In 1998 there were 117,377 open cases. In the first year of operation, legal assistants reviewed 82,054 cases. As of September 30, 1999, 95,261 cases have been reviewed. The BCSE has developed detailed procedures to track financial adjustments and to identify the reason for the

adjustment. During calendar year 1998, BCSE completed financial adjustments in 16,829 cases, some of which were initiated by the review process.

Issue Area 2: CSED's Mismanagement of the OSCAR Data Conversion Contract has cost the State over \$5 million.

The development of the automated system known as OSCAR was required by federal law. Federal funding for the system was at an enhanced rate of 90% of total costs. The original contract for OSCAR, with change orders, was \$10.8 million. The entire contract was awarded to Network Six, Inc. (NSI). The federal government gave the OSCAR system a conditional certification.

A critical phase of implementing OSCAR required NSI to calculate certain financial balances for over 46,000 cases based on the information contained in case folders and store the information into OSCAR. This procedure is referred to as *manual data conversion*. CSED internal documents and the federal court's independent review concluded that the calculations stored into OSCAR by NSI were incorrect in as many as 50% of cases converted.

Recommendation 7:

BCSE should terminate all other contracts with NSI.

Level of Compliance: In Compliance

The contract with NSI was not extended beyond July 31, 1997.

Recommendation 8:

BCSE should submit a Vendor Performance Form reflecting the failure of NSI's data conversion contract to the Purchasing Division of the Department of Administration.

Level of Compliance: In Compliance

The BCSE submitted a vendor performance form concerning NSI's performance on data conversion to the Director of the state Purchasing Division on December 10, 1997.

Recommendation 9:

The Legislature should consider amending the statute for purchasing to require all state agencies to submit Vendor Performance Forms to the Purchasing Division within the Department of Administration in cases where vendor performance has been unsatisfactory. These performance forms should become part of the evaluation process of prospective vendors.

Level of Compliance: Requires Legislation

Issue Area 3: The Child Support Enforcement Division Could Save Millions of Dollars by Reducing the Use of Checks and Converting to Electronic Transfer.

The BCSE sent child support payments to the caretaker by printing paper checks. Electronic Funds Transfer (EFT), or direct deposit is a more efficient practice in terms of time and cost savings. At the time of the 1997 performance review, BCSE issued between 60,000 and 70,000 checks a month. The cost of issuing paper checks was between \$31,000 and \$37,000 per month, or over \$400,000 each year. Direct Deposit has the potential of reducing costs by over 80%.

Recommendation 10:

BCSE should aggressively market the use of Electronic Funds Transfer of child support payments by employers.

Level of Compliance: Planned Compliance

Currently, a few electronic fund transfers are received from federal government payors, but the posting of these collections is still a manual process. The BCSE has assigned low priority to the OSCAR programming needed to carry out this recommendation. The Bureau estimates it will take approximately eighteen weeks to complete the analysis, design, programming, training and implementation required. The BCSE has assigned low priority to this programming function because of new federal programming requirements, associated with welfare reform, which involve significant financial penalties if not met. Legislative changes made in 1999 also require programming changes which are given a higher priority by the Bureau.

The BCSE sent a questionnaire to employers to whom income withholding had been issued. Although there was a very limited response, the Bureau believes that the decision to delay programming related to the receipt of automatic transfer of funds is also justified based on its survey of *employers* and the low level of interest expressed by them in electronic funds transfer service.

Recommendation 11

BCSE should develop a mandatory phase-in of electronic deposit to caretakers receiving child support payments.

Level of Compliance: Planned Compliance

The BCSE has prioritized this task behind the completion of the technical capability for automatic posting of electronic receipts. The estimated completion time for this task is 85 days. The BCSE does have a procedure for reviewing requests by a caretaker for direct deposit on a case-by-case basis. Currently, the BCSE effects electronic deposit on one case to an account in a Pennsylvania bank.

Recommendation 12:

BCSE should meet with officials of the State Treasurer's Office for assistance in developing a cost efficient EFT/EDI system.

Level of Compliance: Planned Compliance

The BCSE has met with officials from the State Treasurer's Office to discuss an EFT/EDI system. The Treasurer's Office is still months away from completion of its payroll system and thus is still unable to provide assistance or participate with the Bureau in this project.

Further Inquiry: *Small Checks*

The Legislative Auditor became aware of OSCAR's issuing checks in extremely small monetary amounts during the 1997 review. The Bureau continues to issue checks for conspicuously small amounts. In calendar year 1998, BCSE issued 10,618 checks for \$1.00 or less totaling \$3,442.57. This includes 7,806 checks for less than \$0.50 and 4,351 checks for \$0.10 or less. This practice is a major source of irritation for clients. A check for less than one dollar, and in many cases for only one cent opens the agency for ridicule. Although the number of small checks issued represent approximately 1% of the total checks issued by the Bureau, it remains an inefficient practice. BCSE pays One Valley Bank \$0.52 for each check issued, therefore the total cost to the state for these small checks in 1998 is approximately \$5,500.00, approximately \$2000.00 more than the checks' worth.

APPENDIX A
BCSE Chart of Adjustments

BUREAU FOR CHILD SUPPORT ENFORCEMENT			
1998	BCSE CASE WITH FINANCIAL RECORDS	NUMBER OF MANUAL BALANCE ADJUSTMENTS	PERCENT WITH ADJUSTMENTS
January	64,000 *	1,475	2.30%
February	64,730	1,282	1.98%
March	66,399	1,417	2.13%
April	66,606	1,945	2.92%
May	67,891	1,261	1.86%
June	68,044	1,331	1.96%
July	68,445	1,641	2.40%
August	68,685	1,444	2.10%
September	69,126	1,420	2.05%
October	69,526	1,593	2.29%
November	69,948	1,561	2.23%
December	70,062	1,426	2.04%
TOTAL	813,462	17,796	2.19%
AVERAGE	67,789	1,483	2.19%

* Estimated Number of Records

APPENDIX B

Reasons for Adjustments (Code Sheet)

**REASONS FOR ADJUSTMENTS
(Code Sheet)**

<u>Code Reason</u>	<u>Explanation</u>
1. Conversion Incorrect:	Use this if the information is correct but balances were brought over from APDS with incorrect amounts.
2. Affidavit, Modification:	Use if CP signs an affidavit or if there is a new Court Order modifying Support, Arrears, etc.
3. Judgement Only:	Use if there is a judgement and no current support ordered.
4. Judgement with Support:	Use if there is a judgement along with current support ordered.
5. Case Set Up Incorrectly:	Use if the information used to set up the case was incorrect, i.e. case type, w/w incorrect (i.e. APEM), SSI, etc.
6. Rope Ran Wrong:	Use if the incorrect information was used when Rope was ran, ie Grant information incorrect, incorrect payments, used payments in held, etc.
7. Court Order Entered Incorrectly	Use if Court Order date(s), amount, etc was entered incorrectly.
8. Previous Adjustment Was Incorrect:	Use if information supplied to complete a prior adjustment was incorrect or if adjustment worker set balances incorrectly.
9. Bank Error:	Use if bank error caused money to apply to incorrect case.
10. Employer Error:	Use if Employer used wrong case number, sent wrong amount, etc.
11. IV-A Interface Problem:	Use if Welfare computer system communications with Oscar caused the error. Ie Case Type not changed, coded case incorrectly when updating Oscar, etc.
12. Out of State Order (No Interest):	Use if the Court Order is an Out Of State Order and we are to remove the interest.
13. Arrears Update From OOSA:	Use when adjusting balance per an update from an Out of State Agency supplying new balances.
14. IRS Intercepts By Another State:	Use when another state intercepts income tax and either retains for their arrears or send it to the CP.
15. Hierarchy Error:	Use when system did not distribute money according to the correct hierarchy sequence. Ie SSI child, money split incorrectly.
16. Moving Mom/Child	Use when the obligation is ended in one case and moved to another case due to child moving, or to move money to NCSA bucket.
17. NCP Paid CP Directly:	Use when CP received money from NCP, and CP did not redirect through our Agency.
18. Arrears Paid In Full:	Use when either the arrears are paid and money is refunded to the NCP, ie w/w not modified in time, etc.
19. Other:	Before using this reason, ask why the adjustment was needed to try and fit it in one of the categories above. If you do use this reason please give a brief explanation of what caused the need for the adjustment.
20. IV-E Interface	Use when Forster Care interface causes an error that has to be adjusted.
21. Military Income W/H	Use when the income withholding date on military checks is the cause for the adjustment.

