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Child Support

Past – Present – Future

What we do?

- Help establish legal family relationships.
 - Establish paternity and facilitate Recognitions of Parentage;
- Support the orderly transfer of resources from one person to another for the benefit of the child(ren).
 - Focus on engaging families to determine ability to pay and the needs to get the order established on both public assistance and nonpublic assistance cases; and
 - Collect and modify child support orders as circumstances change.

Why is it important?

- Child support touches many lives.
- Children benefit from receiving financial support from both parents.
- Can help reduce truancy and improve school performance.
- Goal of creating self-sufficient families.
- Fairly cost effective collections.

Purpose

Then:

- Originally, a system set up to reimburse the government for public assistance expended.

Now:

- Shortly thereafter, changed to equal services for both public assistance and nonpublic assistance cases
 - Shift of focus to supporting families to benefit children.

Funding

- Federal: Approximately 85% of total funding in Ramsey
 - 66.66% reimbursement
 - Incentives
- State: Minimal
- County: Approximately 15% of total funding in Ramsey

How a Case Becomes a IV-D Case?

- Public assistance is currently in place;
- Former public assistance (continued services); or
- Nonpublic assistance application.

Public Assistance

- MFIP or TANF;
- Medical Assistance*;
- IV-E Foster care;
- Non-IV-E Foster Care not assigned, but referred; and
- Child Care Assistance.

*No automatic METS interface right now, but some counties are doing manual referrals.

Former Public Assistance

- If public assistance is no longer in place, the custodial parent receives a notice that IV-D services will continue unless they choose to close the case.
 - The court ordered obligation does not automatically end if a IV-D case closes.
 - A motion or stipulation is needed to change the court order.
 - Otherwise the order is still enforceable, it's just that the County will not be actively collecting on the case.

Nonpublic Assistance

- Begins by an application for NPA IV-D services by either party.
 - No public assistance has ever been open.
 - Sometimes referred to as “Never Public Assistance Case.”

What is included in IV-D Services?

- Locating Parents;
- Establishing Paternity;
- Establishing basic support, child care support and medical support;
- Enforcing basic support, child care support and medical support;
- Reviewing and modifying basic, child care and medical support;
- Working with other states (if a parent lives in another state); and
- Collecting and disbursing current and/or past child support payments.

What is not included in IV-D Services?

- Assistance with obtaining divorces;
- Establishing, modifying and enforcing of custody and parenting time;
 - However, when the County initiates a paternity adjudication the county ensures that custody and parenting time are ordered and that the parties understand the different kinds of custody and parenting time options.
- Establishing or modifying spousal maintenance;
- Collection of attorneys' fees or property settlements; or
- Legal advice or legal representation of either party.
 - The County can help explain the process; what is happening and why the County is asking for certain things, but not what the party should say or how to say it.

Fees

- No current Application Fee
- 2% Cost Recovery Fee in certain cases
- Other Fees
 - Income Withholding Only
 - One-time lump sums

Statewide Numbers

- In FFY 2018, Minnesota's child support program served 235,564 children by:
 - Collecting \$578.2 million in current and past child support mostly through income withholding from paychecks;
 - Establishing paternity through 2,623 court orders and 1,166 Recognition of Parentage forms signed at county offices;
 - Establishing 12,373 orders for support;
 - Adjusting 47,080 cases for cost of living increases; and
 - Modified more than 8,483 child support orders.

Statewide Numbers

- Hennepin County has the highest caseload with about 48,500 cases and 280 full time staff.
- The smallest county caseloads are under 200 cases and may have one or fewer full time staff.

Ramsey County

- Had 23,340 open cases in federal fiscal year 2018:
 - Formerly public assistance cases 13,265 (50.6%)
 - Never public assistance cases 6,571 (28.2%)
 - Public assistance cases 3,404 (14.6%)
- Has about 130 staff to help set and collect child support.

Anoka County

- Has 11,407 open child support cases
 - Have seen a decline in open cases – likely due to medical support only cases and METS issues which were not being referred for the last few years
- Has 38 Child Support Officers at the current time
 - Several positions currently vacant
 - Also have 5 in Supervisory/Management Roles

Legal Process

Past:

Solely a judicial process in the District Courts – then in 1992 transitioned to include an Administrative Process – ADPRO

- HOLMBERG V. HOLMBERG 578 NW 2D 817 (1998)
- HOLMBERG V. HOLMBERG 588 NW 2D 720 (1999)

Present:

Judicial process including Expedited Child Support Process - EXPRO

- District Court – Referee/Judge
- Expedited Child Support Process – Child Support Magistrate
 - Personal Responsibility and Work Opportunity Reconciliation Act⁴ (PRWORA)

Legal Process

Future:

- Hearings will continue to be Judicial in nature, but some of the remedies can be considered administrative if they can be done without a hearing being requested.

