

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**STATE USE OF DEBT  
COMPROMISE TO REDUCE CHILD  
SUPPORT ARREARAGES**



Daniel R. Levinson  
Inspector General

October 2007  
OEI-06-06-00070

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## E X E C U T I V E   S U M M A R Y

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### OBJECTIVE

To determine the prevalence, characteristics, and outcomes of debt compromise programs used by State child support enforcement (CSE) agencies to reduce child support arrearages.

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### BACKGROUND

The Office of Child Support Enforcement (OCSE) estimates that \$100 billion in unpaid child support has accumulated since the inception of a national CSE program in 1972. In an effort to reduce or eliminate possibly uncollectible debt, some States use debt compromise, a process whereby a State settles a portion or all of the child support debt owed to the State by a noncustodial parent. For this evaluation, we identified debt compromise practices among all States based on responses to a survey, evaluated program outcomes through site visits to five States, and examined a sample of 259 cases that underwent debt compromise.

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### FINDINGS

**CSE agencies in 20 States operate fully implemented or pilot debt compromise programs, and another 23 States settle arrearage debt on a case-by-case basis.** Of the 20 States that have debt compromise programs, 12 are fully implemented and 8 are pilot programs. Twenty-three other States compromise arrearages on a case-by-case basis, and the remaining eight States do not allow compromise of arrearages.

**Debt compromise resulted in an average of \$9,383 settled per case in selected States, with lump sum payments made in 45 percent of cases and averaging \$5,515.** In the five States, the estimated average arrearage per case was \$22,029, of which \$9,383 was settled.

Noncustodial parents in 45 percent of cases paid lump sums at the time of the agreements averaging \$5,515, which was disbursed to States for reimbursement of public assistance and/or to custodial parents for payment of past due child support.

**Forty-one percent of sample cases closed following debt compromise, either after lump sum payments or with all debt settled.** In all closed cases in our sample, the noncustodial parent owed only an arrearage. Noncustodial parents in 65 percent of cases that closed paid lump sums as part of the debt compromise agreements. In

the remaining 35 percent of cases that closed, the full amount of the arrearage was settled because CSE officials determined that the noncustodial parents were unable to pay any amount or that the families were best served by settling all of the debt.

**When sample cases remained open following debt compromise, four of five States did not routinely follow up when noncustodial parents paid irregularly.** Fifty-nine percent of cases in our sample remained open following compromise. Although all five selected States conduct general reviews of all child support cases, only California reported routinely monitoring debt compromise cases that remain open to determine whether noncustodial parents meet their agreements. We found that noncustodial parents in 60 of the 154 sample cases paid irregularly or not at all following debt compromise but found evidence of rescission in only 2 of these 60 sample cases.

**Cases are eligible for debt compromise based on a number of factors, including large arrearages, and local managers typically negotiate agreements.** Eighteen of the twenty States with programs consider the amount of the arrearage in determining eligibility. Other factors included whether dependents are emancipated and how long the arrearage has been in the caseload. After determining eligibility, local managers most often make the determination to allow debt compromise.

**CSE officials in States with programs report a largely positive view of debt compromise, although a few express concern that settling debt is contrary to the enforcement process.** Officials in 17 of the 20 States with programs reported advantages, including receiving debt payments previously considered uncollectible. Officials from three States noted drawbacks to debt compromise, including the belief that it conflicts with the agency's mission to enforce and collect child support.

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## RECOMMENDATION

We recommend that OCSE issue guidance encouraging States to routinely monitor cases that remain open following debt compromise agreements to ensure that noncustodial parents meet their agreements. Because of the high level of interest in debt compromise, we suggest that OCSE also consider issuing guidance regarding the administration of debt compromise programs to assist States that are considering new programs or revising current practices. Topics could include the criteria used for determining eligibility, the proportion of the debt to be settled,

suggestions for training staff in making determinations, and use of debt compromise to close child support cases only owing arrearages.

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## **AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

The Administration for Children and Families (ACF) and the Assistant Secretary for Planning and Evaluation (ASPE) jointly provided comments in response to our draft report. ACF concurred with our recommendation and suggestion and outlined current and planned guidance activities. In describing this current and proposed guidance, ACF did not explicitly address providing guidance to States regarding monitoring of open cases following debt compromise agreements. Because the lack of monitoring of debt compromise cases poses a vulnerability to the integrity of State debt compromise programs, we recommend that ACF provide guidance to States specific to this issue. ASPE commented that the report was useful in providing information regarding a policy area in which little research exists.



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## OBJECTIVE

To determine the prevalence, characteristics, and outcomes of debt compromise programs used by State child support enforcement (CSE) agencies to reduce child support arrearages.

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## BACKGROUND

The Office of Child Support Enforcement (OCSE) estimates that just over \$100 billion in unpaid child support (referred to as arrearages) has accumulated since the inception of a national CSE program in 1975.<sup>1</sup> State CSE agencies collect payments toward both current child support orders for children still living in the custodial parent's home, and arrearage debt that accumulates when noncustodial parents do not pay all of the current support owed. The collection of current child support has risen considerably in recent years, but arrearage debt remains high. In fiscal year (FY) 2005, State CSE agencies overall collected 60 percent of the \$29 billion due in current support and 7 percent of the \$107 billion due in arrearages. However, 40 percent of noncustodial parents with arrearages paid nothing toward their arrearages in 2005.<sup>2</sup> State collection rates for both current support and arrearages are among the criteria OCSE considers in determining incentive funding to States.<sup>3</sup> States have implemented a number of strategies to reduce arrearages, including the use of debt compromise.

### Debt Compromise Programs

Debt compromise is a process of reducing or eliminating child support debt owed to the State by settling a portion or all of arrearages that are owed from a prior outlay of public assistance, referred to as "assigned" debt. Custodial parents may allow noncustodial parents to also settle

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<sup>1</sup> Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, FY 2002 and FY 2003 Annual Report to Congress. Available online at [www.acf.hhs.gov/programs/cse/pubs/2005/reports/annual\\_report/table\\_64.html](http://www.acf.hhs.gov/programs/cse/pubs/2005/reports/annual_report/table_64.html). Accessed August 1, 2007.