APPENDIX C

BCSE Directive to Staff Attorneys



STATE OF WEST VIRGINIA
Department of Health and Human Resources
Bureau for Child Support Enforcement
150 Maplewood Avenue
Lewisburg, West Virginia 24901

Cecil H. Underwood
Governor

Joan E. Ohl
Secretary

Memorandum

DATE: September 22, 1997
TO: Field Staff Attorneys
FROM: J. F. Boomer, Director Field Operations
SUBJECT: Legislative Audit Issues

The Commissioner set a November 1 timeframe for the Bureau to implement procedures in all field staff offices to comply with two recommendations from the recent Legislative audit. Those recommendations are as follows:

Recommendation 1:

The Child Support Enforcement Division should reduce delays in preparing support orders by delivering proposed recommended orders to Family Law Masters within 7 days from the final hearing. CSED should also reduce the number of days it takes to enter support orders into the OSCAR system after they are entered by Circuit Clerks by developing a system which ensures the timely pick up of the order from the courthouse and timely entry of the order into OSCAR.

Recommendation 2:

CSED should consider expediting the establishment of support orders through creating a uniform and simplified support orders.

Therefore, effective immediately all BCSE field staff attorneys are required to submit proposed recommended orders to the Family Law Master within seven working days of the hearing. Any order not submitted within the seven day timeframe must be submitted within a timeframe that has been documented in trac narrative for that case.

Regarding the recommendation provision on entry of orders, each field staff attorney is directed to reply to Sarah George by mail to arrive not later than October 15th with a flow chart and narrative description of the same illustrating and describing the process within the office by which orders are prepared and

submitted to the FLM or Judge and the process by which orders are entered into the OSCAR system. Your attention is directed to recommendation #1 above for the issues that your flow chart and narrative description must address.

Your responses will form the foundation for development and promulgation of a standard bureau protocol for preparation and entry of orders as directed by the Commissioner. Recognizing the reality of delays and dynamics affecting these processes, please note the same in your responses so your unique circumstances can be noted in possible special exceptions to the standard protocol.

Your prompt attention to and detailed analysis of this matter is required. Should you have any questions regarding this process, please do not hesitate to promptly contact me.

APPENDIX D
Temporary Order

BY THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

Plaintiff, SSN _____

V.

Civil Action No. _____

Defendant, SSN _____

TEMPORARY ORDER

This matter was heard on the _____ day of _____, 199 _____. Based upon the pleadings and the evidence, the Family Law Master ORDERS the following:

1. Temporary custody of the child(ren) is awarded as follows:

Name: _____	Birth Date: _____	Custodial Parent: _____
_____	_____	_____
_____	_____	_____

2. The _____ shall pay temporary support for the child(ren) pursuant to the guidelines in the amount of \$ _____, per month, and _____ shall pay temporary alimony for _____ in the amount of \$ _____, per month, said payments to be effective on the first day of _____, 199 ____.

3. Payments shall be made (mark an "X" for the method of payment):
 By income withholding through the Child Support Enforcement Division (CSED), or
 Other: _____

4. The _____ shall be granted visitation with the children in the following manner:

5. The _____ shall obtain and maintain health insurance for the minor child(ren), and shall provide proof of such insurance within _____ days to the custodian of the children.

6. The _____ shall pay for the first \$250 of each child's uncovered, nonrecurring medical costs, and for any additional uncovered, nonrecurring medical costs, the father shall pay _____ % of the costs and the mother shall pay _____ % of the costs.

7. The Clerk of this Court is hereby ORDERED to mail or provide a certified copy of this Temporary Order to the following at the addresses listed below:
Plaintiff: _____
Defendant: _____
CSED Office: _____

ENTERED this _____ day of _____, 199 ____.

Family Law Master

It shall be the responsibility of the parties to notify the State Case Registry in writing at the local Child Support Enforcement Office of any change in the information contained in this order. To locate the address call: 1-800-249-3778.

SCA-C-DR-511

TEMPORARY ORDER

APPENDIX E

Letter from Assistant Tax Commissioner



STATE OF WEST VIRGINIA
STATE TAX DEPARTMENT

P.O. Box 2389
Charleston, WV 25328-2389
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CECIL H. UNDERWOOD
GOVERNOR

JOSEPH M. PALMER
COMMISSIONER

September 22, 1999

John Sylvia
Research Manager
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

Re: Implementation of the 1997 recommendation of the Legislative Auditor that the Bureau for Child Support Enforcement (BCSE) and the Department of Tax and Revenue develop a cooperative agreement to allow the BCSE to update state tax refund offset information electronically.

Dear Mr. Sylvia:

This letter is in reply to your correspondence of September 20, 1999 to Mr. Morton, General Counsel for Revenue Operations of this Department. In your letter you state that, pursuant to The West Virginia Sunset Law, the Legislative Auditor is currently updating the 1997 review of the Bureau for Child Support Enforcement. You state that your Office seeks to determine the BCSE's progress in complying with a recommendation involving the Department of Tax and Revenue.

You state that Recommendation 5 from the 1997 review states:

BCSE and the Department of Tax and Revenue should develop a cooperative agreement to allow BCSE to update state tax offset information electronically and to allow BCSE to electronically receive state tax offset collections data from the State Tax Department.

You state that the Bureau for Child Support Enforcement reports that they have "experienced difficulty in securing the attention and cooperation of the Tax Department."

You ask that the Tax Department inform the Office of the Legislative Auditor in writing of the Department of Tax and Revenue's involvement in the Bureau for Child Support Enforcement's attempts to comply with the recommendation by September 29, 1999.

The Tax Department has expressed its willingness work with the Bureau for Child Support Enforcement to implement programming and computer access initiatives to provide automated access to the information specified in sections 48A-2-41 and 11-10-5d(m) of the West Virginia Code. Computer access would, of course, be limited to the access allowed by statute relating to specifically identified individuals from whom "child support obligations are sought to be enforced." See, W. Va. Code §11-10-5d(m).

In an April 29, 1999 meeting between BCSE officials and Tax Department officials, the BCSE expressed agreement with the Tax Department's interpretation of the law on this point. If you would like a detailed legal memorandum analyzing

the law as to exactly what State tax information is subject to disclosure to the Bureau for Child Support Enforcement by the Tax Department, the Tax Department will forward one to you.

Section 11-10-5d(m)(1) requires that information disclosure be made pursuant to a written request from the Bureau for Child Support Enforcement to the Tax Department. In the case of automated access, this written request requirement could presumably be fulfilled through a written information exchange agreement or other written instrument. The Tax Department is willing to enter into such an agreement. We would note that a manual (nonautomated) information sharing program is currently in place, and BCSE seems to benefit from the tax information available through that program.

The real impediment to the automated access initiative is summarized in the final paragraph of the BCSE report which you forwarded to the Tax Department with your September 20, 1999 letter to Mr. Morton. It states:

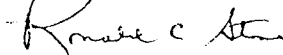
With regard to updating and deleting the arrearage amounts reported to the State Tax Department, this has not been addressed due to lack of programming resources. Collections from the Federal Tax Offset Program are a much greater amount as compared to collections from the State Tax Program. Therefore, BCSE programming time has been prioritized accordingly to meet new federal requirements applying to the Federal Tax Offset Program and to other basic functions in OSCAR that must be changed due to PRWORA requirements.

Clearly, the main problem with going forward with the Legislative Auditor's Recommendation 5 is, and has been, the lack of programming resources and other resources on the part of the BCSE.

The Department of Tax and Revenue does not have the resources to undertake an automated information sharing program on its own. It would be necessary for the Legislature, the Bureau for Child Support Enforcement or the Department of Health and Human Resources to provide funding to the Tax Department for any administrative, programming or equipment expenditures necessitated by implementation and maintenance of any automated records access initiative.

If we can be of any further assistance to you, please call upon us.

Sincerely,



Ronald C. Stone
Assistant Tax Commissioner

APPENDIX F
Agency Response



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Cecil H. Underwood
Governor

Office of the Secretary
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 Fax: (304) 558-1130

Joan E. Ohi
Secretary

MEMORANDUM

Date: November 10, 1999

To: Members of the Joint Committee on Government Operations

From: Joan E. Ohi, Secretary
Department of Health and Human Resources

Re: Response to Performance Evaluation and Research Division (PERD) Report on Update of the Preliminary Performance Review of the Bureau for Child Support Enforcement of the Department of Health and Human Resources

Enclosed is the response referenced above. We send it to you in anticipation of your receipt of PERD's report and its presentation to the Committee during the interim meetings in Shepherdstown on Sunday, November 14, 1999. We shall be present at the meeting to make a brief presentation and answer any questions you may have.

