

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 7 - SOCIAL SECURITY
SUBCHAPTER IV - GRANTS TO STATES FOR AID AND SERVICES TO NEEDY
FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES
Part D - Child Support and Establishment of Paternity

§ 658a. Incentive payments to States

(a) In general

In addition to any other payment under this part, the Secretary shall, subject to subsection (f) of this section, make an incentive payment to each State for each fiscal year in an amount determined under subsection (b) of this section.

(b) Amount of incentive payment

(1) In general

The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

(2) Incentive payment pool

(A) In general

In paragraph (1), the term “incentive payment pool” means—

- (i)** \$422,000,000 for fiscal year 2000;
- (ii)** \$429,000,000 for fiscal year 2001;
- (iii)** \$450,000,000 for fiscal year 2002;
- (iv)** \$461,000,000 for fiscal year 2003;
- (v)** \$454,000,000 for fiscal year 2004;
- (vi)** \$446,000,000 for fiscal year 2005;
- (vii)** \$458,000,000 for fiscal year 2006;
- (viii)** \$471,000,000 for fiscal year 2007;
- (ix)** \$483,000,000 for fiscal year 2008; and
- (x)** for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the second preceding fiscal year.

(B) CPI

For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term “Consumer Price Index” means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(3) State incentive payment share

In paragraph (1), the term “State incentive payment share” means, with respect to a fiscal year—

- (A)** the incentive base amount for the State for the fiscal year; divided by
- (B)** the sum of the incentive base amounts for all of the States for the fiscal year.

(4) Incentive base amount

In paragraph (3), the term “incentive base amount” means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

- (A) The paternity establishment performance level.
- (B) The support order performance level.
- (C) The current payment performance level.
- (D) The arrearage payment performance level.
- (E) The cost-effectiveness performance level.

(5) Maximum incentive base amount

(A) In general

For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

- (i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and
- (ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

(B) Data required to be complete and reliable

Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 652 (a)(4)(C)(i) of this title, that the data which the State submitted pursuant to section 654 (15)(B) of this title for the fiscal year and which is used to determine the performance level involved is complete and reliable.

(C) State collections base

For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

- (i) 2 times the sum of—
 - (I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this subchapter or subchapter XIX of this chapter; and
 - (II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and
- (ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

(6) Determination of applicable percentages based on performance levels

(A) Paternity establishment

- (i) Determination of paternity establishment performance level

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 652 (g)(2)(A) of this title or the statewide paternity establishment percentage determined under section 652 (g)(2)(B) of this title.

- (ii) Determination of applicable percentage

The applicable percentage with respect to a State’s paternity establishment performance level is as follows:

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100	
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s paternity establishment performance level is 50 percent.

(B) Establishment of child support orders

(i) Determination of support order performance level

The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

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(ii) Determination of applicable percentage

The applicable percentage with respect to a State’s support order performance level is as follows:

If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100	
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s support order performance level is 50 percent.

(C) Collections on current child support due

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(i) Determination of current payment performance level

The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State’s current payment performance level is as follows:

If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100	
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58

If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s current payment performance level is 50 percent.

(D) Collections on child support arrearages

(i) Determination of arrearage payment performance level

The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State’s arrearage payment performance level is as follows:

If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	100	
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s arrearage payment performance level is 50 percent.

(E) Cost-effectiveness

(i) Determination of cost-effectiveness performance level

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

(ii) Determination of applicable percentage

The applicable percentage with respect to a State’s cost-effectiveness performance level is as follows:

If the cost-effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00	100	
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

(c) Treatment of interstate collections

In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 655 (e) of this title shall be excluded.

(d) Administrative provisions

The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at/or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

(f) Reinvestment

A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

- (1) to carry out the State plan approved under this part; or

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(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.

(Aug. 14, 1935, ch. 531, title IV, § 458, formerly § 458A, as added and renumbered § 458, Pub. L. 105–200, title II, § 201(a), (f)(2)(A), July 16, 1998, 112 Stat. 648, 658.)

References in Text

Parts A and E of this subchapter, referred to in subsec. (b)(5)(C)(i)(I), are classified to sections 601 et seq. and 670 et seq., respectively, of this title.

Effective Date

Pub. L. 105–200, title II, § 201(g), July 16, 1998, 112 Stat. 658, provided that: “Except as otherwise provided in this section [enacting this section, amending this section and sections 652, 655, and 658 of this title, repealing section 658 of this title, enacting provisions set out as notes under this section and sections 652 and 655 of this title, amending provisions set out as notes under this section and sections 652 and 658 of this title, and repealing provisions set out as a note under section 658 of this title], the amendments made by this section shall take effect on October 1, 1999.”

Regulations

Pub. L. 105–200, title II, § 201(c), July 16, 1998, 112 Stat. 656, provided that: “Within 9 months after the date of the enactment of this section [July 16, 1998], the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A [now 458] of the Social Security Act [this section] when such section takes effect and the implementation of subsection (b) of this section [formerly set out as a note below].”

Transition Rule

Pub. L. 105–200, title II, § 201(b), July 16, 1998, 112 Stat. 656, provided for reductions by the Secretary of the amount otherwise payable to a State under this section and former section 658 of this title for fiscal years 2000 and 2001.

Studies

Pub. L. 105–200, title II, § 201(d), (f)(2)(C), July 16, 1998, 112 Stat. 656, 658, provided that:

“(1) General review of new incentive payment system.—

“(A) In general.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458 of the Social Security Act [this section], in order to identify the problems and successes of the system.

“(B) Reports to the congress.—

“(i) Report on variations in state performance attributable to demographic variables.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

“(ii) Interim report.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

“(iii) Final report.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

“(2) Development of medical support incentive.—

“(A) In general.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act [this part] and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A [now 458] of the Social Security Act [this section].

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

“(B) Report.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).”