<sup>2</sup> Office of Child Support Enforcement FY 2005 Preliminary Report to Congress, May 2006. Available online at [www.acf.hhs.gov/programs/cse/pubs/2006/reports/preliminary\\_report](http://www.acf.hhs.gov/programs/cse/pubs/2006/reports/preliminary_report). Accessed May 9, 2007.

<sup>3</sup> Social Security Act § 458(b)(6). The Social Security Act was amended by the Child Support Performance Incentive Act of 1998, to determine incentive payments to States based on performance in five areas: paternity establishment, order establishment, current collections, arrearage collections, and cost-effectiveness.

debt that is owed to them from unpaid support, referred to as “unassigned debt,” either at the time of the debt compromise agreement or at another time. However, debt owed to custodial parents is settled only at the discretion of the custodial parent and is generally not subject to State-determined debt compromise criteria. States often require that noncustodial parents pay lump sums toward the arrearages and/or improve payments of current support. In a 1999 memorandum to State CSE agencies, OCSE acknowledged debt compromise as an option under State law to negotiate arrearages in cases where parents marry or remarry and are faced with large child support arrearage payments.<sup>4</sup> OCSE’s policy allows State legislatures and CSE agencies to design their own debt compromise programs and determine eligibility. However, OCSE has not issued guidelines regarding the administration of State debt compromise programs and does not track or monitor those States that have implemented such programs. In its annual Compendium of Best Practices, OCSE has several times included information about State programs for addressing child support arrears, including references to debt compromise.<sup>5</sup>

Title IV-D of the Social Security Act made child support payments a judgment “with the full force, effect and attributes of a State judgment.”<sup>6</sup> Although child support debt cannot be retroactively modified, this provision allows States to settle assigned arrearages if State law allows. This provision means that States may reduce arrearages in the same manner they might settle any other debt owed the State. Depending on the policies of individual States, reductions in child support debt are determined by State or local courts, by State CSE agencies, or by a combination of the two. OCSE estimates that about half of arrearages are owed to State governments as reimbursement for public assistance benefits paid to families, and the remaining arrearages constitute outstanding obligations to custodial parents (settled only at the discretion of the custodial parent).<sup>7</sup> Although a

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<sup>4</sup> Office of Child Support Enforcement PIQ-99-03 Memorandum, “Public Policy Supporting Compromise of Arrearages,” March 22, 1999. Available online at [www.acf.hhs.gov/programs/cse/pol/PIQ/1999/piq-9903.htm](http://www.acf.hhs.gov/programs/cse/pol/PIQ/1999/piq-9903.htm). Accessed May 9, 2007.

<sup>5</sup> Office of Child Support Enforcement, “Compendium of State Best Practices and Good Ideas in Child Support Enforcement,” 2003, 2005, and 2007.

<sup>6</sup> Social Security Act § 466(a)(9).

<sup>7</sup> Office of Child Support Enforcement FY 2003 Report to Congress, June 2004. Available online at [www.acf.hhs.gov/programs/cse/pubs/2004/reports/preliminary\\_data/index.html#\\_ftn1](http://www.acf.hhs.gov/programs/cse/pubs/2004/reports/preliminary_data/index.html#_ftn1). Accessed May 9, 2007.

portion of any reimbursement for public assistance is ultimately owed to the Federal Government,<sup>8</sup> Federal distribution laws require States to reimburse the Federal portion only when child support is actually collected.<sup>9</sup> Therefore, States are allowed to settle public assistance debt when deemed appropriate without remaining obligated to reimburse the Federal portion.

The concept of debt compromise has gained popularity among State CSE agencies and child advocacy groups. Advocates contend that the burden of large arrearages may reduce noncustodial parents' ability or willingness to make current support payments and may discourage family unity. A July 2000 Office of Inspector General report concerning low-income noncustodial parents found that many methods used by States for child support enforcement did not generate child support payments by low-income noncustodial parents.<sup>10</sup>

Debt compromise is one of several strategies used by States to meet the challenge of reducing arrearages. Other strategies include reducing or eliminating interest, establishing orders appropriate to the noncustodial parent's income, reviewing and adjusting orders as circumstances change, limiting retroactive support, and notifying parents at the first missed payment to address arrearages before they are unmanageable.

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## METHODOLOGY

### Data Collection and Analysis

To determine the prevalence and characteristics of debt compromise practices among States, we surveyed all States and the District of Columbia (hereafter referred to as States). From States with some experience with debt compromise, we requested documentation regarding their practices, including relevant State laws or policies, eligibility requirements, and participation levels in 2005. To evaluate the outcomes of debt compromise programs relative to current child support collections, we purposively selected five States (California, Massachusetts, New Mexico, Texas, and Washington) for a detailed review of child support cases with debt compromise agreements. We

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<sup>8</sup> Social Security Act §§ 1905(b) and 1101(a)(8)(B).

<sup>9</sup> Social Security Act § 457(a)(1)(2)(3).

<sup>10</sup> Office of Inspector General, Department of Health and Human Services, "Establishment of Child Support Orders for Low Income Non-custodial Parents," OEI-05-99-00390, July 2000. Available online at <http://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf>. Accessed May 9, 2007.

## I N T R O D U C T I O N

selected States that represented a diverse mix in regard to program characteristics such as how large the caseload was, whether the State relied primarily on judicial or administrative procedures, and how long debt compromise had been used. (See Appendix A for descriptions of the child support programs in these States.)