JEO/bjs

Enclosure

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES'
RESPONSE TO
UPDATE OF THE PRELIMINARY PERFORMANCE REVIEW
OF THE
BUREAU FOR CHILD SUPPORT ENFORCEMENT
BY THE OFFICE OF THE LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION**

November 1999

Department of Health and Human Resources
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 Fax: (304) 558-1130

EXECUTIVE SUMMARY

We thank the Performance Evaluation and Research Division (PERD) for their work with the BCSE in an attempt to measure the progress made by the Bureau since the 1997 report. We find ourselves in general agreement, except with respect to a key issue made in the original report and used again in the current report. The issue is that of the adjustments.

First, let me say that, by any measure, the work of the BCSE has improved considerably since the PERD began its study of the program in 1996. Any reference to only marginal improvement in reducing the adjustment rate, in no way measures the progress of BCSE nor the success of the program. The significant measure of success is outlined in the final page of the attachments to our response to the Final Draft of the PERD Report; i.e., the number of cases in which paternity has been established, the number of cases on which child support orders are in place, the dollar amount of child support collections and, the time it takes to place that support into the hands of custodial parents to be used in behalf of children.

Adjustments in child support cases are required for several reasons as noted by PERD in its report on page 8, the vast majority of which occur in the normal course of events in child support cases. To suggest that the number of manual adjustments decreasing only marginally is some indication of the quality of work being performed ignores the fact that not making appropriate adjustments would result in more errors, not less.

Adjustments reflect case activity, not case errors.

The Department of Health and Human Resources and the Bureau for Child Support Enforcement appreciate the willingness of the Performance Evaluation and Research Division to consider the status of the Bureau's compliance with its previous recommendations in the context of broader issues which the Bureau has been required to address since the previous PERD report in June, 1997. With the BCSE operating a highly automated program, primary among its concerns have been the Y2K issues.

The Department and the Bureau believe that the delay on completion of several PERD recommendations involving the need for additional computer programming resources is fully justified by the decision to prioritize attention to Y2K issues. Preparation for Y2K has required a substantial portion of Bureau technical resources and preparation for any contingency situations has required substantial planning and management resources. A review by the Administration for Children and Families (ACF) of the adequacy of Y2K preparation by West Virginia Agencies that receive ACF funds found the Bureau to be best prepared of all the ACF funded programs in the State.

In addition to Y2K issues, the Bureau was required to make a number of technical changes due to new legislation in the two years since the previous PERD report. Changes in the law generally require changes to the OSCAR system. As these changes had specific implementation dates, these changes also had to be addressed in preference to the PERD recommendations. Among the changes required in 1999 legislation were the programming of a new child support formula and a new format for the case style in court documents. The latter required programming changes on numerous form documents in the OSCAR

system.

Finally, the Bureau is still involved in making changes required in its automation system due to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The Bureau's plan Advanced Planning Document Update (APDU) which guarantees 80% federal funding for PRWORA related this work was approved in January, 1999. Several of the Recommendations in the 1997 PERD report will be addressed in the APDU work. These are in fact also PRWORA requirements. These issues include automatic enforcement (Recommendation 3) and electronic receipt of child support payments (Recommendation 10).

The Bureau has also elected to address the PERD issue identified as "small checks" as part of its APDU work. All APDU work is scheduled for completion by September 30, 2000. Completion of these tasks as part of the APDU work allows the Bureau to take advantage of the more generous 80% federal funding level of four federal dollars to each state dollar. The regular matching rate of 66% nets only two federal dollars for each state dollar.

In the following pages, we address each of the individual recommendations in the PERD Report in more specific detail.

RESPONSES TO ISSUES AND RECOMMENDATIONS

Issue Area 1: In 1996, almost one-third of cases in the agency's database required adjustments to case information, since then the adjustment rate has decreased to 25%.

The Department and the Bureau disagree with the PERD Report's conclusions of the Report by the PERD Division with regard to the adjustment rate. The Legislative Auditor compared the number of **manual** adjustments to the number of cases. This comparison has been done in a misleading manner. To get a correct understanding of the significance of the number of manual adjustments, the comparison should display the number of such adjustments as a ratio of the total number of monthly balances.

The Bureau had a monthly average of 67,789 cases with a financial record during 1998. Each of the cases with a financial record had an **automated adjustment** at the end of each month to update the balances based on the information known to OSCAR. Total automated adjustments to BCSE case financial records in 1998 were 813,462. During the entire year, the Bureau **manually "adjusted"** 17,796 of these monthly balances. These adjustments are shown in the PERD Report on page 19.

The total number of manual adjustments of monthly balances (17,796) during 1998 as compared to the total number of adjustments to monthly balances (813,462) during the year is 2.2%. This is a more meaningful and valid comparison.

The PERD Report acknowledges that only 12.8% of the 17,796 manual adjustments were for the purpose of correcting an Agency error. This means that 2,278 adjustments were due to "error". **With the total number of monthly balances being 813,462, this results in an actual error rate of 0.2%.** Therefore, the Department's ongoing reporting of a "error" rate of less than 10% is supported by these figures.

However, beyond the manual adjustment rate, the validity of this activity as a measure of program services can be misleading. The routine updating of case financials to achieve accuracy is a positive activity by the BCSE. By focusing on the number of manual adjustments, the PERD approach criticizes the Bureau for correcting case financials. If the Bureau had completed only half as many manual adjustments, the PERD approach would have shown greater progress by the Bureau since 1997. However, **the important issue for the Bureau is not the number of manual adjustments. The issue for the Bureau is better service to customers** achieved by keeping financial records current. Adjustments are completed as circumstances require. This goal does not bear any relationship to whether the rate is lower or greater than it was in 1997.

According to the PERD Report, the BCSE's adjustment rate improved only 6%, (we disagree.) First, we need to clarify the distinction between an adjustment and error. An adjustment is any change to a monthly financial balance. Manual adjustments require human intervention and occur for several reasons such as: non-custodial parent paid the custodial parent directly without the BCSE's knowledge; a modification of the child support occurred by order of the court; the arrearages were paid in full or Agency error.

An error is defined as a mistake, and errors differ greatly from adjustments which must be made because of internal and external factors. Errors are due to mistakes made by staff of the BCSE. We acknowledge the fact that the BCSE will never have a completely error free system; however, we strongly disagree that every balance which requires a manual adjustment should be classified as an "error".

The following manual adjustments to balances are created due to errors by the BCSE: data reversion, case set-up incorrectly, ROPE ran incorrectly, hierarchy error and out of state orders (interest calculations).

The following are manual adjustments which are necessary due to factors which are beyond the control of the BCSE: affidavit/modification, judgment only, judgment with support, bank error, employer error, IV-A interface, arrears update from OOSA, moving custodial parent/child, non-custodial parent paid custodial parent directly, arrearages paid in full and other adjustments.

The PERD Report stated "The update of the agency's progress indicates that there has been only marginal improvement in reducing the adjustment rate." The statement incorrectly assumes that the agency can control the adjustment rate, when, in fact, as previously stated, many manual adjustments are created by external factors beyond the control of the BCSE.

More importantly, in order to obtain the percentage of adjustments, PERD took the total number of adjustments in 1998, divided by a calculated average caseload which corresponds to the actual monthly caseload. The percentage of annual adjustments performed by the BCSE is more accurately reflected by taking the total number of annual balances, 813,462 into the total of adjustments, 17,796. This calculates to 2.19% of the balances which receive manual adjustments annually. **The BCSE deals with balances. This is shown in the chart on page 19 of the PERD Report.**

Since 1992, the BCSE has seen growth in its caseload of more than 80%. Collections during that time period have grown 244%, from just over \$40 million in 1992 to a projected \$141 million this year. The BCSE provides an Interactive Voice Response system which is available to child support parties 24 hours a day, 365 days a year. This system uses an 800 number and receives more than 70,000 inquiries per month. Each month approximately 82,000 checks for child support are received. More than 96% of these payments are sent to the custodial parent within a 24 hour period.

