

(1) The standards identified in paragraph (c) and (d) of this section.

(2) The following standards:

(i) *Retail pharmacy drugs*. The NCPDP Telecommunication Standard Implementation Guide Version F6, January 2020 and equivalent NCPDP Batch Standard Implementation Guide, Version 15, October 2017 (both incorporated by reference in § 162.920).

(ii) *Dental, professional, and institutional request for review and response*. The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Services Review—Request for Review and Response (278), May 2006, ASC X12N/005010X217, and Errata to Health Care Services Review—Request for Review and Response (278), ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, April 2008, ASC X12N/005010X217E1 (both incorporated by reference in § 162.920).

(f) For the period on and after February 11, 2028, the standards identified in paragraph (e)(2) of this section.

■ 6. Section 162.1802 is amended by—

■ a. In paragraph (c), by removing the phrase “For the period on and after the January 1, 2012,” and adding in its place the phrase “For the period from January 1, 2012 through August 11, 2027”;

■ b. In paragraph (d), by removing the phrase “For the period on and after September 21, 2020,” and adding in its place the phrase “For the period on and after September 21, 2020 through August 11, 2027”; and

■ c. Adding paragraphs (e) and (f).  
The additions read as follows:

**§ 162.1802 Standards for coordination of benefits information transaction.**

\* \* \* \* \*

(e) For the period from August 11, 2027 through February 11, 2028, both of the following:

(1) The standards identified in paragraphs (c) and (d) of this section.

(2) The following standards:

(i) *Retail pharmacy drug claims*. The NCPDP Telecommunication Standard Implementation Guide Version F6, January 2020 and equivalent NCPDP Batch Standard Implementation Guide, Version 15, October 2017 (both incorporated by reference in § 162.920).

(ii) *Dental health care claims*. The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Dental (837), May 2006, ASC X12N/005010X224, and Type 1 Errata to Health Care Claim: Dental (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC

X12N/005010X224A1 (both incorporated by reference in § 162.920).

(3) *Professional health care claims*.

The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Professional (837), May 2006, ASC X12N/005010X222 (incorporated by reference in § 162.920).

(4) *Institutional health care claims*.

The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3—Health Care Claim: Institutional (837), May 2006, ASC X12N/005010X223, and Type 1 Errata to Health Care Claim: Institutional (837) ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X223A1 (incorporated by reference in § 162.920).

(f) For the period on and after February 11, 2028, the standards identified in paragraph (e)(2) of this section.

■ 7. Section 162.1902 is revised to read as follows:

**§ 162.1902 Standard for Medicaid pharmacy subrogation transaction.**

The Secretary adopts the following standards for the Medicaid pharmacy subrogation transaction:

(a) For the period from January 1, 2012 through August 11, 2027—The NCPDP Batch Standard Medicaid Subrogation Implementation Guide, Version 3.0, July 2007 (incorporated by reference at § 162.920).

(b) For the period from August 11, 2027 through February 11, 2028—

(1) The standards identified in paragraph (a) of this section; and

(2) The NCPDP Subrogation Implementation Guide for Batch Standard, Version 10, September 2019 (incorporated by reference at § 162.920).

(c) For the period on and after February 11, 2028, the standard identified in paragraph (b) of this section.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2024–29138 Filed 12–12–24; 8:45 am]

**BILLING CODE 4150–28–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**45 CFR Parts 302, 303, 304, and 309**

**RIN 0970–AD00**

**Employment and Training Services for Noncustodial Parents in the Child Support Program**

**AGENCY:** Office of Child Support Services (OCSS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS or the Department).

**ACTION:** Final rule.

**SUMMARY:** In an effort to make the child support program more effective, OCSS (or the Office) issues this final rule to allow State and Tribal child support agencies the option to use Federal financial participation (FFP) available under title IV–D of the Social Security Act to provide the following employment and training services to eligible noncustodial parents: job search assistance; job readiness training; job development and job placement services; skills assessments; job retention services; work supports; and occupational training and other skills training directly related to employment.

**DATES:** This rule is effective on January 13, 2025.

**FOR FURTHER INFORMATION CONTACT:** Chad Edinger, Program Specialist, OCSS Division of Regional Operations, at mail to: [ocss.dpt@acf.hhs.gov](mailto:ocss.dpt@acf.hhs.gov) or (303) 844–1213. Telecommunications Relay users may dial 711 first.

**SUPPLEMENTARY INFORMATION:**

**Statutory Authority**

This rule is published under the authority granted to the Secretary of Health and Human Services by section 1102 of the Social Security Act (the Act) (42 U.S.C. 1302). Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, as may be necessary to the efficient administration of the functions with which the Secretary is responsible under the Act.

