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Chapter DWD 44

CHILD SUPPORT INCENTIVE PAYMENTS

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DWD 44.01 Authority and purpose. This chapter is promulgated under the authority of s. 49.24, Stats., for the purpose of specifying the procedure by which the department will distribute federal and state child support incentive payments to counties.

History: CR 01-138: cr. Register May 2002 No. 557, eff. 6-1-02.

DWD 44.02 Definitions. In this chapter:

(1) "IV-D" means part D of title IV of the social security act of 1975, the federal law on the child support and establishment of paternity program (42 USC 651 to 669b).

(2) "IV-D case" means a parent or alleged father who is now or eventually may be obligated under law for the support of a child or children receiving services under the title IV-D program. A parent or alleged father is a separate IV-D case for each family with a dependent child or children that the parent or alleged father may be obligated to support. If both parents are absent and liable or potentially liable for support of a child or children receiving services under the IV-D program, each parent is considered a separate IV-D case.

(3) "Agency combined earnings" means each agency's total earned amounts.

(4) "Agency share of total available incentive funding" means the percentage of actual total funding available for distribution under s. 49.24, Stats., that an agency receives.

(5) "Allocation" means the estimated minimum incentive payment amount that the agency is expected to receive if the total available incentive funding is equal to or exceeds the projected incentive funding and the agency's earned level is 100%.

(6) "Child support agency" or "agency" means the county child support agency under s. 59.53 (5), Stats.

(7) "County contract committee" means a subcommittee of the members of the child support policy advisory committee, as appointed by local child support agency representatives on the policy advisory committee, that serves to advise the department on matters relating to child support incentive payments.

(8) "Department" means the Wisconsin department of workforce development.

(9) "Earned amount" means an agency's allocation multiplied by the agency's weighted earned level for an individual performance measure.

(10) "Earned level" means the number that is determined based on an agency's performance level on an individual performance measure and that is used in calculating an agency's earned amount for that performance measure.

(11) "Federal fiscal year" means October 1 of one year through September 30 of the following year.

(12) "Incentive payment amount" means the dollar amount the agency receives pursuant to s. 49.24, Stats.

(13) "Office of child support enforcement" means the office that administers the IV-D program within the federal department of health and human services, administration for children and families.

(14) "Performance level" means an agency's score on a performance measure.

(15) "Performance measure" or "measure of performance" means a standard used to evaluate agency performance for purposes of determining incentive payment amounts under s. 49.24, Stats.

(16) "Performance scale" means a table of agency performance levels and corresponding earned levels used in calculating an agency's incentive payment amount.

(17) "Projected incentive funding" means the estimated total funding that will be available for distribution to counties under s. 49.24, Stats.

(18) "Statewide combined earnings" means the total of agency combined earnings for all agencies.

(19) "Total available incentive funding" means the actual total funding available for distribution to counties under s. 49.24, Stats., as determined by the department, for a particular contract year.

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DWD 44.03 Projected incentive funding. In consultation with the county contract committee, the department shall estimate the total state and federal incentive funding that will be available for distribution to counties under s. 49.24, Stats., in the following year.

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DWD 44.04 Allocation to counties. (1) ALLOCATION CRITERIA. In consultation with the county contract committee, the department shall determine the amount of the projected incentive funding that will be allocated to each county using the following criteria:

(a) All child support agencies shall have funds available to achieve performance measures.

(b) Agencies of similar size shall receive equitable treatment.

(c) A high level of performance is necessary in the large Wisconsin agencies to maximize the federal share of incentives.

(2) NOTICE. The department shall make a good faith effort to notify agencies of the estimated allocation for each county in time for agencies to plan their budgets for the following year.

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DWD 44.05 Performance measures. (1) In consultation with the county contract committee, the department shall establish state measures of performance, and agencies shall earn incentive payments specified under s. 49.24, Stats., based on individual agency performance under each measure of performance.

(2) The state measures of performance shall include one or more of the following:

(a) *Paternity establishment percentage.* The paternity establishment percentage is one of the following:

1. The ratio of the total number of nonmarital children in the IV-D caseload in the federal fiscal year or as of the end of the federal fiscal year for whom paternity is established or acknowledged to the total number of nonmarital children in the IV-D caseload as of the end of the preceding federal fiscal year.

2. The ratio of the total number of minor nonmarital children for whom paternity has been established or acknowledged during

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the federal fiscal year to the total number of nonmarital children born during the preceding federal fiscal year.