The West Virginia BCSE is a member of EPLN (Electronic Parent Locator Network). In 1998, the BCSE staff made over 98,000 inquiries with a success rate of 60.65% in locating the out-of-state address of the non custodial parent.

Since the Paternity Project was implemented in 1992, the number of paternities established by affidavit has steadily increased from 3,201 in 1992 to 5,096 in 1997, to 5,764 in 1998 and 4,070 through October 1999.

Clearly, the West Virginia BCSE has become more productive in collecting child support on behalf of West Virginia families. Adjustments rate 2.19% is but a minute portion of the total productivity of the BCSE.

Recommendation #1

The Bureau for Child Support Enforcement should reduce delays in preparing support orders by delivering proposed recommended orders to Family Law Masters within seven days from the final hearing. BCSE should also reduce the number of days it takes to enter support orders into the OSCAR system after they are entered by Circuit Clerks, by developing a system which ensures the timely pick up of the order from the courthouse and timely entry of the order into OSCAR.

Although compliance with Recommendation #1 varied significantly between staff attorneys, it should be possible for the Bureau for Child Support Enforcement (BCSE) to achieve compliance through the establishment of region by region "tickler" or tracking systems to follow the preparation of court orders to be submitted to the Family Law Masters within seven working days of a hearing. Because of the manner in which a few Law Masters and Circuit Judges conduct their hearings and some local requirements as to getting opposing parties or their attorneys to physically sign orders, the BCSE may not be able to achieve universal compliance. Even in these cases a process can be put into place which would make certain that the BCSE will systematically pursue appropriate information or signatures so as to have orders before the appropriate judicial authority in the shortest time possible.

There are two main roadblocks to obtaining universal compliance within the seven working day goal. The first is the situation where a BCSE (or other) attorney is directed to prepare an order using information not actually presented at a hearing but which the Law Master orders one party to provide to the attorney so that a calculation can be performed and a specific amount will be placed into an order. An example would be a case where, rather than continue a hearing, a Law Master would order a party to provide a specific piece of information such as the amount of a medical bill or a dollar amount for day care expense which would be put into an Order. While the BCSE attorney (or any other attorney) directed to prepare such an Order cannot do so until the appropriate information is provided, the BCSE will institute a process to systematically and repeatedly ask for the information until it is provided. Further the BCSE will institute internal procedures to get such an Order out of BCSE hands within seven days of the time the BCSE has everything needed to prepare it.

A second impediment to the seven working day recommendation is the requirement of some Law Masters and Judges that parties or their attorneys physically sign an order before the Law Master or the Court will sign an Order. Again, the BCSE will institute procedures to systematically and repeatedly remind parties and attorneys to sign and return Orders and to make the Court aware that Orders have not been returned, however, the BCSE is in some cases unable to do more than to repeatedly ask a Law Master or Judge to put teeth into any requirement for timeliness in these situations.

The BCSE will institute more systematized processes to be sure that an Order has been prepared and forwarded to the Law Master and to document that this has been done in the appropriate time period. In cases where there is a delay similar to the examples above, the BCSE will institute processes to systematically follow up on getting the Order to the Law Master at the earliest possible time and to document the fact that it has been done. The report of the legislative audit indicated that lack of documentation was an issue

in nearly half (40%) of the sampled cases. If nothing else BCSE will put into place more stringent procedures to document times in which Orders are submitted and to document reasons for delays in any specific case.

As noted in the draft of the legislative auditor's report, the BCSE is aware that it must implement stricter management oversight in this area to achieve a consistently high level of compliance on this recommendation. A directive is being prepared for regional attorneys, regional managers and team leaders to develop a system within each region to document the day each Order leaves the local office for the Law Master. Further, each region will develop a system to "tickle" with five day letters or similar devices failure to provide information, failure to sign and return, etc. The "tickler" system will be in place by January 20, 2000.

On a monthly basis, each regional manager will prepare a report of orders prepared by BCSE attorneys and submit it to the Commissioner's office in order that any required corrective actions, if necessary, may be taken to assure compliance with the seven day directive. These reports will begin February 1, 2000.

We commend the Supreme Court on the creation of the temporary order. More importantly, we look forward to working with the new Law Master System and it is our hope that the changes implemented in that system will assure that matters and cases will be addressed and heard in a more expedient manner.

Recommendation #3

The BCSE should give higher priority to providing the necessary programming changes to the OSCAR system in order that every court ordered judgement is enforced automatically.

Prioritization for programming efforts must occur and factors that determine the order are influenced by legislative and/or federal deadlines, and the availability of programming resources.

The BCSE is continuing to work on the automated process to issue income withholdings when a new hire match is received. The August 31, 1999 completion date was pushed back due to programming requirements for Y2K testing and the new Legislative requirements of the Family Law Bill that were effective October 1, 1999.

The batch process required to identify appropriate cases for the automated issuance of the income withholding is completed and ready for testing. There were some delays in the completion of the automated income withholding form due to a tracking problem. In order to utilize the Federally mandated income withholding form in a batch process, it was necessary to develop a process by which the form would be tracked the same as our regular income withholding form. Our programmers are continuing to work on the form issue, but, we will begin testing the batch process to identify the appropriate cases. We plan on the form being ready for testing by December 15, 1999.

As cited in the audit report, this process will only address income withholdings for current support obligations. The Supreme Court of Appeals decision in *Layne vs BCSE* severely restricts our abilities to initiate actions to collect arrears. The BCSE incorporated the provisions of the *Layne* decision into our procedurals manual.

Not only does it restrict our enforcement capabilities, it clearly places the BCSE's State Plan out of compliance with Federal regulations (see attached correspondence).

Recommendation #4

Additional training should be provided to Field Adjustment Workers and Legal Assistants who are involved in providing information to the Adjustment Unit within BCSE in order to reduce the number of adjustments that are returned to the field because of missing information or incorrect application of policy.

The report correctly states that the BCSE is in compliance with this recommendation; however, the BCSE is currently studying the possibility of additional on the job training for these staff members. Currently a field survey is being conducted throughout the state to determine the strength and weaknesses of the Legal Assistants and Field Adjustment Workers. The areas of weakness will be identified as training needs assessments and the BCSE will do whatever is necessary to achieve strengthening in those areas.

In addition to the OSCAR training, the field has received training via teleconferences and, more recently, training in listening skills and other aspects of customer service. We are attempting to put more emphasis on training than ever before in the history of the BCSE.

More importantly, the need for additional training of field staff is being studied at the national level. Commissioner Hill has been asked to participate in a Tech Scan discussion of development of a training certification program that will be submitted to the National Child Support Enforcement Association for adopting as a certification program for child enforcement workers nationwide. This panel is being funded by a Federal grant to develop a certification program for child support staff.

Recommendation #5

BCSE and the State Department of Tax and Revenue should develop a cooperative agreement to allow BCSE to update State Tax offset information electronically and to allow BCSE to electronically receive State Tax offset collections data from the State Tax Department.

The BCSE met with representatives of the Dept of Tax and Revenue on December 17, 1997. The purpose of the meeting was to address issues related to State Tax Offset and access to information per provisions of PRWORA. We have attached a summary dated December 22, 1997 of the issues that were addressed in that meeting. The staff from Tax and Revenue were very receptive to our requests and we agreed that we would follow up with each request.

With regard to our requests for access to information, a letter was sent to Tax and Revenue on April 3, 1998 (copy attached) as a follow-up to our December meeting. Several calls and follow-up letters (copies attached) went to Lydia McKee and Mark Morton from April 1998 until December 1998. On December 14, 1998, a letter was sent to Tax and Revenue Secretary Robin Capehart with our previous requests attached. Finally, a letter was sent by DHHR Secretary Joan Ohi to Secretary Capehart on February 10, 1999.

The BCSE received a response from Secretary Capehart dated March 1, 1999 that indicated that Tax and Revenue would be willing to provide access to certain information in their databases. Secretary Capehart also indicated that Tax and Revenue did not have the resources to take on a project such as this and that the BCSE or DHHR would have to provide funding for any necessary equipment or staff resources to complete the tasks. We did meet with representatives of Tax and Revenue in late April 1999 regarding some of the interpretations of the disclosure provisions.