Child Support System

Past:

- Paper
 - Ledgers
 - Books
 - Note cards

Present:

- 2nd Generation Automated System (**PRISM** 1997)
- E-Filing/e-Service

System

Future:

- Starting to work on 3rd Generation of an Automated System slated to be fully implemented in 2023 (??). Beginning the feasibility study in early 2020.
- Moving towards fully digital internal case files

Court Accessibility

Past:

- Paper records only at courthouse and court hearings and judicial process more difficult to access.
- More reliance on attorney representation.
- Child Support hearings
 - Limited hearing dates
 - Show up or tough luck
 - One notice, no reminders

Present:

- Electronic records
 - Electronic filings and forms
- Increased resources for Self Represented Litigants
 - More accessible and user friendly
- Child Support Hearings
 - More hearing dates
 - Telephone hearing options
 - Text reminders

Court Accessibility

Future:

- Anticipate present trends to continue that will allow people to access most court records from almost anywhere.
- Continued support for self represented parties to assist them in being able to bring motions when things change.

County's Role

Past:

- Originally, the County represented custodial parents and the government.

Present:

- Since 1996, the County no longer represents custodial parents.
- The County still represents the government/public interest in setting a fair and enforceable child support orders.
 - County has a financial interest in recovering and preventing public assistance.

County's Role

Future:

- Possibly more requirements for county to be involved in custody and parenting time determinations is anticipated, since each additional overnight affects the guidelines child support calculation.
 - (i.e. 2018 Parenting Expense Adjustment)

Types of Cases

- Paternity
- Establishment
- Modification
- Enforcement

Paternity

Paternity – Goal is adjudication of biological father

- Option to initiate in ExPro or Family Court
- The parties, including the County, have a right to ask for Genetic Testing to be done
- Both the alleged father and the mother have the right to be represented by an attorney, and to a court appointed attorney, if they meet financial limits, on the issue of paternity
- They also both have a right to a jury trial

Paternity

Past:

- All long, long time ago, who does the child resemble?
 - Held child out as their own?
- A long time ago, Blood Typing
 - Reliable but not as reliable and not as detailed as DNA
 - Expensive

Present:

- Genetic DNA Test
 - Buccal cheek swab
 - More detailed
 - More reliable
 - Faster
 - Easier
 - Cheaper

Paternity

Future:

- Possible future where DNA record is created at birth.
 - Genetic testing may become so fast and inexpensive that it can be done at the hospital before the parents leave so that there are no future doubts as to the biological relationships.

Voluntary Paternity Establishment

Past:

- Acknowledgement of Paternity
 - Created a presumption of paternity
 - Could be used to establish child support

Present:

- Recognition of Paternity
 - Considered a conclusive determination of paternity if both parents were adults when signed and there are no competing presumptions of paternity

Federal requirement for all states to have an in-hospital systematic process in place for the voluntary establishment of parentage (The Omnibus Budget Reconciliation Act of 1993 (OBRA) as a condition of receiving Federal IV-D funds. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) modified and expanded the requirement.

Voluntary Paternity Establishment

Future:

- Talking about a new voluntary process that includes more options than just biology:
 - Same sex couples; or
 - Distinguishing a surrogate or donor situation from biological parentage.

Establishment

- Establishment – when paternity has been established through a Recognition of Parentage (ROP) or a court order or marriage.
 - Addresses only financial issues of support:
 - Basic support
 - Medical support
 - Child Care support
 - Past child support
 - Up to two years back and pregnancy/confinement expenses

Establishment

- The income of both parents used to determine support obligations, except when the income is Social Security (SSI) or Cash Public Assistance.
 - Minnesota's Child Support Guidelines is an income share model.
 - Prior to income share model change on 1/1/2007, it was a percentage of the obligor's income guidelines.

Child Support

Past:

- Calculation based upon only the non-custodial parent's net monthly income
 - Calculated at 25-40% of net income depending on the number of children of the parties

Present:

- Post 2007 calculation based upon both parents gross income
- Income Shares Model
 - Based upon a complex mathematical equation based upon the cost to raise a child(ren) and the income level of the parents.

Income Share Model – More Explanation:

- The Income Shares model is based on the idea that both parents should share in the expenses of the family proportionate to their incomes.
 - Under this model, the court first determines the income of each parent and consults a table to determine the basic child support obligation at that combined income level.
- Minnesota is among many states that have such a model and the tables vary from State to State and are typically based on economic estimates of child-rearing expenditures at parties' income levels.

Child Support

Future:

- Recent refinement in parenting expense adjustment is better at addressing shared or split custody situations as now every overnight has an impact.
 - Elimination of the parenting time cliff that used to exist under the prior parenting expense adjustment.
- New attempts to refine how the guidelines work at the lower end and at the higher end of incomes.
- Attempts to increase the number of non-joint children that can be considered.
- Trying to reduce some of the negative effects of current interest policies.

Past Support

Past:

- Consistent practice to seek past support in PA and NPA cases for up to two years prior to bringing paternity or establishment actions.
 - Resulted in large judgments for past support including pregnancy and birth expenses.

