2014 IPAC SUMMER CONFERENCE
June 18-20, 2014

Title IV-D Update

Cynthia Longest, Deputy Director, Child Support Bureau
Karla Mantia, Title IV-D Policy Liaison, Prosecuting Attorneys Council
William Welch, Title IV-D Staff Attorney, Prosecuting Attorneys Council

1

Agenda

- Legislation – changes effective in July
  - Felony Non-support
  - HB 1110 changes
  - Lottery winnings
  - Confidentiality of JP records
- IV-D Funding Basics
- Indiana IV-D Performance
- Supreme Court Guidelines Review
- Invest Status Update
- Body Attachment Registry

Legislation

SEA 63 – NONSUPPORT OF A DEPENDENT CHILD

IC 35-46-1-5

- (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Level 6 felony.
- However, the offense is a Level 5 felony if **the person has a previous conviction under this section.**

Legislation

- Level 6 – fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year.
- Level 5 – fixed term of between one (1) and six (6) years, with the advisory sentence being two (2) years.

Legislation

- Nonsupport based upon a date range
- Not a point in time for charging
- Information reflects "Between (date) and (date), defendant failed to support a dependent child"

Legislation

- If date range is prior to 7/1/14 – old statute applies
  - D Felony (rather than Level 6)
  - $15K enhancement to C Felony (rather than existence of prior)

Legislation

- If date range is after 7/1/14 – new statute applies
  - Level 6 Felony
  - Enhanced to Level 5 Felony if there is a prior conviction for Nonsupport

Legislation

- If a portion of the date range is before and a portion of the date range is after 7/1/2014
  - Separate into two counts
  - Dates prior under old statute and dates after under new statute.
  - Provides prosecutor with options
  - Gives incentive to defendant to plead to Count 2 to avoid longer penalties in old statute

Legislation

- FILING STRATEGY
  - Under old statute, filing a D felony made it harder to follow up with a C Felony later on.
    - Made sense to wait until arrears exceeded 15K
    - Filing second time as C required independent 15K
  - Under new statute, first priority is to get the conviction for the Level 6 early on in order to establish record for the enhanced Level 5

Legislation

- IC 35-50-2-6(c) Conversion to Lower Felony
- The sentencing court may convert a Class C felony conviction to a Class D felony or a Level 5 felony conviction to a Level 6 if, after conducting a hearing, the court finds:
  - the person has successfully completed probation;
  - the person has satisfied other obligations required by sentence;

Legislation

Conversion to Lower Felony Continued

—the person has paid in full all child support arrearages due that are named in the information and no further arrearage is due;

—the person has not been convicted of another felony since the person was sentenced; and

—there are no criminal charges pending against the person.

Legislation

- IC 35-50-2-6(c) Conversion to Lower Felony
- Good News
  - Solves problem of case law that stated if you were going to reduce to a D from a C, had to be done immediately at sentencing.
- Bad News
  - Does not require approval of prosecutor in order to obtain reduction

Legislation

- Pretrial Diversion of Felony Cases - 33-39-1-8(d)
  - Both Level 5 and Level 6 Felonies will be subject to Pretrial Diversion
  - Each office will be developing policies to cover felony diversion
  - Nonsupport cases are subject to diversion
- Diversion of Nonsupport cases may be used as an opportunity

Legislation

- HEA 1110 – DCS Bill

Legislation

- SEA 312 – Lottery Winnings

Legislation

- SEA 19 – JP Confidentiality

IV-D Funding Basics

- IV-D Program Funding Streams
  - **Reimbursements:** Federal Financial Participation (FFP) 66%.
  - **Incentives**: Earned by states based on performance
    - Fixed pool of funding – states compete for it
    - Formula includes states' *Collections Base* ***PLUS*** 5 areas of performance: *paternity establishment, order establishment, current support collections, cases paying on arrears* & *cost effectiveness.*
    - States must meet minimum requirements to qualify
    - Each state is subject to a data reliability audit

17

IV-D Funding Basics

Title IV-D Program is:

Highly federally funded

=

Highly federally regulated…

18

IV-D Funding Basics

- Financial Incentives:
  - Incentive funds must be used to ***supplement*** and ***not supplant*** existing program funding—must be used to improve the program.
  - Expenditures made with federal incentive funds are ***NOT*** eligible for federal reimbursement

19

IV-D Funding Basics

- Financial Disincentives (Penalties):
  - Imposed to states' welfare block grant funds and/or IV-D funds
  - Can occur if program audits reveal:
    - State not meeting IV-D program requirements in the Social Security Act and/or State Plan
    - State does not meet minimum performance requirements
    - State's data does not meet standard for reliability (system data must match data in court and prosecutor files)

20

IV-D Funding Basics

- Federally Mandated Financial Audits:
  - Federal IV-D Grant Funds must be properly expended and accounted for in accordance with federal, state and local laws/rules.
  - This includes county appropriations for local IV-D program.
  - Annual audits conducted by SBOA on behalf of feds (A-133 audits of DCS, prosecutors, clerks, courts, county auditors).
  - HHS/OCSE/IG random audits – e.g. limited cost audits.