This rule is also authorized by sections 452(a)(1) and 454(13) of the Act (42 U.S.C. 652(a)(1) and 654(13)). Section 452(a)(1) of the Act expressly delegates authority to the Secretary's designee requiring the designee to “establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support . . . as he

determines to be necessary to assure that such programs will be effective.” Section 454 of the Act establishes requirements that States must include in their title IV–D<sup>1</sup> State plans, the costs of which are eligible for FFP under section 455 of the Act (42 U.S.C. 655). Specifically, section 454(13) of the Act provides the Secretary with delegated authority to require the State’s title IV–D plan to “provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments . . . .” State plans may be updated at any time and a State would submit updates to their State plan at the time of electing to provide employment and training services.

This rule is further published in accordance with section 455(f) of the Act (42 U.S.C. 655(f)) which authorizes the Secretary to make child support funding available to Tribes and Tribal organizations operating child support programs and to issue regulations establishing requirements for Tribal child support programs.

The rulemaking is also consistent with section 451 of the Act, which authorizes Federal funding to States for enforcing support obligations, obtaining child support payments, and assuring that assistance in obtaining support is available to all children.

## Background

The purpose of this rule is to allow State and Tribal child support agencies the option to use FFP under title IV–D of the Act to provide certain optional and nonduplicative employment and training services for eligible noncustodial parents in the child support program.

In 1975, Congress established the child support program under title IV–D of the Social Security Act (Pub. L. 93–647) to provide funding to States for effective enforcement of child support obligations. The child support program is administered at the Federal level by the OCSS and functions in all States and over 60 Tribes.<sup>2</sup> The program has evolved over the past 50 years and has been guided by the changing needs of families, by Federal legislation, and by research and data that contribute to OCSS’s understanding of the standards and requirements necessary to establish

an effective child support program. Today the program is focused on delivering child support services that improve the financial support of children, by collecting and facilitating consistent child support payments based on the noncustodial parents’ ability to pay.

Families and labor market opportunities have fundamentally changed since 1975. The percentage of children who need child support services has increased and the ability of noncustodial parents to pay child support has declined.<sup>3</sup> In calendar year 2021, 40 percent of births were to unmarried women, up from 14 percent in 1975.<sup>4</sup> In calendar year 2023, 25 percent of children lived with a single parent, up from 17 percent in 1975.<sup>5</sup> In fiscal year 2023, the child support program served one in five children in the United States, or 12.7 million children.<sup>6</sup> The labor market has been particularly difficult for less-educated men during this period, leaving them with significantly fewer job opportunities and less income than before. In 2015, the real hourly earnings for men 25–54 years old with only a high school degree was 18 percent lower than it was in 1973.<sup>7</sup> As of 2018, over 70 percent of noncustodial parents had not attended college.<sup>8</sup> In 2017, more

<sup>3</sup> U.S. Department of Health and Human Services, National Center for Health Statistics, “Nonmarital Childbearing in the United States, 1940–99,” National Vital Statistics Reports, 48: 16 (October 18, 2000), available at [https://www.cdc.gov/nchs/data/nvsr/nvsr48/nvs48\\_16.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr48/nvs48_16.pdf). Osterman, Michelle J.K., Brady E. Hamilton, Joyce A. Martin, Anne K. Driscoll, and Claudia P. Valenzuela, “Births: Final Data for 2021,” National Vital Statistics Reports, 72: 1 (January 31, 2023), available at <https://www.cdc.gov/nchs/data/nvsr/nvsr72/nvsr72-01.pdf>. U.S. Office of Juvenile Justice and Delinquency Prevention, “OJJDP Statistical Briefing Book,” (March 2024) available at <https://www.ojjdp.gov/ojstatbb/population/qa01201.asp?qaDate=2023>. Binder, Ariel J. and John Bound, “The Declining Labor Market Prospects of Less-Educated Men,” Journal of Economic Perspectives, 33: 2 (2019), available at <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.33.2.163>. Sanders, Patrick, “Demographic and Socioeconomic Characteristics of Nonresident Parents,” Washington, DC: Congressional Research Service, R46942 (October 2021) available at <https://crsreports.congress.gov/product/pdf/R/R46942>.

<sup>4</sup> U.S. Department of Health and Human Services (October 18, 2000). Osterman, Michelle J.K., et al. (January 31, 2023).

<sup>5</sup> U.S. Office of Juvenile Justice and Delinquency Prevention (March 2024).

<sup>6</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Services, “2023 Child Support: More Money for Families,” undated, available at [https://www.acf.hhs.gov/sites/default/files/documents/ocse/2023\\_infographic\\_national.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/2023_infographic_national.pdf).