Present:

- Focus more on current support, only seeking past support when there is both past income and present ability to pay past support.
 - Research shows the burden of large past support orders reduces the successful collection of current support.

Past Support

Future:

- Continued focus on collection of current support and current needs of children.
 - Trying to allow people to meet their own needs as well as the needs of their children.

Child Support Income

Past:

- Income imputed at the rate of 150% of minimum wage at 40 hours per week if:
 - An individual was not employed; or
 - Was considered to be voluntarily underemployed; or
 - When there was no information available to the court regarding their income.

Present:

- Income imputed at 100% of minimum wage at 40 hours a week except:
 - In the absence of any income information then 100% of minimum wage at 30 hours per week.
 - Can also look at a specific industry's practice regarding the number of hours normally worked

Child Support Income

Future:

- Adapting to the “gig” economy or underground economy and tracking income/ability.
 - Finding the balance point as industries change.
 - Want to accurately assess income, but it is getting harder.
 - Discussion starting about how to look at in-kind income where appropriate.

Parenting Time and Child Support

Past:

- There was little consideration in the child support calculation for parenting time – typically only consideration was for split custody situations (Hortis v. Valento)
 - In 2007 a parenting time expense was factored in cases with a schedule between 10- 45% parenting time would receive a 12% reduction in their support obligation.

Present:

- As of August 1, 2018 child support calculations are now completed with credit given for the total number of overnights with each parent has with the child by order.
 - Eliminating the “cliffs” and more accurately crediting for the time the children are with both parents.
 - Creating a more gradual curve.

Parenting Time and Child Support

Future:

- Some legislative initiatives to require all support orders to address custody and parenting time issues and encouraging parental involvement early.
 - Making it easier for parents to establish custody and parenting time schedules by joint agreement.
 - Possibly changing the rules to allow child support magistrates to accept custody and parenting time agreements in establishment cases.

Modification

- Goal is when circumstances have changed significantly, the order should be reviewed and modified if appropriate.
- Changes in circumstances are presumed to unreasonable and unfair if:
 - There was a 20% and \$75 change in court ordered support amount;
 - Medical support changed;
 - The original order was a percentage order; or
 - Child is now living in a foreign county.

Modification of Child Support

Past:

- Change of 20% and at least \$50 to qualify for modification

Present:

- Change of 20% and at least \$75 to qualify for modification

Modification of Child Support

Future:

- Ongoing focus on appropriate orders and modifying support when appropriate to limit uncollectable arrears
 - County often initiates review/modification when someone is in prison or on public assistance.
 - But also modify upon release from prison or termination of assistance.
 - Try to reset the amount and not just reinstate, unless they really can afford to prior amount of child support.

Collections

- Goal is to gain regular, timely and consistent full payments.
 - Start with the least intrusive tools first and only use the more intrusive tools when appropriate.

Collections

- Tools include:
 - Income Withholding
 - License Suspension (Driver's, Recreational, Occupational)
 - Tax Intercept – Federal and State Offsets
 - Credit Bureau Reporting
 - Passport Renewal
 - FIDM (Financial Institution Data Match)

Collections

- Civil Contempt
 - *Hopp v. Hopp*, 156 N.W.2d 202, 279 Minn. 170 (Minn. 1968)
 - *Mahady v. Mahady*, 448 N.W.2d 888 (Minn. App. 1989)
- Criminal Non-Support – State and Federal
 - Matter of last resort in most counties.

Collections

Past:

- Remedies were automatic and no real discretion.
- Fewer payment agreements.
- Less help available for non-payors.

Present:

- Many remedies still automated, but more discretion.
- More graduated payment agreements.
- More help available for unrepresented parties.

Collections

Future:

- Ongoing focus on getting right sized orders in the beginning and modifying support when appropriate to limit uncollectable arrears.
- Looking at collections more as a partnership.
 - What can the County do to help the parties be successful?
 - What are some the barriers to success?
 - What is best for the whole family?
 - Employment services.
 - Expungement efforts.

Outreach Examples

- Language specific workers
- August Child Support Awareness Month Projects
- After-hours clinics
- Driver's License reinstatement project
- Parenting Expense Adjustment outreach
- Partnership with Workforce Programs
- Social medial presence (Facebook, LinkedIn, radio spots, etc.)
- Fatherhood Initiatives
- School and Community Groups
- Veteran's stand-down
- Warrant Resolution Days
- Communicating by text messages (in the planning stages)

Challenges

- Not enough money to go around
- Unemployment
- Sporadic/part-time employment
- Hot button issues: Money and Family
- Parenting time
- Lack of trust in the Government

Final Thoughts

- Child support agencies want to work with parties.
- We work better when we have accurate, up-to-date information.
- Encourage people to contact their child support worker when something changes:
 - Address;
 - Phone number; or
 - Job status.
- Our success is largely based on the success of the parties.
- We get better outcomes when we work together.

Questions?

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