From the five States, we randomly selected a total of 259 sample cases for review from a list of all cases involved in debt compromise agreements since each program's inception. We conducted case reviews during site visits to the State CSE office in each of the five States. The case reviews entailed collecting data regarding amounts of arrearages, amounts compromised, payment histories, case characteristics, and additional requirements imposed on noncustodial parents as a part of the debt compromise agreements. We projected our findings to the population of debt compromise cases in the five selected States.

We also interviewed State child support agency officials about staff involvement in developing and implementing debt compromise programs, their experiences, and their perceptions of program results.

To determine the outcomes of debt compromise in cases with current payment obligations, we analyzed payment data for each sample case for 12 months prior to the compromise agreement and 12 months after. We compared the payment frequency to determine whether these measures changed following debt compromise. Additionally, for the same periods before and after debt compromise, we differentiated cases with current support orders from those with only arrearage obligations. We also categorized payment behavior in each case into two groups based on regularity of payment. Cases that had no more than 3 missed payments on a biweekly payment schedule (26 payments) or no more than 1 missed payment on a monthly schedule (12 payments) were categorized as "Regular Payment." All other cases were categorized as "Irregular Payment." These measures were used to identify changes in the noncustodial parent's behavior after a compromise agreement.

See Appendix B for a detailed description of the methodology.

### **Standards**

This study was conducted in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

► FINDINGS

**CSE agencies in 20 States operate fully implemented or pilot debt compromise programs, and another 23 States settle arrearage debt on a case-by-case basis**

Twelve States have fully implemented debt compromise programs, meaning that the programs are based on State policy and have established procedures (see Table 1). Eight

additional States have pilot programs, five of which operate only in selected counties. In return for settling arrearages, States negotiate with the noncustodial parent to make a lump sum payment toward the arrearage (19 States), make regular payments on the arrearages and any current support orders (19 States), take steps toward involvement with the dependent child (8 States), participate in a fatherhood program (7 States), attend a parenting program (5 States), or maintain employment (4 States) or impose a combination of these requirements.

<b>Table 1: State Use of Debt Compromise</b>	
<b>Debt Compromise Use</b>	<b>Number of States</b>
Operate debt compromise programs <i>Fully implemented (12)</i> <i>Pilot programs (8)</i>	20
Use debt compromise on a case-by-case basis	23
Debt compromise not offered	8

Source: Office of Inspector General analysis of responses from 51 States, 2006.

Twenty-three States allow compromise of arrearages on a case-by-case basis, determining amounts, criteria, and conditions for individual cases and without formal policies. For example, one State agency reported compromising arrearages in rare cases if the debt is considered uncollectible or if it is determined to be in the best interest of the child. Officials from 15 of the 23 States reported that their agencies are considering implementing formal debt compromise programs. The remaining eight States reported that they do not allow compromise of arrearages owed to the State. Six of these eight States have laws that specifically prohibit the compromise of any debt owed to the State. (See Appendix C for a list of all States and their debt compromise status.) All States reported that they will negotiate reductions in unassigned debt owed to custodial parents if requested by either party.

F I N D I N G S

**Debt compromise agreements resulted in an average of \$9,383 settled per case in selected States, with lump sum payments made in 45 percent of cases and averaging \$5,515**

The estimated average arrearage per case of cases involved in debt compromise agreements in the five selected States was \$22,029. This arrearage amount was reduced through debt compromise

agreements by an average of \$9,383 per case (see Table 2).

Noncustodial parents in 45 percent of cases made lump sum payments at the time of the debt compromise agreements. The average lump sum paid was \$5,515, disbursed to States for reimbursement of public assistance provided to the custodial parent and family and/or to custodial parents for payment of past-due child support.

<b>Selected State</b>	<b>Average Arrearage Owed n = 259</b>	<b>Average Arrearage Settled n = 259</b>	<b>Average Lump Sum Paid at Compromise* n = 117</b>
California	\$21,009	\$16,324	\$4,061
Massachusetts	\$11,029	\$3,544	\$8,108
New Mexico	\$16,514	\$11,000	\$2,617
Texas	\$19,349	\$13,824	\$1,139
Washington	\$24,446	\$7,828	\$5,838
<b>All 5 States</b>	<b>\$22,029</b>	<b>\$9,383</b>	<b>\$5,515</b>

Source: Office of Inspector General analysis of a sample of 259 cases in five States, 2006. See Appendix D for confidence intervals.

\*Average lump sum paid may be greater than average arrearage owed because cases with lump sums were a subset (45 percent) of total cases.

**Forty-one percent of sample cases closed following debt compromise, either after lump sum payments or with all debt settled**

Among the 41 percent of sample cases that closed following debt compromise (105 cases), noncustodial parents in 65 percent of cases (68 cases)

paid a lump sum to close their cases.<sup>11</sup> In all of these cases, there was no current support due and the parents owed only an arrearage. Officials in all five States reported case closure was a benefit of debt compromise. In New Mexico, the State with the highest proportion of closures (68 percent), officials reported that their debt compromise program targets older cases with no current support due.

In the remaining 35 percent of cases that closed at compromise (37 cases), the noncustodial parent did not make a lump sum payment and the full amount of the arrearage was settled. In these cases, CSE officials determined that the noncustodial parent was unable to pay any amount toward the arrearage (because parents were receiving disability benefits, were being incarcerated for long periods, or were gravely ill) or that the families were best served by settling all of the debt. Examples include cases in which the parents reconciled and cases in which the children were emancipated and the noncustodial parent had another, newer case with dependent children in need of current support.

**When sample cases remained open following debt compromise, four of five States did not routinely follow up when noncustodial parents paid irregularly**

Fifty-nine percent of cases in our sample remained open following compromise, because noncustodial parents were either still obligated to pay toward current child

support and any arrearage still owed (62 percent) or obligated to pay only toward remaining arrearages (38 percent). CSE agency officials in the five States reported that they would rescind agreements and reinstate debt if noncustodial parents with cases that remained open did not fulfill the conditions of their debt compromise agreements. However, although all five selected States conduct routine general reviews of child support cases, only California reported routinely monitoring debt compromise cases that remain open to determine

<sup>11</sup> Although the data presented in Table 2 on page 6 are statistical projections to all debt compromise cases in the five selected States, data for the subsets of open and closed cases reflect only the cases in our sample. Projecting estimates for these smaller populations would result in a low level of precision.