<sup>7</sup> Binder, Ariel J. and John Bound (2019). See page 163 of the article where the authors note that they use the Personal Consumption Expenditure deflator when reporting real hourly earnings.

<sup>8</sup> Sanders, Patrick (October 2021). This report uses the term “nonresident parent” rather than

than one-third of noncustodial parents (3.4 million) lived in families with incomes below 200 percent of the official poverty thresholds, and 43 percent did not work full-time, year-round.<sup>9</sup> Stable employment is particularly important for a parent to be able to make reliable consistent child support payments for their children.

Other societal changes have also affected the child support program, including greatly elevated incarceration rates. Incarceration rates increased dramatically between 1980 and 2008 and have since declined, but the percent of the U.S. population incarcerated in 2020 was more than double the figure in 1980.<sup>10</sup> It is estimated that six percent of all children in the United States have a parent who is or has been incarcerated.<sup>11</sup> Research shows that the subgroup of noncustodial parents who participate in employment and training programs have high rates of prior arrests, convictions, and incarceration.<sup>12</sup> For example, 65 percent of noncustodial

noncustodial parent. It defines a nonresident parent as a person 15 years or older who does not reside for a majority of nights in the same household as one or more of his or her biological, adopted, or stepchildren under age 21. This definition is very similar to the definition of a noncustodial parent used by the child support program. For purposes of the child support program, a noncustodial parent is a parent who does not have primary care, custody, or control of the child, and who may have an obligation to pay child support (see Office of Child Support Services, Glossary of Common Terms available at <https://www.acf.hhs.gov/css/glossary#N>).

<sup>9</sup> Id.  
<sup>10</sup> Kluckow, Rich and Zhen Zeng “Correctional Populations in the United States, 2020—Statistical Tables” (March 2022), Lauren E. Glaze, “Correctional Populations in the United States, 2010” (December 2011), and Louis W. Jankowski, Louis W., “Correctional Populations in the United States, 1990” (July 1992), U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, all available at [https://bjs.ojp.gov/library/publications/list?series\\_filter=Correctional%20Populations%20in%20the%20United%20States](https://bjs.ojp.gov/library/publications/list?series_filter=Correctional%20Populations%20in%20the%20United%20States). Historical U.S. population data available at <https://www.census.gov/data/tables/time-series/dec/popchange-data-text.html>.

<sup>11</sup> The Annie E. Casey Foundation, “Children Who Had a Parent Who Was Ever Incarcerated by Race and Ethnicity in United States” (May 2023) available at <https://datacenter.acf.gov/data/tables/9734-children-who-had-a-parent-who-was-ever-incarcerated-by-race-and-ethnicity#detailed/1/any/false/2043,1769,1696,1648,1603/10,11,9,12,1,13/18995,18996>.

<sup>12</sup> Miller, Cynthia, and Virginia Knox, “The Challenge of Helping Low-Income Fathers Support Their Children: Final Lessons From Parents’ Fair Share,” New York: Manpower Demonstration Research Corporation (MDRC) (2001), available at [https://www.mdrc.org/sites/default/files/full\\_529.pdf](https://www.mdrc.org/sites/default/files/full_529.pdf). Barden, Bret, Randall Juras, Cindy Redcross, Mary Farrell, Dan Bloom, “New Perspectives on Creating Jobs: Final Impacts of the Next Generation of Subsidized Employment Programs,” New York: MDRC (May 2018), available at [https://www.mdrc.org/sites/default/files/ETJD\\_STED\\_Final\\_Impact\\_Report\\_2018\\_508Compliant\\_v2.pdf](https://www.mdrc.org/sites/default/files/ETJD_STED_Final_Impact_Report_2018_508Compliant_v2.pdf).

<sup>1</sup> Sections 451–469B of the Social Security Act, 42 U.S.C. 651–669b.

<sup>2</sup> Throughout this final rule, States include the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

parents who enrolled in a recently completed national demonstration of child support-led employment and training programs reported that they had been previously incarcerated.<sup>13</sup> Having an incarceration record is a barrier to employment that diminishes earnings potential, reducing a parent's ability to work and pay child support.<sup>14</sup>

In 1996, Congress enacted the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, Pub. L. 104–193), which made significant changes to the child support program.<sup>15</sup> These changes included the introduction of a new “family first” child support payment distribution policy, which required that families who previously received cash assistance must receive certain child support arrearage payments before the State and Federal governments retain their share of collections.<sup>16</sup> PRWORA also amended the Social Security Act to allow courts and child support agencies to require noncustodial parents owing past-due child support for a child receiving assistance under the Temporary Assistance for Needy Families (TANF) program to participate in work activities. Specifically, section 466(a)(15) of the Act requires States to have laws and procedures under which the State has the authority to issue an order requiring an individual to participate in work activities, as defined by section 407(d) of the Act.<sup>17</sup>