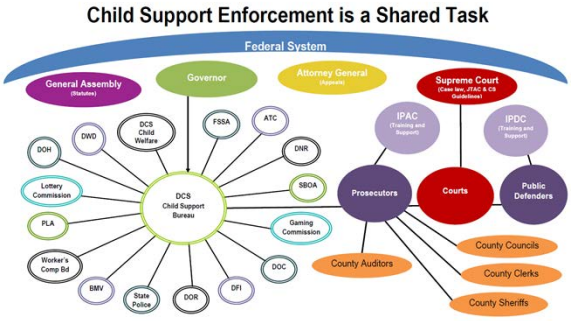
21

IV-D Funding Basics

Federally Mandated Financial Audits Continued

-Monitoring of all IV-D funds (state and local) by DCS is required by federal law by DCS.

-Other audits – Security related (IRS & SSA) could result in loss of federal tax intercept collections - $63 million impact on families.



IV-D Funding Basics

- Indiana program:
  - State administered by DCS/CSB & enforced locally via *Cooperative Agreements* with Clerks, Prosecutors and Courts
  - The number of IV-D Court Coops received doubled in past year
- County SBOA audit findings courts and prosecutors
  - Include:
    - effective date issues
    - Misunderstandings on FFP eligibility & transfer/use of incentives

24

IV-D Funding Basics

- Actions:
  - DCS/CSB returned some Court Coops requesting new effective date and adding a form.
  - DCS/CSB is working on additional guidance some -specific to IV-D Courts.
  - CSB and IPAC are working with Supreme Court Admin. on additional IV-D related training for judicial officials.
  - Incentive Fund Transfer form
- Goal: to assist counties with information & avoid audit findings….

IV-D Funding Basics

- Cooperative Agreements
- 42 USC 654 (7) provides a state plan must provide for entering into cooperative arrangements with appropriate courts and law enforcement officials …… to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and with respect to any other matters of common concern to such courts or officials and the agency administering the plan.

(See also 45 CFR 302.34)

26

IV-D Funding Basics

Cooperative Agreements Continued

- 45 CFR 302.55 requires the state plan shall provide that, if one or more political subdivisions of the State participate in the costs of carrying out the activities under the State plan…..each such subdivision shall be entitled to receive an appropriate share of any incentive payments made to the State …….. taking into account the efficiency and effectiveness of the political subdivision in carrying out the activities under the State plan.

27

IV-D Funding Basics

Cooperative Agreements Continued

- IC 31-25-4-23 provides federal incentive funds are shared as follows:
  - 22.2% to the operating budget of the Circuit Court Clerk
  - 22.2% to the County Title IV-D fund
  - 33.4% to the operating budget of the Prosecutor
  - 22.2% to be retained by DCS/CSB
- Incentive funds are distributed between counties using a similar formula used by OCSE for states.

IV-D Funding Basics

Cooperative Agreements Continued

2 CFR 200.24 defines *cooperative agreement* as:

……a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity ….used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States…

29

IV-D Funding Basics

Cooperative Agreements Continued

- Coops must include a clear description of:
  - specific duties, functions & responsibilities of parties;
  - standards of performance (Federal requirements);
  - language that the parties will comply with Title IV-D of the Act, Federal regulations and requirements;
  - financial arrangements, budget estimates, etc..;
  - record retention & confidentiality requirements; &
  - dates coop begins, ends & terms for revision/extension See 45 CFR 303.107

30

IV-D Funding Basics

- *Allowable v. Unallowable Costs*
  - Both county funds claimed for reimbursement ***and*** spending of incentive funds must meet the federal requirements for allowable expenditures
  - Rules for appropriate use of program funds claimed for FFP (66% fed reimbursement) and incentives are basically identical

31

IV-D Funding Basics

- *Allowable v. Unallowable Costs continued*
  - Costs must be reasonable, necessary, allocable to a federal award, authorized or not prohibited under state or fed law, be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities in the unit, & not exceed actual cost incurred by a public entity.
  - The determination expenditures are *reasonable and necessary* & *assignable* must be fully documented.
  - If a Court or prosecutor has no policy to support an expenditure, an auditor will look to county policy.