## FINDINGS

whether noncustodial parents meet their agreements.<sup>12</sup> In reviewing payment records, we found that noncustodial parents in 60 of the 154 sample cases paid irregularly (44 cases) or not at all (16 cases) following debt compromise. However, we found evidence of rescission in only 2 of the 60 cases with irregular or no payments and no other evidence of corrective action toward irregular payers in these cases.

### **Cases are eligible for debt compromise based on a number of factors, including large arrearages, and local managers typically negotiate agreements**

Officials in 18 of the 20 States with programs considered the amount of the arrearage in determining eligibility for debt compromise, allowing for

settlement if the arrearage was so large that they considered repayment unlikely. Other factors States considered include:

- children are emancipated and the custodial parent is not owed current support (13 States);
- the case and resulting arrearage have been in the caseload for a lengthy period, typically more than 5 years (11 States);<sup>13</sup>
- a lengthy period has passed since the last payment, typically more than 1 year (11 States);
- there has been a significant change in the circumstances of the case; e.g., the noncustodial parent has been incarcerated (11 States);
- the noncustodial parent has incurred a new child support case with current support owed and the existing case had only an arrearage owed to the State (11 States); and
- most or all of the arrearage is attributable to interest and/or penalties (7 States).

### **Large arrearages accumulated in part because States charged interest on the principal and established orders with retroactive balances**

Four of the five States we reviewed charged noncustodial parents interest on arrearages owed to the State.<sup>14</sup> Interest rates ranged from

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<sup>12</sup> Although California has no formal policy or procedure for monitoring debt compromise cases, CSE officials report that local offices follow open cases closely and that the State has rescinded 11 agreements since the debt compromise program's inception in 2005.

<sup>13</sup> In contrast, California eligibility requires a recent history of regular payment. Available online at [www.childsup.cahwnet.gov/pub/policy/css/2004/css04-07.pdf](http://www.childsup.cahwnet.gov/pub/policy/css/2004/css04-07.pdf). Accessed May 9, 2007.

<sup>14</sup> Washington does not charge interest on arrearages. Available online at <http://apps.leg.wa.gov/WAC/default.aspx?cite=388-14A-7110>. Accessed May 9, 2007.

4 percent to 18 percent and comprised 21 percent of the arrearages owed in the cases that we reviewed from these four States.<sup>15</sup> CSE agency officials in three of these States reported that they believe interest and penalties serve as incentives for noncustodial parents to pay arrearages and/or deter accumulation of arrearages. The fourth State, New Mexico, reduced its interest rate from 14 percent to 4 percent after CSE officials came to view interest as too punitive and counterproductive.<sup>16</sup> They reported their belief that high interest rates increased debt to an amount that becomes unpayable and discouraged parents from attempting to pay. The Texas CSE agency also lowered its interest rate from 12 percent to 6 percent, effective in 2002.<sup>17</sup>

Of the five States reviewed, arrearages in Massachusetts and Texas may be attributed in part to “retroactive” balances imposed when creating the child support order. In these cases, time had elapsed between the birth and the time the child support orders were put in place, and States established the orders with arrearages equal to what the noncustodial parent would have paid from the dependents’ births and, in some cases, medical costs incurred at birth. Both States have stopped retroactive accumulation of arrearages.<sup>18</sup>

**For cases that meet eligibility requirements, local managers commonly make the final determination to allow debt compromise agreements**

All 20 States with debt compromise programs conduct a negotiation process with noncustodial parents to determine the amount of arrearage to be settled. In 12 of the 20 States, this amount is largely predetermined based on State policies (such as in Massachusetts, where the amount settled is usually equal to the amount of interest and penalty). In the remaining eight States, managers and caseworkers

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<sup>15</sup> For example, Massachusetts charges 12-percent interest and an additional penalty of 6 percent on the principal owed. As State policy, the debt settled through its compromise program was always the amount of the interest and penalty owed. Available online at [http://www.mass.gov/?pageID=dorterminal&L=6&L0=Home&L1=Businesses&L2=Help+%26+Resources&L3=Legal+Library&L4=Regulations+\(CMRs\)&L5=18%2c+119A%2c+175%3a+Child+Support+Enforcement&sid=Ador&b=terminalcontent&f=dor\\_rul\\_reg\\_reg\\_830\\_cmr\\_119a\\_6\\_1&](http://www.mass.gov/?pageID=dorterminal&L=6&L0=Home&L1=Businesses&L2=Help+%26+Resources&L3=Legal+Library&L4=Regulations+(CMRs)&L5=18%2c+119A%2c+175%3a+Child+Support+Enforcement&sid=Ador&b=terminalcontent&f=dor_rul_reg_reg_830_cmr_119a_6_1&). Accessed May 9, 2007.

<sup>16</sup> Reference to reduction in policy is available online at <http://legis.state.nm.us/lcs/lfc/lfdocs/budget/2007RecommendVoll.pdf>. Accessed May 9, 2007.

<sup>17</sup> Texas Statutes Family Code 157.265, Accrual of Interest on Child Support. Available online at <http://tlo2.tlc.state.tx.us/statutes/fa.toc.htm>. Accessed May 9, 2007.

<sup>18</sup> The Massachusetts CSE agency stopped retroactive accumulation of arrearages in 1998 and the Texas CSE agency stopped in 2002.

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have discretion to determine amounts settled based on the circumstances of individual cases. Additionally, 12 of the 20 States offer to negotiate compromise of debt owed to custodial parents in conjunction with the negotiations regarding debt owed to the State.