Secretary Capehart's letter was the first indication to the BCSE that Tax and Revenue lacked resources and was requesting that the BCSE or DHHR to fund these tasks. In a letter to John Sylvia dated September 22, 1999 from Ronald C Stone of Tax and Revenue, Mr. Stone cites the main problem with this issue is, and has been, the lack of programming resources or other resources on the part of the BCSE. Once again, the BCSE had no knowledge of the resource issue Mr. Stone refers to in his letter until Secretary Capehart's response on March 1, 1999.

With regard to the necessary programming changes on the BCSE side, programming resources have been an issue. We have been dedicating our programming resources to PRWORA related requirements, as well as, Y2K issues and the new Legislative requirements of the Family Law Bill. We have an October 1, 2000 deadline to make the required enhancements to our system in order to be fully certified under the PRWORA requirements. One of the changes that we must make under PRWORA involves the Federal Tax Offset process. The changes to this program have been underway and are similar to some of the changes recommended in the State Tax Offset process. We plan on using the same logic to update State Tax Offset process once we have completed the Federal Tax Offset programming. The Federal Tax Offset process was given priority since it is required for full certification and there will be Federal funding issues for the State if we do not have a fully certified by October 2000. Secretary Ohl plans to meet with Secretary Capehart to prepare a strategic plan to accomplish what is required and identify the resources to get it accomplished. There is a possibility we can obtain a 80/20 federal match to assist with this programming. This meeting will take place as soon as possible.

Recommendation 6:

BCSE should comply with its own administrative policy and review each case annually for the purpose of checking the accuracy of financial information.

Beginning in May 1998, the BCSE implemented the Case Assessment and Closure Project. The purpose of this project was to review every open case in its caseload. Local offices were closed to the public each Wednesday in order for staff to review cases.

In 1998, there were 117,377 open cases. Legal Assistants reviewed 82,054 cases in the first year of the project. As of September 30, 1999, we have reviewed 95,261 cases. As a result of this process, 18,026 of those cases were closed. The Bureau accomplished this by following a well-defined plan that included, first, reviewing cases that needed paternity established, then order establishment and finally locate. During the reviews, staff assessed and corrected data information in OSCAR as well.

The DHHR has moved towards the use of a Data Mart system which would allow each agency to look at a snapshot of the information contained in their respective

computer systems. The Bureau for Child Support Enforcement is leading the Department in this venture. The Bureau has utilized the development stages of the project to identify cases that have a potential for inaccurate information as well as those that can be corrected before there is an actual error in the information. Once the Data Mart is fully operational, this information will be available to all of the Regional Managers and Team Leaders. The Data Mart can be used to ascertain accountability. The Data Mart should be fully operational by June 2000.

Issue Area 2: CSED'S Mismanagement of the OSCAR Data Conversion Contract has cost the State over \$5 million.

The report incorrectly states that "...the federal government gave the OSCAR system a conditional certification." The report fails to state that on March 1, 1999, a letter was directed to Secretary Joan Ohl, which **granted full certification** and stated as follows: "Based on the findings from that on-site review and the additional documentation provided to the Columbus Area Audit Office, we conclude that the State has corrected both the deficiencies noted during our April 1996 certification review. Therefore, we are removing all conditions placed on the Level II Certification of OSCAR." See attached letter.

Issue Area 3: The Child Support Enforcement Division Could Save Millions of Dollars by Reducing the Use of Checks and Converting to Electronic Transfer.

The issue is being addressed as a PRWORA activity.

Recommendation #10

BCSE Should Aggressively Market the Use of Electronic Funds Transfer of Child Support Payments by Employers.

BCSE recognizes the cost saving potential associated with incoming electronic funds transfers from employers and would like to work closely with the State Treasurer's Office in order to develop an efficient and effective electronic transfer program. Currently, however, the Treasurer's office is finishing its conversion to a new payroll system and is unable to assist BCSE in this area at this time.

Prioritization of programming tasks is critical. The prioritization order of programming enhancements and creations is influenced by legislative or federal deadlines, the availability of resources, and which particular programming change has the greatest overall impact on BCSE customers, the most important being the children to which we provide services.

In April 1999, the BCSE shouldered the task of enhancing the system application functionality with regard to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Bureau prepared an Advance Planning Document (APD) for the Administration for Children and Families (ACF) to obtain enhanced Federal Financial Participation funding which was subsequently approved. This initiative includes 36 tasks which include implementing a new federally mandated allocation and distribution hierarchy, integrating several new interfaces with other state agencies, implementing an automatic enforcement capability and redesigning the forms production capability within OSCAR.

In June of 1999, existing state-employed programming staff had to suspend their efforts from the PRWORA project in order to implement programming code changes as mandated by SB2003, the Family Law Bill. This redirected attention caused resources to be applied to that particular task and caused slippage in the completion of the PRWORA initiative. Tasks that were completed in relation to SB2003 were the creation of a Guardian Ad Litem functional screen, the required modifications to the Income Shares Formula, and the changing of the styles of cases and the party roles from Plaintiff and Defendant to Petitioner and Respondent. This affected several hundred forms within the Forms function of OSCAR. Programming enhancements are still ongoing.

Critical programming enhancements (baby checks, temporary order, EFT/EDI, automatic enforcement, financial management, to name a few) that have been identified from various sources such as the Legislative Audit were incorporated into the PRWORA initiative which has the Bureau's highest priority for completion. Successful completion of this project hinges upon hiring additional contract programmers, retaining current State Programmers, not having to pull resources from important programming tasks to work on other less critical jobs and allowing the BCSE to fully dedicate its technical and financial resources to providing better and more modern technology to its staff.

BCSE currently enjoys a twenty-four hour turn around on more than 96% of its child support receipts. Failure to achieve compliance with certain PRWORA mandates could result in the loss of significant federal funding for the Bureau. Federal funding for the SFY 1999 represented approximately 70% of BCSE's funding structure and is expected to increase to 75% in SFY 2000. The electronic funds transfer and direct deposit issues have been incorporated and given a priority within the PRWORA project. This decision not only guarantees a completion date of September 30, 2000, it also permits the continuance of critical program funding at the 80/20 enhanced match rate and the continued delivery of customer service at the current level, which we feel is in the best interest of the children we serve.

Recommendation 11

BCSE Should Develop a Mandatory Phase-in of Electronic Deposit to Caretakers Receiving Child Support Payments.

BCSE recognizes the cost saving potential associated with the electronic and/or direct deposit process. This process, however, is not without certain concerns and issues. While BCSE would undoubtedly become more cost efficient with this function in place, the possibility of the custodial parents financial institution retaining a portion of the current support as an administrative processing fee is a real concern. Currently, West Virginia has 258,356 individuals receiving TANF assistance and food stamps. A large portion of these recipients would be "unbanked" and, therefore, unable to receive direct deposit services. BCSE, however, plans to move forward with the development and implementation of this service through the PRWORA project, which is due to be completed by September 30, 2000.

Recommendation 12

BCSE Should Meet With Officials of the State Treasurer's Office for Assistance in Developing a Cost Efficient EFT/EDI System.

BCSE has been in regular contact with the State Treasurer's office over the past two years regarding the implementation of an EFT/EDI payment system. Due to the implementation of a new statewide payroll system, the State Treasurer's office has been unable to work with BCSE in this area. Once this system is fully operational, the State Treasurers Office has indicated that they would be more than willing to work with us in order to develop this feature. However, previous conversations with representatives from the State Treasurer's Office revealed that they would not be able to improve on the level of service being provided by our current vendor at the \$.10 per transaction rate. However, BCSE plans to pursue the direct deposit of state employees' child support obligations directly into the OSCAR system as soon as the Treasurer's office is able to offer this service.

Further Inquiry: Small Checks

Small checks are generated as a direct result of the federal distribution hierarchy as well as federal regulations that mandate a 48 hour turnaround on child support collections (42USC654B(c)(1) and WV Code 48A-2-24 (see attached). This prevents receipts from being held in various allocation categories until a larger sum is reached and distribution is initiated.

During the twelve month period ending December 31, 1998, BCSE issued 10,618 checks for \$1.00 or less. Of this figure, 95% (10,089) were allocated to the "current support" and "arrearage to families" categories. The cost of issuing those checks equates to \$5,649.84. which is contractually based with One Valley Bank, our lock box vendor.