(b) *Support order establishment measure.* The support order establishment measure is the ratio of the number of IV–D cases with support orders during the federal fiscal year to the total number of IV–D cases during the federal fiscal year. These support orders include all types of legally enforceable orders, such as court, default, and administrative orders.

(c) *Current collections measure.* The current collections measure is the ratio of the total dollars collected for current support in IV–D cases to the total dollars owed for current support in IV–D cases.

(d) *Arrears collection measure.* The arrears collection measure is the ratio of the total number of eligible IV–D cases paying toward arrears to the total number of IV–D cases with arrears due.

(e) *Cost–effectiveness measure.* The cost–effectiveness measure is the ratio of the total IV–D dollars collected to the total IV–D dollars expended.

(f) *Other federal measures.* Any other measures or any modification to the measures under pars. (a) to (e) used by the federal office of child support enforcement in providing incentive payments to states pursuant to 45 CFR Part 305.

(g) *Other state measures.* Any other measures as determined by the department in consultation with the county contract committee.

(3) The state measures for agency performance in sub. (2) (a) to (f) are based on federal measures for state performance at 45 CFR Part 305. The department shall follow the federal office of child support enforcement interpretation to resolve any ambiguities on the measures in sub. (2) (a) to (f).

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DWD 44.06 Performance levels. (1) In consultation with the county contract committee, the department shall determine all of the following:

(a) *Weight.* A weight to be given each performance measure in s. DWD 44.05 (2). The combined weight of the measures shall total 100%.

(b) *Performance scales.* Performance scales used to determine agency earned levels based on performance on each measure in s. DWD 44.05 (2). There shall be the following two methods of determining earned levels:

1. Performance levels and corresponding earned levels based on federal performance levels at 45 CFR 305.33, taking into consideration any potential penalties under 45 CFR 305.40.

2. An alternative method of evaluating performance levels based on an agency's incremental change from the agency's performance in the preceding year.

(2) The purpose of the determinations in sub. (1) is to target areas for statewide improvement to maximize the state share of federal incentive dollars under 45 CFR Part 305 while ensuring that agencies have funds available to achieve the purposes of the child support program. The following factors shall be considered in making the determinations in sub. (1):

(a) State performance levels necessary to avoid federal penalties under 45 CFR 305.40.

(b) Past state performance on federal performance measures.

(c) Projected future state performance on federal performance measures.

(d) Circumstances beyond the control of agencies that affect agency performance.

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DWD 44.07 Incentive payment formula. The formula to determine the amount of an agency's incentive payment is a 4–step process as follows:

(1) The first step is to determine an agency's earned amount for each performance measure by multiplying each agency's allocation by the weighted earned level for each measure. The agency's earned amounts for all measures are then added to determine the agency's combined earnings.

(2) The second step is determining the statewide combined earnings by adding the agency combined earnings from sub. (1) for all agencies.

(3) The third step is determining each agency's share of the total available incentive funding by dividing the agency combined earnings under sub. (1) by the statewide combined earnings under sub. (2).

(4) The fourth step is determining each agency's incentive payment amount by multiplying the agency's share of the total available incentive funding under sub. (3) by the total available incentive funding.

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DWD 44.08 Distribution and use of incentive payments. (1) The department shall distribute the total available incentive funding under s. 49.24, Stats., to counties and to tribes or tribal organizations eligible under sub. (2).

(2) A tribe or tribal organization that enters into a cooperative agreement with the department for the delivery of child support services under the state plan pursuant to 42 USC 654(33) shall receive an incentive payment under this chapter based on the same criteria and subject to the same restrictions as counties carrying out activities under the state plan. A tribe or tribal organization that receives direct tribal child support enforcement funding pursuant to 42 USC 655(f) may not receive an incentive payment under this chapter.

(3) The total state and federal incentive payments to a county per year under s. 49.24, Stats., may not exceed the costs per year of the county's child support program under s. 49.22, Stats.

(4) A county that receives any state or federal incentive payments under s. 49.24, Stats., may use the funds only to pay costs under its child support program under s. 49.22, Stats.

(5) A county that receives any state or federal incentive payments under s. 49.24, Stats., may use the funds only to supplement, and not supplant, the baseline level of county funding for its child support program as determined by averaging the county's contribution to its IV–D expenditures in calendar years 1996, 1997, and 1998, unless waived by the department. The department will waive this subsection if the state is in compliance with 45 CFR 305.35.

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