Ten of the twenty States with programs reported that managers in their local CSE offices make final decisions regarding debt compromise. In another eight States, decisions are made by individual caseworkers or staff specifically assigned to arrearages management or debt compromise programs. These caseworkers are typically given prior training in debt compromise criteria and negotiation procedures, then largely given autonomy to make decisions after reviewing case information and communicating with the noncustodial parent. In the remaining two States, judges approve debt compromise agreements, often with input from CSE agency staff.

**CSE officials in States with programs report a largely positive view of debt compromise, although a few express concern that settling debt is contrary to the enforcement process**

State CSE officials in 17 of the 20 States with debt compromise programs expressed positive views of debt compromise practices, citing a number of advantages to reducing

debt in carefully selected cases. Officials in the remaining three States and in the eight States without programs reported concerns about using debt compromise.

The officials who were positive most often mentioned the advantage of receiving at least a portion of arrearages previously considered uncollectible and the benefit of more regular subsequent payment. One official indicated that all parties benefit—the custodial parent and dependents receive more consistent support, the noncustodial parent is released from the burden of overwhelming debt, and the State government collects at least a portion of what was previously owed. Other advantages included reduced caseloads because of case closure and improved family involvement by noncustodial parents.

CSE agency officials in the remaining three States with programs and in the eight States without programs raised concerns about debt compromise, reporting that negotiating agreements can take staff time away from managing and enforcing more active cases. They also expressed a belief that debt compromise conflicts with the CSE agency's primary mission of collecting child support for families. These officials reported that debt compromise could appear to reward poor payers and

## F I N D I N G S

send a signal to noncustodial parents that they are not responsible for child support debt and that the settlement of debt in selected cases is unfair to other parents who pay all that is owed.

Officials in the 31 States that compromise debt on only a case-by-case basis (23 States) or not at all (8 States) reported a number of reasons for not implementing programs, including reluctance of State legislatures to approve settlement of State debt and negative public opinion toward settling debt incurred through public assistance programs.

Additionally, officials in all of these 31 States reported that they prefer to address potential problems by attempting to prevent arrearages, listing methods such as establishing orders appropriate to the noncustodial parent's income and adjusting orders as circumstances change. Even given these concerns and practices, 17 of these 31 States reported that they are considering implementing debt compromise programs and are in the process of weighing the costs and benefits.

## ► R E C O M M E N D A T I O N

Twenty States have implemented debt compromise programs, 23 other States use debt compromise on a case-by-case basis, and many of these States are considering full programs. We found that States were often able to close cases following debt compromise and that debt compromise resulted in lump sums payments to States and families. Additionally, officials in States with programs reported a largely positive view of debt compromise. However, four of the five States did not routinely follow up with noncustodial parents who paid irregularly or not at all following debt compromise to ensure that they meet their agreements. To enhance the effectiveness of State use of debt compromise, we recommend that OCSE:

### **Issue Guidance Encouraging States To Routinely Monitor Cases that Remain Open Following Debt Compromise Agreements**

We recommend that OCSE issue program guidance to States emphasizing the need to routinely monitor cases that remain open following debt compromise to ensure that noncustodial parents meet their agreements, such as regular payment of current support and arrearages, and develop standards and alternatives for corrective action.

Because of the high level of interest in and use of debt compromise, we suggest that OCSE also consider issuing guidance regarding the administration of debt compromise programs to assist States that are considering new programs or revising current practices. This guidance could be based on information and insights from States with mature programs, and topics could include the criteria used for determining which cases are eligible for debt compromise, the proportion or nature of the debt to be settled, suggestions for training staff in making case determinations, and use of debt compromise to close child support cases in which only arrearages are owed. Such guidance would need to make clear that States are not required to implement debt compromise programs and that States may use discretion in implementing the guidance.

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## AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

The Administration for Children and Families (ACF) and the Assistant Secretary for Planning and Evaluation (ASPE) jointly provided comments in response to our draft report.

ACF concurred with our recommendation to issue guidance encouraging States to routinely monitor cases that remain open following debt compromise agreements and with our suggestion to issue guidance to States regarding administration of debt compromise programs to assist States that are considering new programs or revising current practices.

ACF outlined current and planned guidance activities, including hosting teleconferences focused on debt compromise for interested States and establishing an electronic workplace for States to share documents and information on arrears issues, including debt compromise. ACF also plans to develop guidance materials addressing arrears management issues as part of the implementation of a new initiative, Project to Avoid Increasing Delinquencies (PAID). ACF indicates that the PAID Steering Committee will review this report and determine the type of guidance that the States desire on the subject of debt compromise.

In describing this current and proposed guidance, ACF did not explicitly address providing guidance to States regarding monitoring of open cases following debt compromise agreements. Because the lack of monitoring of debt compromise cases poses a vulnerability to the integrity of State debt compromise programs, we recommend that ACF provide guidance to States specific to this issue.

ASPE commented that the report was useful in providing information regarding a policy area in which little research exists. ACF and ASPE also provided technical comments, which we incorporated as appropriate, and ACF submitted a number of questions and observations regarding debt compromise programs that cannot be answered by this study but could be considered in future work.

ACF's and ASPE's comments are included in Appendix E.

## DESCRIPTIONS OF CHILD SUPPORT PROGRAMS IN SELECTED STATES

We selected 5 States for site visits (California, Massachusetts, New Mexico, Texas, and Washington) from among the 12 States with fully implemented Statewide programs that had at least 1 year of experience with debt compromise. We also considered geographic location and child support program characteristics, such as how large the caseload was and whether the States relied primarily on judicial or administrative procedures (see Table A). The selected States all review and adjust child support cases every 3 years and review any case upon request. These States use similar enforcement measures for collections and dealing with arrearages, including license revocation, property or asset seizure, and tax intercepts.