The cost is broken down as follows:

\$.52	per item processing fee
0	postage, included in the processing fee.
<u>.04</u>	cost per check. (40,000 for \$1,600.00)
\$.56	Total

BCSE projects 4000 programing hours are required at \$60 per hour for an outside contract programmer to complete the programming necessary to potentially eliminate 95% of our small check disbursements. This equates to approximately \$240,000. However, BCSE incorporated the resolution of this issue into the PRWORA project. This decision will allow the Bureau to take advantage of the 80/20 enhanced match rate and establish a completion date of September 30, 2000.

BUREAU FOR CHILD SUPPORT ENFORCEMENT

ACCOMPLISHMENTS

Since 1992, the BCSE has seen growth in its caseload of more than 80%. Collections during that time period have grown 244%, from just over \$40 million in 1992 to a projected \$141 million this year. The BCSE provides an Interactive Voice Response system which is available to child support parties 24 hours a day, 365 days a year. This system uses an 800 number and receives more than 70,000 inquiries per month. Each month approximately 82,000 checks for child support are received. 96% of these payments are sent to the custodial parent within a 24 hour period.

The West Virginia BCSE is a member of EPLN (Electronic Parent Locator Network). In 1998, the BCSE staff made over 98,000 inquiries with a success rate of 60.65%.

Since the Paternity Project was implemented in 1992, the number of paternities established by affidavit has steadily increased from 3,201 in 1992 to 5,096 in 1997, to 5,764 in 1998 and 4,070 through October 1999.

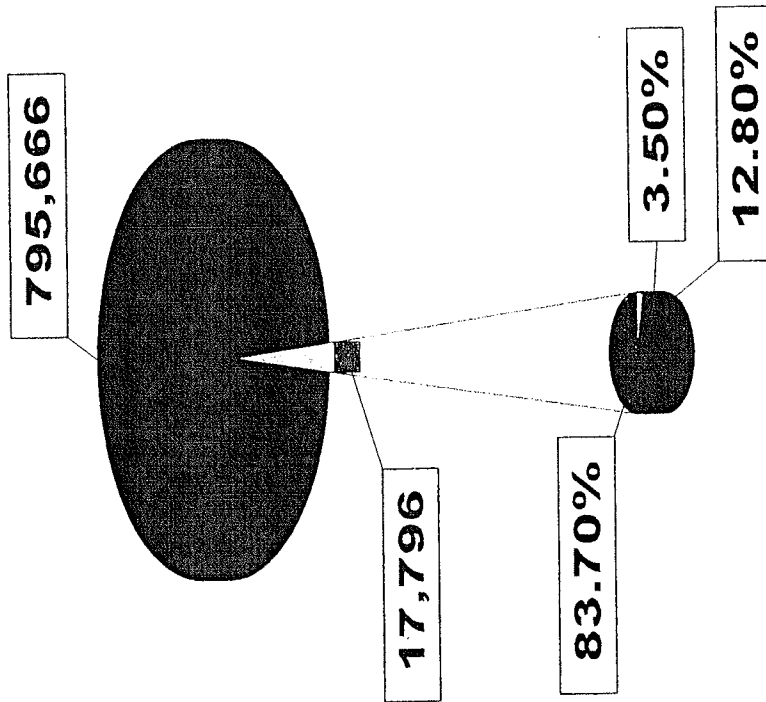
Bureau for Child Support Enforcement

Reason for Adjustment Code Explanations

Conversion Incorrect	This code indicates that during the conversion, incorrect information was entered into OSCAR which caused the balances to be incorrect.
Affidavit/Modification	This code indicates that the custodial parent signed an affidavit of accrued support that shows a different amount of support arrearage than the system or that either party went to court and had the support obligation modified to a different amount.
Judgment Only	This code indicates that the court issued a judgment in the case for a specific amount and there was no current support ordered.
Judgment w/Support	This code indicates that the court issued a judgment in the case for a specific amount and there was current support ordered.
Case Set-Up Incorrect	This code indicates that when the case was initially set up, incorrect information was entered and caused the balances to be incorrect.
ROPE Ran Incorrect	This code indicates that when Rope was ran to set the case balances, information was entered incorrectly causing incorrect balances.
Court Order Entered Incorrect	This code indicates that information from a court order was entered incorrectly which cause the financial information to be incorrect.
Previous Adjustment Incorrect	This code indicates that the previous adjustment made was incorrect.
Bank Error	This code is used when the bank enters information incorrectly which cause balances to be incorrect.
Employer Error	This code is used when an employer provides incorrect information that causes the money to be applied incorrectly.
IV-A Interface Problem	IV-A is the agency that administers AFDC/TANF funds. This code is used when their system (RAPIDS) supplies incorrect information to our system (OSCAR).






Out of State Order No Interest	This code is used as programming in OSCAR does not allow us not to charge interest on past due support amounts.
Arrears Update from OOSA	This code is used when an Out Of State Agency provides up with a new balance as it is their order and balances to control.
IRS Intercepts by Another State	This code is used when another state informs us that they have collected a federal tax refund and we need to show credit for the money collected.
Hierarchy Error	This code is used when there has been a change by law or policy in which the money collected is to be distributed and programming is in the process of being modified to reflect the change.
Moving CP/Child	This code indicates that the child has moved to another custodial parent and the support obligation is to follow the child. In the past the agency referred to this as the moving mom policy.
NCP Paid CP Directly	This code indicates that the non custodial parent paid the custodial parent without going thru us which causes the balances to be incorrect.
Arrears Paid In Full	This code is used when a case appears to be paid in full. There is usually extra money that came in because the last payment is not equal to the remaining balance and this is our last opportunity to make sure the balances are correct and the money is properly distributed.
Other	This code is used when no other code seems to cover the reason for the adjustment and the reason occurs so infrequently that it is not tracked individually.
IV-E Interface	IV-E is the Foster Care Program. This code is used when their system (FACTS) supplies incorrect information to our system (OSCAR).
Military Income Withholding	This code is used as the military sometimes issues their checks early and they come in giving credit for the incorrect month.

ALLOCATIONS OF ADJUSTMENTS TO MONTHLY FINANCIAL BALANCES, 1998 (813,462)

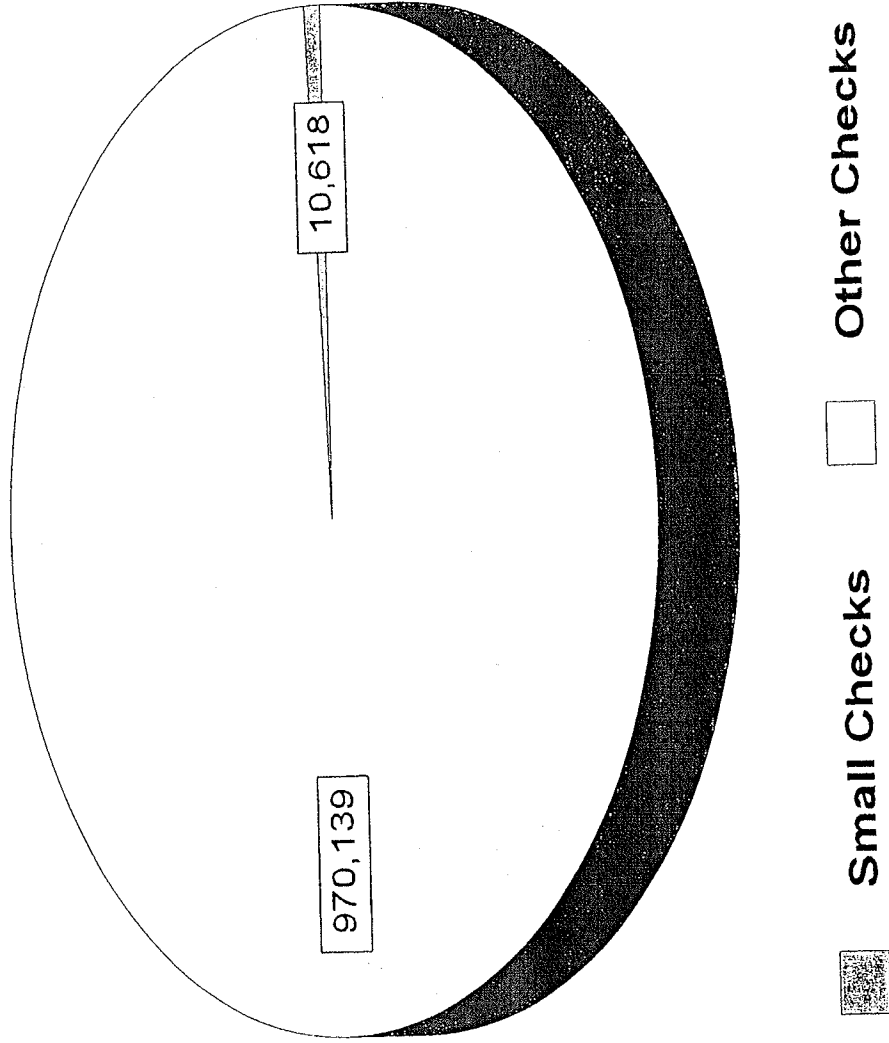


TOTAL ADJUSTMENTS TO MONTHLY BALANCES EQUAL 813,462

CODING SCHEME:

-  AUTOMATIC ADJUSTMENTS
-  MANUAL ADJUSTMENTS (17,796)
-  AGENCY ERROR (12.8%) SOURCE: PERD REPORT, PAGE 8
-  EXTERNAL CAUSES
-  PROGRAMMING DEFICIENCIES

SMALL CHECKS vs. OTHER CHECKS





STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Cecil H. Underwood
Governor

Office of the Secretary
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (204) 558-0684 Fax: (204) 558-1130

Joan E. Ohi
Secretary

September 21, 1999

David J. Lett, Regional Administrator
Administration for Children and Families, Region III
Department of Health and Human Services
150 S. Independence Mall West, Suite 864
Philadelphia, Pennsylvania 19106-3499

Dear Mr. Lett: *David,*

Thank you for your letter of August 26, 1999 in which you approved Child Support Enforcement Program State Plan Transmittals 97-19, 97-22, 97-23, and 97-25. In this same letter, you requested further information to clarify particular issues pertaining to State Plan Transmittals 97-13, 97-21, and 98-4. Below is the information requested.

Transmittal 97-13 - Procedures to Improve Program Effectiveness for Expedited Administrative and Judicial Procedures

In stating your concerns regarding the *Layne* case, you referenced PM #99-2, in which there is a request for staff to identify a case to put a similar issue before the court, and you asked about the status of this action. You also asked whether there are plans to address the issues in the *Layne* case during the next legislative session.

Thus far, no cases have been identified in order for us to put a similar issue before the court. However, we do plan to introduce legislation that will address this issue during the upcoming legislative session. The attached information regarding the proposed legislation has been forwarded to my office by the Bureau for Child Support Enforcement.

Transmittal 97-21 - Procedures to Improve Program Effectiveness through Administrative Enforcement in Interstate Cases

The policy for Administrative Enforcement in Interstate Cases (AEI) has been completed and entered in the Bureau for Child Support Enforcement (BCSE) Policy Manual. It was placed on file at the West Virginia Secretary of State's Office on September 20, 1999, and made a part of the BCSE Policy Manual there. As such, it is considered to be a Legislative Rule. This policy is enclosed for your information.

Mr. David J. Lett
September 21, 1999
Page Two

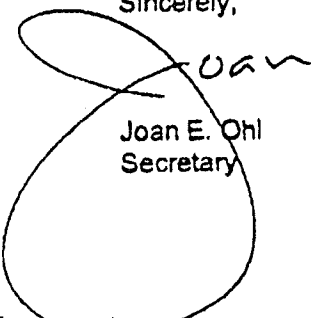
It is our understanding that although the Legislative Rule will satisfy the PRWORA provision for AEI in the State Plan for now, the federal office would prefer that we have a specific state law dealing with this issue. Therefore, there are plans to introduce legislation to address AEI in the upcoming legislative session.

Transmittal 98-4 - Collection and Distribution of Support Payments

The Timeline Plan for corrective action, which outlines the implementation of the PRWORA distribution requirements in West Virginia, can be found in the attached Exhibits A, B, C, and D. Each Exhibit displays an increasing level of detail.

We appreciate your patience and diligent efforts in assisting the BCSE to obtain an approved State Plan. Hopefully, this information is sufficient to allow your office to make a determination as to the approvability of the outstanding State Plan Transmittals. If you have any questions or need further information regarding these issues, please do not hesitate to contact us.

Sincerely,



Joan E. Ohi
Secretary

Enclosures

cc: Lena S. Hill, Commissioner
Bureau for Child Support Enforcement



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

March 1, 1999

cc: David Forinas
G. Dewey Ric
Danny France
Phil Weikle
Danny Masse
3/3/99 - JEO

Ms. Joan Ohl
Secretary
Department of Health and Human Resources
Capitol Complex, Bldg. 3, Room 206
Charleston, West Virginia 25305

Dear Ms. Ohl:

We have completed our review of the documentation from the July 27 - 28, 1998 follow-up certification review of West Virginia's On-line Support Collections and Reporting System (OSCAR). Based on the findings from that on-site review and the additional documentation provided to the Columbus Area Audit Office, we conclude that the State has corrected both the deficiencies noted during our April 1996 certification review. Therefore, we are removing all conditions placed on the Level II Certification of OSCAR.

Once again, we congratulate the State of West Virginia, the Department of Health and Human Resources, the Child Support Enforcement Division, and all those who have worked so diligently to make the OSCAR project a success.

If you have any questions regarding our certification of OSCAR, please contact Ms. Robin Rushton on (202) 690-1244.

Sincerely,

Norman Thompson
Associate Commissioner
for Automation and Special Projects

cc: Sallie H. Hunt, Commissioner, WV Bureau for Child Support Enforcement
Mr. David Lett, Regional Administrator, Region III/ACF

C) TIMING OF DISBURSEMENTS.-

(1) IN GENERAL.-Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 657(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. The date of collection for amounts collected and distributed under this part is the date of receipt by the State disbursement unit, except that if current support is withheld by an employer in the month when due and is received by the State disbursement unit in a month other than the month when due, the date of withholding may be deemed to be the date of collection.

(2) PERMISSIVE RETENTION OF ARREARAGES.-The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

(d) BUSINESS DAY DEFINED.-As used in this section, the term 'business day' means a day on which State offices are open for regular business.

Sec. 655. Payments to States

(a) Amounts payable each quarter

(1) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter an amount--

(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 654 of this title,

(B) equal to the percent specified in paragraph (3) (rather than the percent specified in subparagraph (A)) of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system)

(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity; except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 663 of this title. In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part, *and*

(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver.'

confidentiality of information is maintained shall be deemed to be an agent of the child support enforcement division.

(b) Upon entering into an agreement with the secretary of the federal department of health and human services for the use of that department's parent locator service, the child support enforcement division shall accept and transmit to the secretary of the federal department of health and human services requests from authorized persons for information with regard to the whereabouts of a noncustodial obligor to be furnished by such federal parent locator service. For purposes of this subsection, "authorized persons" means: (1) An attorney or agent of the child support enforcement division; (2) a family law master or circuit judge or any agent thereof; or (3) a resident parent, legal guardian, attorney or agent for a child. The child support enforcement division shall charge a reasonable fee sufficient to cover the costs to the state and to the federal department of health and human services incurred by reason of such requests, and shall transfer to that department from time to time, so much of the fees collected as are attributable to the costs incurred by that department.

(c) The information obtained by the child support enforcement division from the federal parent locator service shall be used for, but not limited to, the following purposes:

(1) Establishing parentage and establishing, setting the amount of, modifying or enforcing child support obligations;

(2) Obtaining and transmitting information to any family law master or circuit court or agent thereof or to an attorney or employee of the United States or of any state responsible for enforcing any federal or state law with respect to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation determination.

(d) The child support enforcement division may request from the federal parent locator service information:

(1) About, or which will facilitate the discovery of information about, the location of any individual: (A) Who is under an obligation to pay child support; (B) against whom such an obligation is sought; or (C) to whom such an obligation is owed, including the individual's social security number, or numbers, most recent address, and the name, address and employer identification number of the individual's employer;

(2) Concerning the individual's wages or other income from, and benefits of, employment, including rights to or enrollment in group health care coverage; and

(3) Concerning the type, status, location and amount of any assets of, or debts owed by or to, any such individual.

(e) A circuit court shall have jurisdiction to hear and determine, upon a petition by an authorized person, as defined in subsection (b) of this section, whether the release of information from the federal parent locator service to that person could be harmful to the custodial parent or the child. (1995, c. 88; 1998, c. 79.)

Effect of amendment of 1998. — The amendment, effective June 12, 1998, added (c); and rewrote (a) and (b).

