

Code of Federal Regulations

TITLE 45 -- Public Welfare

CHAPTER III -- OFFICE OF CHILD SUPPORT ENFORCEMENT

Part 302 -- STATE PLAN REQUIREMENTS

§302.56 Guidelines for setting child support awards.

- (a) Effective October 13, 1989, as a condition of approval of its State plan, the State shall establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State.
- (b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support awards.
- (c) The guidelines established under paragraph (a) of this section must at a minimum:
 - (1) Take into consideration all earnings and income of the non-custodial parent;
 - (2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and
 - (3) Provide for the children's health care needs, through health insurance coverage or other means.
- (d) The State must include a copy of the guidelines in its State plan.
- (e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.
- (f) Effective October 13, 1989, the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.
- (g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.
- (h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19649, May 9, 1985; 50 FR 23958, June 7, 1985; as amended at 51 FR 37731, October 24, 1986; 56 FR 22354, May 15, 1991]

§ 304.12 Incentive payments.

(a) *Definitions.* For the purposes of this section:

Non-title IV-A collections means support collections, on behalf of individuals receiving services under this title, satisfying a support obligation which has not been assigned under section 408(a)(3) of the Act or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section .

Title IV-A collections means support collections satisfying an assigned support obligation under section 408(a)(3) of the Act or section 471(a)(17) of the Act, including collections treated in accordance with paragraph (b)(4)(ii) of this section.

Total IV-D administrative costs means total IV-D administrative expenditures claimed by a State in a specified fiscal year adjusted in accordance with paragraphs (b)(4)(iii), (b)(4)(iv) and (b)(4)(v) of this section.

(b) *Incentive payments to States.* Effective October 1, 1985, the Office shall compute incentive payments for States for a fiscal year in recognition of title IV-A collections and of non-title IV-A collections.

(1) A portion of a State's incentive payment shall be computed as a percentage of the State's title IV-A collections, and a portion of the incentive payment shall be computed as a percentage of its non-title IV-A collections. The percentages are determined separately for title IV-A and non-title IV-A portions of the incentive. The percentages are based on the ratio of the State's title IV-A collections to the State's total administrative costs and the State's non-title IV-A collections to the State's total administrative costs in accordance with the following schedule:

Ratio of collections to total IV-D	Percent of collection of administrative costs paid as an incentive
Less than 1.4.....	6.0
At least 1.4.....	6.5
At least 1.6.....	7.0
At least 1.8.....	7.5
At least 2.0.....	8.0
At least 2.2.....	8.5
At least 2.4.....	9.0
At least 2.6.....	9.5
At least 2.8.....	10.0

(2) The ratios of the State's title IV-A and non-title IV-A collections to total IV-D administrative costs will be truncated at one decimal place.