<b>Table A: Program Characteristics for Selected States</b>				
<b>State</b>	<b>Caseload Size FY 2005</b>	<b>Calculation Model</b>	<b>Procedures</b>	
			<b>Order Establishment</b>	<b>Order Enforcement</b>
California	1,762,996	Income Shares	Judicial	Judicial and Administrative
Massachusetts	268,640	Percentage of Income	Judicial	Primarily Administrative (some judicial)
New Mexico	70,217	Income Shares	Judicial	Judicial and Administrative
Texas	913,551	Percentage of Income	Primarily Administrative (some judicial)	Judicial and Administrative
Washington	341,069	Income Shares	Judicial and Administrative	Administrative

Source: Office of Child Support Enforcement Preliminary Data Report, FY 2005.

California. California was the only State selected for review with a county-administered program. The Department of Child Support Services is a component of the California Health and Human Services Agency and comprises 52 local child support agencies, including 11 counties that have combined to form 6 regional agencies. The State relies solely on judicial procedures for child support order establishment. Support amounts are determined using an income shares calculation model, calculating a percentage of each parent's net disposable income and adjusting the amount based on the percentage of time each parent has primary physical responsibility for the child. California's interest rate for missed payments and adjudicated arrearages as well as retroactive support is 10 percent per year. Interest accrues from the date of the missed payment or a judgment establishing either an arrearage or retroactive support resulting from paternity establishment.

Massachusetts. Massachusetts' program is administered by the State's Department of Revenue through five regional offices, two satellite offices, and a customer service call center. Child support and custody orders are established through the courts and support amounts are calculated as a percentage of parents' income. Massachusetts imposes 12-percent interest and an additional penalty of 6 percent on delinquent payments and arrearages. Some noncustodial parents may not be required to pay interest or may be eligible to apply for a waiver.

New Mexico. New Mexico has a State-administered program of seven offices overseen by the CSE Division of the New Mexico Human Services Department. The courts establish paternity and finalize child support orders. Support amounts are determined by an income shares calculation model, which considers the income of both parents. Noncustodial parents with delinquent payments and arrearage balances currently face an interest rate of 4 percent.

Texas. The Texas Child Support Division operates a State-administered program within the Office of the Attorney General. Sixty-eight offices (regional and local) report to the State CSE. Texas uses a quasi-administrative process to establish support obligations, referring cases to the courts in situations involving paternity establishment and retroactive support, a minor parent, an incarcerated parent, histories of family violence, foster care, or interstate child support cases. Child support amounts in Texas are calculated as a fixed percentage of the noncustodial parent's net resources with adjustments for multiple

family obligations. However, courts have discretion to deviate from these general guidelines. Interest accrues on the delinquent child support at 6-percent simple interest annually. Payments are considered delinquent if not received before the 31<sup>st</sup> day after payment is due. For court-imposed retroactive support, interest accrues from the date the order is rendered.

*Washington.* Washington operates a State-administered program. Washington's Division of Child Support includes 10 field offices and is part of the State's Department of Social and Health Services. In establishing support orders, Washington uses the administrative process if no court order specifically establishes or relieves a parent of support obligation. Custody issues and paternity establishment are handled through the judicial process. Support amounts are set under an income shares calculation model based on the income of both parents. Interest is imposed only in cases for which retroactive arrearages are imposed by the courts.

## DETAILED METHODOLOGY

Data used in this evaluation were collected through a survey of all States and a review of a sample of 259 debt compromise cases from five States with debt compromise programs.

### **Data Collection and Analysis**

*Survey of All States.* To determine the prevalence and characteristics of debt compromise practices among States, we surveyed all States and the District of Columbia (hereafter referred to as States). Respondents were CSE program directors or managers directly involved with administering the debt compromise program in their States. Survey questions included whether States had any experience with debt compromise programs recently or in the past, whether they actively pursued debt compromise, and what the current status of their programs was. We asked States with operating programs to provide additional details related to eligibility, compromise requirements, policies for making determinations, caseloads, and participation levels.

*Site Visits to Selected States.* To determine the outcomes of debt compromise programs on cases, we purposively selected five States (California, Massachusetts, New Mexico, Texas, and Washington) to review child support cases with compromise agreements. We selected these from among the 12 States with at least 1 year of experience with a Statewide debt compromise program. We also considered geographic location and child support program characteristics, such as how large the caseload was and whether a State relied primarily on judicial or administrative procedures.

We conducted site visits and interviewed State CSE agency staff and managers in each of the five States. State officials provided information about staff involvement in developing and implementing debt compromise programs, their experiences in identifying and working with cases, and their perceptions of debt compromise program results.

From each of the five States, we requested a list of all cases involved in debt compromise agreements since the inception of their programs. The resultant population was a total of 6,719 cases. We selected a random sample of 55 debt compromise cases from each State for further review. Upon review, 16 cases sent by States did not meet our criteria, resulting in a final sample of 259 cases (see Table B on next page).

<b>Table B: Distribution of Debt Compromise Sample Cases by Selected State</b>				
<b>Selected State</b>	<b>Total Cases</b>	<b>Original Number of Cases Sampled</b>	<b>Final Number of Cases Sampled</b>	<b>Calculated Weights</b>
California	992	55	51	18.04
Massachusetts	530	55	54	9.64
New Mexico	325	55	50	5.91
Texas	589	55	52	10.71
Washington	4,283	55	52	77.81
<b>Total</b>	<b>6,719</b>	<b>275</b>	<b>259</b>	<b>N/A</b>

Source: Office of Inspector General analysis of debt compromise cases in five States, 2006.

*Case Reviews.* For each sample case, we collected the amounts of arrearages, amounts compromised, and remaining arrearages. We reviewed case files to determine whether any additional requirements had been imposed on noncustodial parents in exchange for the debt reduction, whether CSE agencies followed up, and whether the cases had current support orders or only arrearages.