32

IV-D Funding Basics

- *Allowable v. Unallowable Costs continued*
  - 45 CFR 304 and 2 CFR 200 are the primary sources to determine allowable/unallowable costs
  - 45 CFR 304 is general in nature, but specific to the Child Support Program
  - 2 CFR 200 Appendix B provides the allowability/unallowability of specific items for federal grant dollars used by state and local governments (Formerly OMB Circulars A-87 and other provisions)
  - http://www.ecfr.gov (link to Electronic Code of Federal Regulations)

33

IV-D Funding Basics

- *Allowable v. Unallowable Costs continued*
  - 45 CFR 304.20 contains the activities for which Federal financial reimbursement (FFP) is available, and includes:
    - establishment/administration of the State plan, and
    - cooperation with courts and law enforcement

34

IV-D Funding Basics

- *Allowable v. Unallowable Costs Continued*
  - 45 CFR 304.21 provides limitations – for which FFP (reimbursement) is ***not*** available, including:
    - service of process & court filing fees unless the court or law enforcement agency would normally be required to pay the fees;
    - costs of compensation of judges;
    - costs of travel & training related to the judicial determination process incurred by judges;

35

IV-D Funding Basics

- *Allowable v. Unallowable Costs continued*

(45 CFR 304.21-limitations Continued)

- office-related costs, such as space, equipment, furnishings and supplies, incurred by judges;
- compensation (salary /fringe), travel, training, and office-related costs incurred by administrative and support staffs of judges; &
- costs of cooperative arrangements that do not meet the requirements of §303.107.

36

IV-D Funding Basics

Allowable v. Unallowable Costs continued

- Expenditures for which fed reimbursement is not available include:
  - purchased support enforcement services which are not secured in accordance with §304.22;
  - construction and major renovations;
  - expenditures for jailing of parents in IV-D cases;
  - costs of counsel for indigent defendants in IV-D actions; &
  - costs of guardians ad litem in IV-D actions.

45 CFR 304.23

IV-D Funding Basics

- Incentive Funds- See 45 CFR 304.12 & 45 CFR 305
  - Incentive money must be spent ***ONLY*** for IV-D purposes.
  - Incentive funds must be used to ***supplement*** and ***not supplant*** county funds.
  - An office cannot stop spending county general funds and instead operate the IV-D office strictly with incentive funds. The purpose of incentive funds is to improve IV-D operations above current levels.
  - See *Quarterly Incentive Balance Report.*

38

IV-D Funding Basics

- *Incentive Funds continued*
  - Expenditures of incentive funds do not need an appropriation or approval from the county fiscal body ***EXCEPT*** if used to increase or supplement the salary of an elected official.
  - Expenditures of incentives are ***not*** reimbursable.
  - CSB encourages county officials to collaborate on spending from all incentive accounts.
  - Counties should use new Incentive Transfer Agreement Form (webmail May 29, 2014).
  - *See OCSE PIQ 12-02 for federal spending guidance*

39

IV-D Funding Basics

Available Guidance on IV-D Funding:

- DCS/CSB *Administrative Claiming Guide*, (updated annually) on the Child Support Resources Website (CSR) Home - Indiana Child Support Resources
  - Provides an overview of processes and rules/regulations pertaining to the IV-D program
- DCS/CSB issues periodic interim guidance on common issues impacting IV-D, (also available on the CSR)
  - Guidance includes info on reporting *Prior Period Adjustments* and *Reporting on a Cash Basis*
- Claiming/Incentive Q&A in *Child Support Beacon*

40

IV-D Funding Basics

Helpful References:

- 45 CFR 304
- 2 CFR 200.81 property – equipment, supplies
- 2 CFR 200.317 procurement standards
- 2 CFR 200.327-332 performance financial monitoring and reporting
- 2 CFR 200.333 record retention requirements
- 2 CFR 200.402-411- costs – allowability, reasonableness, limitations, etc.
- 2 CFR 200.412-415 *direct* v *indirect costs*
- 2 CFR 200.420-475 – select items of cost

41

IV-D Funding Basics

- For additional Help:
  - Please contact DCSAOInquiries@dcs.in.gov if you have any questions regarding the allowability/unallowability of a planned use of funds.