§ 48A-2-23. Cooperation with other states in the enforcement of child support.

(a) The child support enforcement division shall cooperate with any other state in the following:

(1) In establishing paternity;

(2) In locating an obligor residing temporarily or permanently in this state, against whom any action is being taken for the establishment of paternity or the enforcement of child and spousal support;

(3) In securing compliance by an obligor residing temporarily or permanently in this state, with an order issued by a court of competent jurisdiction against such obligor for the support and maintenance of a child or children or the parent of such child or children; and

(4) In carrying out other functions necessary to a program of child and spousal support enforcement.

(b) The commission shall, by legislative rule, establish procedures necessary to extend the child support enforcement divisions' system of withholding under section three [§ 48A-5-3], article five of this chapter so that such system may include withholding from income derived within this state in cases where the applicable support orders were issued in other states, in order to assure that child support owed by obligors in this state or any other state will be collected without regard to the residence of the child for whom the support is payable or the residence of such child's custodial parent. (1995, c. 88.)

§ 48A-2-24. Disbursements of amounts collected as support.

(a) Amounts collected as child or spousal support by the child support enforcement division shall be distributed within two business days after receipt from the employer or other source of periodic income. Such amounts shall, except as otherwise provided under the provisions of subsection (c) of this section, be distributed as follows:

(1) Any amounts which are collected periodically which represent monthly support pay-

ments shall be paid by the child support enforcement division to the appropriate administrative unit of the department of health and human resources to reimburse it for assistance payments to the family during that period (with appropriate reimbursement of the federal government to the extent of its participation in the financing);

(2) Amounts in excess of amounts required to reimburse the department of health and human resources under subdivision (1) of this subsection and not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the obligee; and

(3) Amounts in excess of amounts required to be distributed under subdivisions (1) and (2) of this subsection shall be: (A) Paid by the child support enforcement division to the appropriate administrative unit of the department of health and human resources (with appropriate reimbursement of the federal government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the department has not been reimbursed; or (B) if no assistance payments have been made by the department which have not been repaid, such amounts shall be paid to the obligee.

(b) (1) Whenever a family for whom support payments have been collected and distributed under the provisions of this chapter ceases to receive assistance from the department of health and human resources, the child support enforcement division shall provide notice to the family of their rights with regard to a continuation of services. Unless notified by the family that services are no longer desired, the child support enforcement division shall continue to collect amounts of support payments which represent monthly support payments from the obligor and pay any amount so collected, which represents monthly support payments, to the family (without requiring any formal reapplication and without the imposition of any application fee) on the same basis as in the case of other obligees who are not receiving assistance from the department of health and human resources.

(2) So much of any amounts of support so collected shall be paid, first, to the obligee until all past due support owed to the family by the obligor has been paid. After all arrearages owing to the family have been paid, any amounts of support collected which are in excess of the required support payments shall be distributed in the manner provided by paragraphs (A) and (B), subdivision (3), subsection (a) of this section with respect to excess amounts described in said subsection.

(c) Notwithstanding the preceding provisions of this section, amounts collected by the

child support enforcement division as child support for months in any period on behalf of a child for whom the department of health and human resources is making foster care maintenance payments shall:

(1) Be paid by the child support enforcement division to the appropriate administrative unit of the department of health and human resources to the extent necessary to reimburse the department for foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the federal government to the extent of its participation in financing);

(2) Be paid to the appropriate administrative unit of the department of health and human resources to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but do not exceed the amounts required by a court order to be paid as support on behalf of the child during such period; and the department of health and human resources may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

(3) Be paid to the appropriate administrative unit of the department of health and human resources if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2) of this subsection, to the extent that such portion is necessary to reimburse the department of health and human resources (with appropriate reimbursement to the federal government to the extent of its participation in the financing), for any past foster care maintenance payments or payments of aid to families with dependent children or temporary assistance to needy families which were made with respect to the child (and with respect to which past collections have not previously been retained);

(d) The commission shall establish bonding requirements for employees of the child support enforcement division who receive, disburse, handle or have access to cash.

(e) The director shall maintain methods of administration which are designed to assure that employees of the child support enforcement division or any persons employed pursuant to a contract who are responsible for handling cash receipts do not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts: Provided, That the director may provide for exceptions to this requirement in the case of sparsely populated areas in this state where the hiring of unreasonable additional staff in the local office would otherwise be necessary.

(f) No penalty or fee may be collected by or distributed to a recipient of child support enforcement division services from the state treasury or from the child support enforcement fund when child support is not distributed to the recipient in accordance with the time frames established herein.

(g) For purposes of this section, "business day" means a day on which state offices are open for regular business. (1995, c. 88; 1997, c. 226; 1998, c. 79.)

Effect of amendment of 1997. — The amendment deleted former (a)(1), pertaining to child support payments affecting eligibility for assistance by the department of health and human resources, and redesignated the remaining subdivisions accordingly, and made appropriate internal reference changes; in (a)(1), deleted "are in excess of any amount paid to the family under subdivision (1) of this subsection and" preceding "represent"; in (b)(2) deleted "as are in excess of the payments required to be made in subdivision (1) of this subsection" following "so collected"; deleted former (c)(2); and made stylistic changes.

Effect of amendment of 1998. — The amendment, effective June 12, 1998, deleted former (d), which pertained to making payments to persons having custody of or responsibility for children entitled to support, and redesignated former (e) through (g) as (d) through (f); added (g); in (a), in the introductory language, substituted "two business days after receipt from the employer or other source of periodic income" for "ten days of receipt, except as otherwise specifically provided in this chapter"; in (c), redesignated the subdivisions, and in (c)(3), inserted "or temporary assistance to needy families" following "aid to families with dependent children," and substituted "paragraphs (1) and (2) of this subsection" for "paragraphs (A) and (B) of this subdivision"; and made stylistic changes.

Death of obligee. — The presumption that the obligee's estate is entitled to recoup any child support arrearage that accumulated prior to the obligee's death does not apply when the West Virginia department of health and human resources is seeking reimbursement for funds it gave to the obligee during the time period when the obligor failed to make the ordered payments. *Costello v. McDonald*, 196 W. Va. 450, 473 S.E.2d 736 (1996).

§ 48A-2-24a. Amounts collected as support to be disbursed to person having custody; procedure for redirecting disbursement of payments where physical custody transferred to a person other than the custodial parent.

(a) Any payment required to be made under the provisions of section twenty-four [§ 48A-2-24] of this article to a family shall be made to the resident parent, legal guardian or caretaker relative having custody of or responsibility for the child or children.

(b) Where physical custody of the child has been transferred from the custodial parent to another person, the child support enforcement division may redirect disbursement of support payments to such other person, on behalf of the child, in the following circumstances:

(1) Where the noncustodial parent has physical custody of the child, excluding visitation, upon filing with the child support enforcement division:

(A) An affidavit attesting that the noncustodial parent has obtained physical custody of the child, describing the circumstances under which the transfer of physical custody took place, and stating that he or she anticipates that his or her physical custody of the child will continue for the foreseeable future; and

(B) Documentary proof that the noncustodial parent has instituted proceedings in circuit court for a modification of legal custody.

(2) Where a person other than the custodial or noncustodial parent has physical custody of the child, excluding visitation, filing with the child support enforcement division:

(A) An affidavit attesting that the person has obtained physical custody of the child, describing the circumstances under which the transfer of physical custody took place, and stating that he or she anticipates that his or her physical custody of the child will continue for the foreseeable future; and

(B) Documentary proof that the person claiming physical custody is currently the person responsible for the child by producing at least one of the following:

(i) School records demonstrating that school authorities consider the person claiming physical custody the adult responsible for the child;

(ii) Medical records demonstrating that the person claiming physical custody is empowered to make medical decisions on behalf of the child;

(iii) Documents from another public assistance agency showing that the person claiming physical custody is currently receiving other public assistance on behalf of the child;

(iv) A notarized statement from the custodial parent attesting to the fact that he or she has transferred physical custody to the person;

(v) A verifiable order of a court of competent jurisdiction transferring physical or legal custody to the person;

(vi) Documentation that the person claiming physical custody has filed a petition in circuit court to be appointed the child's guardian;

(vii) Documentation that the child, if over the age of fourteen, has instituted proceedings in circuit court to have the person claiming physical custody nominated as his or her guardian; or

(viii) Any other official documents of a federal, state or local agency or governing body