We also obtained payment records for each sample case, including all payments made for the 12-month period before a compromise agreement and 12 months after compromise.<sup>19</sup> For the 154 cases that remained open after debt compromise, we compared these measures to determine whether the regularity of payments changed following debt compromise. Cases closed as a result of a compromise agreement had no further payment history and were not included in this analysis. We categorized the payment behavior of noncustodial parents during each 12-month period into three groups:

- Regular Payment—payments were made with no more than 3 missed payments on a biweekly payment schedule (26) or no more than 1 missed payment on a monthly schedule (12);

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<sup>19</sup> Seven cases in our California sample were so recent that only 6 months of payment data was available, rather than 12 months.

- Irregular Payment—payments were made, but there were more than three missed payments on a biweekly payment schedule or more than one missed payment on a monthly schedule;
- No Payment—no record of payments for the 12-month period.

Cases classified as having irregular payment or no payment were combined for final analysis, leaving two groups: regular payment and irregular payment. Because of the small number of cases that remained open following debt compromise (154), we did not project the findings of this analysis to the population of debt compromise cases in the five selected States.

We also identified lump sum payments from case notes, compromise agreements, and payment histories and verified that all anticipated lump sums were ultimately paid. We calculated average lump sum amounts based on verified payment amounts.

*Statistical Projections.* We analyzed arrearage and payment data for the 259 cases in the sample and projected our findings to the population of debt compromise cases in the five selected States. Table B on the prior page presents the weights used to address the differing proportions of all debt compromise cases in each State to the number of cases in our sample. Appendix D includes estimates, standard errors, and confidence intervals for dollar amounts reported as arrearages owed, arrearages settled, and lump sums paid.

*Data Limitations.* Because we purposively selected States, we do not project our findings beyond the population of debt compromise cases in the five selected States. Outcomes observed in the five sample States are not intended as a measure of the effectiveness of the debt compromise programs in those States.

## STATUS OF DEBT COMPROMISE FOR ALL STATES

Table C: Status of Debt Compromise for All States		
State	Program Status	Start Date
Alabama	Case-by-Case	
Alaska	Pilot Program	2005
Arizona	Case-by-Case*	
Arkansas	No Program	
California	Fully Implemented Program	2003
Colorado	Case-by-Case	
Connecticut	Pilot Program	2006
Delaware	Case-by-Case	
District of Columbia	Case-by-Case	
Florida	Case-by-Case	
Georgia	Case-by-Case	
Hawaii	Case-by-Case	
Idaho	No Program	
Illinois	Case-by-Case	
Indiana	No Program	
Iowa	Pilot Program	2001
Kansas	Pilot Program	1985 (limited basis)
Kentucky	Case-by-Case	
Louisiana	Case-by-Case	
Maine	Case-by-Case	
Maryland	Pilot Program	2000-2003
Massachusetts	Pilot Program	2000
Michigan	Fully Implemented Program	2005
Minnesota	Case-by-Case	
Mississippi	No Program	

A P P E N D I X C

<b>State</b>	<b>Program Status</b>	<b>Start Date</b>
Missouri	No Program	
Montana	Fully Implemented Program	1998
Nebraska	Fully Implemented Program	1993 (approximately)
Nevada	Case-by-Case	
New Hampshire	Case-by-Case	
New Jersey	Case-by-Case	
New Mexico	Pilot Program	2005
New York	No Program	
North Carolina	Fully Implemented Program	2005
North Dakota	Fully Implemented Program	2005
Ohio	Case-by-Case	
Oklahoma	Case-by-Case	
Oregon	Fully Implemented Program	None listed
Pennsylvania	Case-by-Case	
Rhode Island	Case-by-Case	
South Carolina	Case-by-Case	
South Dakota	Case-by-Case	
Tennessee	No Program	
Texas	Fully Implemented Program	2001
Utah	Fully Implemented Program	None listed
Vermont	Fully Implemented Program	None listed
Virginia	No Program	
Washington	Fully Implemented Program	1977 (approximately)
West Virginia	Fully Implemented Program	None listed
Wisconsin	Pilot Program	None listed
Wyoming	Case-by-Case	

Source: Office of Inspector General, Debt Compromise State Survey, 2006.

\*Arizona CSE officials reported plans to implement a full debt compromise program in 2007 or 2008.

## ESTIMATES AND CONFIDENCE INTERVALS

<b>Table D:</b>				
<b>Estimates and 95-Percent Confidence Intervals for Arrearage and Payment Data</b>				
	<b>Mean Estimate</b>	<b>Standard Error</b>	<b>Lower Limit</b>	<b>Upper Limit</b>
<b>Average Arrearage (n=259)</b>	<b>\$22,029</b>	<b>1,852.0</b>	<b>\$18,381</b>	<b>\$25,676</b>
California	\$21,009	2,151.0	\$16,771	\$25,247
Massachusetts	\$11,029	1,385.0	\$8,300	\$13,757
New Mexico	\$16,514	1,851.0	\$12,868	\$20,159
Texas	\$19,349	3,273.0	\$12,902	\$25,795
Washington	\$24,446	2,815.0	\$18,902	\$29,989
<b>Average Settled (n = 259)</b>	<b>\$9,383</b>	<b>1,013.0</b>	<b>\$7,388</b>	<b>\$11,378</b>
California	\$16,324	1,868.0	\$12,646	\$20,002
Massachusetts	\$3,544	530.0	\$2,499	\$4,588
New Mexico	\$11,000	1,363.0	\$8,315	\$13,685
Texas	\$13,824	2,88.0	\$8,194	\$19,453
Washington	\$7,828	1,472.0	\$4,928	\$10,727
<b>Average Lump Sum Paid at Compromise (n = 117)</b>	<b>\$5,515</b>	<b>664.4</b>	<b>\$4,207</b>	<b>\$6,823</b>
California	\$4,061	1,107.0	\$1,882	\$6,241
Massachusetts	\$8,108	991.3	\$6,156	\$10,061
New Mexico	\$2,617	813.4	\$1,016	\$4,219
Texas	\$1,139	151.2	\$841	\$1,436
Washington	\$5,838	1,596.0	\$1,596	\$8,981

Source: Office of Inspector General analysis of 259 cases in five States, 2006.