42

IV-D Funding Basics

- Other Guidance being developed include:
  - more specific information regarding IV-D Court rules
  - eligible conference costs
  - requirements for paying bonuses and other fringe benefits
  - requirements for construction/major renovation costs
  - self-Service Online training for completing monthly and quarterly expenditure reports

43

Indiana IV-D Performance

Federal Performance Measures Ranking for Indiana Compared to All Other States

FFY 2013 OCSE Preliminary Report

Federal Fiscal Year	Paternity Establishment (PEP)	Support Order Establishment (SOR)	Current Support (CS)	Cases Paying on Arrears (CPA)	Cost Effectiveness (CE)	Overall Rank with weighting
FFY 2013 (OCSE Preliminary)	28	9	27	7	14	10
FFY 2012 (OCSE Preliminary)	11	36	31	11	15	12
FFY 2011	9	39	36	18	26	21
FFY 2010	11	41	35	19	5	25
FFY 2009	19	39	36	24	6	30
FFY 2008	20	41	41	25	14	33
FFY 2007	27	43	42	32	1	34
FFY 2006	31	42	43	32	2	35
FFY 2005	42	41	45	33	1	34
Weighting	100%	100%	100%	75%	75%	

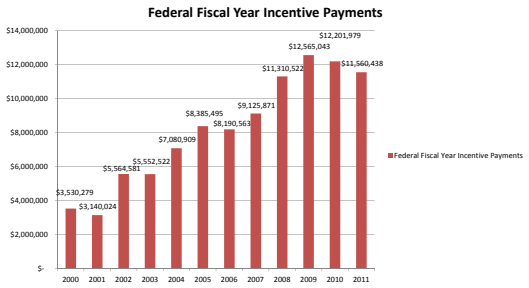
Change FFY 2012 to FFY 2013	17	-27	-4	-4	-1	-2
Change FFY 2005 to FFY 2013	-14	-32	-18	-26	13	-24

Federal Fiscal Year	Paternity Establishment (PEP)		Support Order Establishment (SOR)		Current Support (CS)			Cases Paying on Arrears (CPA)		Cost Effectiveness (CE)	
	Indiana	National	Indiana	National	Indiana	National	Gap	Indiana	National	Indiana	National
FFY 2013 (Preliminary)	97.66%	99.63%	89.50%	83.07%	62.30%	63.64%	1.34%	69.19%	62.36%	6.46	5.31
FFY 2012 (Preliminary)	106.16%	100.11%	81.00%	81.92%	60.72%	62.98%	2.26%	67.67%	62.21%	6.26	5.19
FFY 2011	104.09%	98.96%	77.27%	80.92%	58.88%	62.44%	3.56%	64.69%	62.17%	5.35	5.12
FFY 2010	102.16%	97.26%	75.99%	80.02%	58.28%	61.96%	3.68%	64.14%	61.98%	7.43	4.88
FFY 2009	99.02%	97.75%	74.59%	79.41%	57.53%	61.78%	4.25%	64.71%	63.34%	7.73	4.78
FFY 2008	97.89%	94.90%	72.06%	79.10%	56.59%	61.90%	5.31%	64.25%	63.30%	6.58	4.80
FFY 2007	93.67%	93.67%	69.58%	78.39%	54.77%	61.19%	6.42%	59.57%	61.31%	9.93	4.73
FFY 2006	86.19%	89.76%	68.44%	77.35%	53.82%	60.35%	6.53%	58.82%	60.79%	8.92	4.58
FFY 2005	82.28%	87.57%	69.39%	75.87%	52.82%	59.91%	7.09%	58.01%	60.04%	8.53	4.58

44

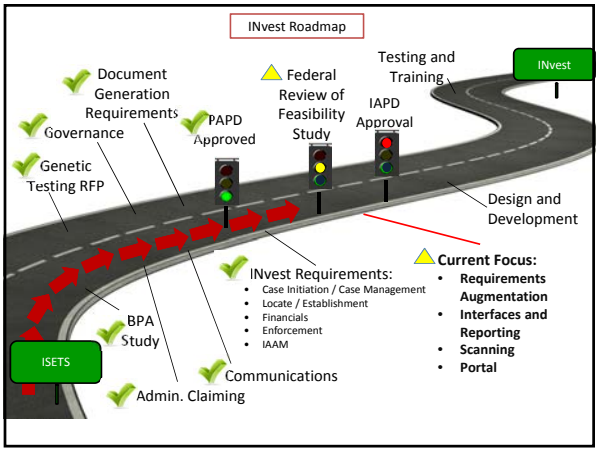
Indiana IV-D Performance

Indiana Incentive Funds



45

Child Support Guidelines Review



Body Attachment Registry

QUESTIONS
&
ANSWERS