## Agency Comments



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES  
Office of the Assistant Secretary, Suite 600  
370 L'Enfant Promenade, S.W.  
Washington, D.C. 20447

JUL 31 2007

TO: Daniel R. Levinson  
Inspector General

FROM: Daniel C. Schneider *DCS*  
Acting Assistant Secretary  
for Children and Families

SUBJECT: Office of Inspector General (OIG) Draft Report Entitled,  
"State Use of Debt Compromise To Reduce Child Support Arrearages"  
(OEI-06-06-00070)

Attached are comments of the Administration for Children and Families and the Office of the Assistant Secretary for Planning and Evaluation on the above-referenced report.

Should you have questions, please contact Margot Bean, Director, Office of Child Support Enforcement, at (202) 401-9369.

Attachment

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**COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES  
AND THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND  
EVALUATION ON THE OFFICE OF INSPECTOR GENERAL DRAFT REPORT  
ENTITLED, "STATE USE OF DEBT COMPROMISE TO REDUCE CHILD  
SUPPORT ARREARAGES" (OEI-06-06-00070)**

The Administration for Children and Families (ACF) and the Office of the Assistant Secretary for Planning and Evaluation (ASPE) appreciate the opportunity to comment on the Office of Inspector General (OIG) draft report.

General Comments

The Office of Child Support Enforcement (OCSE) estimates that over \$100 billion in unpaid child support has accumulated since the inception of a national child support program. Current support collections have risen considerably in recent years following the advent of new collection tools, but reducing the total amount of arrears continues to be a challenge.

In 1999, OCSE issued a policy statement clarifying the statutory acceptability of debt compromise and encouraging States to utilize the practice as a means of bringing parents who owe large child support arrearages back into compliance and possibly reunited with their children. However, not all States have initiated debt compromise programs. OCSE continues to learn how States are using the debt compromise provisions through State presentations at conferences and through the issuance of Section 1115 grants, which included as a priority "early intervention." Projects funded under that priority address practices that can lead to arrears management. Additionally, a detailed written report entitled "Managing Child Support Arrears, A Discussion Framework, Summary of the Administration for Children and Families, Region I, II and III Third Meeting on Managing Arrears," resulted from that meeting on September 22, 2002.

OCSE has implemented a new multi-year initiative called, Project to Avoid Increasing Delinquencies (PAID), which focuses on practices that may increase collections and/or reduce arrears. One of the four categories in PAID is managing existing arrears. This PAID initiative was announced to the State and Tribal IV-D Directors in a Dear Colleague Letter (DCL-07-17), and was discussed at the May 2007 National Child Support Directors Association meeting as well as at numerous national, regional and State conferences and meetings. We have bi-monthly PAID Steering Committee teleconferences that include two State IV-D Directors. OCSE has developed an arrears management workplace where documents such as the Peer-to-Peer Training Conference summary notes on current collections and arrears management (May 16-18, 2006) as well as the final OIG report will be posted. OCSE is currently developing a variety of guidance materials and tools, and is providing technical assistance to States regarding the PAID initiative, including the topic of arrears debt compromise programs.

OIG Recommendation

We recommend that OCSE issue guidance encouraging States to routinely monitor cases that remain open following debt compromise agreements to ensure that noncustodial

parents meet their agreements. Because of the high level of interest in debt compromise, we suggest that OCSE also consider issuing guidance regarding the administration of debt compromise programs to assist States that are considering new programs or revising current practices. This guidance could be based on insights from States with mature Programs; topics could include criteria used for determining eligibility, the proportion or nature of the debt to be settled, suggestions for training staff, and use of debt compromise to close child support cases in which only arrearages are owed.

#### ACF Comments

ACF concurs with the recommendations made by OIG. The types of guidance that we will develop include:

**Affinity Calls** – Teleconferences with States that have a common interest in a topic, such as OCSE grantees for data warehousing, early intervention, customer service call centers, etc. These affinity calls could include insights from States experienced in debt compromising sharing best practices and lessons learned with other States interested in arrears debt compromise.

**OCSE Arrears Electronic Workplace** – We have established an electronic workplace for States that want to share documents and information on a variety of arrears issues, including debt compromise. We will post this OIG report when finalized to improve its dissemination among the child support community.

**Presentations at National, Regional and State Conferences** – We sponsored a Peer-to-Peer Training Conference in La Jolla, California, May 16-17, 2006, and debt compromise was one of the topics discussed. In addition, we have added sessions on PAID topics to the agendas of upcoming conferences, including the Child Support Training Conference in October 2007.

**Guidance Materials** – We are developing a series of guidance materials related to PAID. These guidance materials include PAID updates, PAID-in-full questions and more detailed guidance documents on subjects such as Review and Adjustment, Case Closure, Federal Institution Data Match Freeze and Seize and Income Withholding.

OCSE is also forming work groups as part of the PAID initiative. One of the work groups will be working on stratifying arrears, which may lead to further understanding of existing arrears and to more robust forgiveness programs.

OCSE will discuss the OIG recommendations with our PAID Steering Committee in order to determine the type of guidance that the States desire on the subject of debt compromise.

#### ASPE Comments

This report was very useful in providing some real data on a policy intervention that we know very little about.



## A C K N O W L E D G M E N T S

This report was prepared under the direction of Kevin K. Golladay, Regional Inspector General for Evaluation and Inspections and A. Blaine Collins, Deputy Regional Inspector General for Evaluation and Inspections in the Dallas regional office.

Ruth Ann Dorrill served as the team leader for this study and Scott Whitaker served as the project leader. Other principal Office of Evaluation and Inspections staff from the Dallas regional office who contributed to this report include Dana McClellan; central office staff who contributed to this report include Ayana Everett and Barbara Tedesco.