<sup>13</sup> Maria Cancian, Maria, Angela Guarin, Leslie Hodges, and Daniel R. Meyer, “Characteristics of Participants in the Child Support Noncustodial Parent Employment Demonstration (CSPED) Evaluation,” Madison, WI: Institute for Research on Poverty (December 2019), Appendix Table C3, available at <https://www.irp.wisc.edu/wp/wp-content/uploads/2019/05/CSPED-Final-Characteristics-of-Participants-Report-2019-Compliant.pdf>.

<sup>14</sup> Travis, Jeremy, Bruce Western, & Steve Redburn, (Eds.) *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Academies Press, (2014), available at <https://nap.nationalacademies.org/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

<sup>15</sup> Legler, Paul, *The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act Family Law Quarterly*, Vol. 30, No. 3 (Fall 1996), pp. 519–563, available at <https://www.jstor.org/stable/25740093>.

<sup>16</sup> Congressional Research Service, “The Child Support Enforcement Program: Summary of Laws Enacted Since 1950,” Washington, DC: Congressional Research Service, R47630 (July 2023) available at <https://crsreports.congress.gov/product/pdf/R/R47630>.

<sup>17</sup> In section 407(d) of the Act, work activities are defined as: (1) unsubsidized employment; (2) subsidized private sector employment; (3) subsidized public sector employment; (4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available; (5) on-the-job training; (6) job search and job readiness assistance; (7) community service programs; (8) vocational educational training (not to

exceed 12 months with respect to any individual); (9) job skills training directly related to employment; (10) education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency; (11) satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; and (12) the provision of child care services to an individual who is participating in a community service program. Available at [https://www.ssa.gov/OP\\_Home/ssact/title04/0407.htm](https://www.ssa.gov/OP_Home/ssact/title04/0407.htm).

In 1997, Congress authorized a total of \$3 billion for the Welfare-to-Work (WtW) Grants program as part of the Balanced Budget Act of 1997 (Pub. L. 105–33). Administered by the U.S. Department of Labor, these grants were intended to help long-term welfare recipients and noncustodial parents of children whose custodial parents met certain criteria find and keep good jobs.<sup>18</sup> Congress appropriated funds for fiscal years 1998 and 1999, and grantees were allowed five years to spend their funds, which ended in 2004. OCSS encouraged IV–D and IV–A agencies (TANF agencies) to work together to increase the participation of noncustodial parents in WtW programs and encouraged States to make “special efforts to inform potentially eligible noncustodial parents about the existence and availability of WtW services.”<sup>19</sup>

In addition, OCSS issued policy guidance in PIQ–98–03<sup>20</sup> and AT–00–08<sup>21</sup> to respond to State inquiries about the availability of FFP under title IV–D to pay for the costs of work activities for noncustodial parents under section 466(a)(15) of the Act. OCSS concluded that because section 466(a)(15) of the Act did not require that IV–D programs establish, provide, or administer work activity programs for noncustodial parents, the costs of these activities could not be attributed to the IV–D program. In guidance, OCSS stated that under section 466(a)(15) of the Act FFP was available “for the identification and referral of unemployed noncustodial parents to job training, coordination with courts regarding compliance with court orders, tracking participation, and data collection,” but was not available for “training and services provided by

entities other than the IV–D agency.”<sup>22</sup> OCSS viewed the determination of eligibility for and cost of participation in WtW programs as “the responsibilities of the WtW grantees, not the courts or the IV–D agency.”<sup>23</sup>

This final rule allows FFP for employment and training services for noncustodial parents under the separate authority provided to the Secretary in sections 451(a)(1) and 454(13) of the Act. As mentioned above, sections 451(a)(1) and 454(13) of the Act provide the Secretary with delegated authority to establish requirements and standards that the Secretary determines to be necessary to the establishment of an effective child support program. Upon reviewing the results of research studies detailed below, and described in the Notice of Proposed Rulemaking, indicating that providing employment and training services for noncustodial parents can lead to more reliable and regular child support payments, the Secretary has determined that allowing funding under title IV–D for such services improves the effectiveness of the child support program.

In the decades that followed OCSS’s policy guidance of 1998 and 2000, national demonstrations and state-based programs have examined the effectiveness of providing employment and training services to unemployed and underemployed noncustodial parents. Collectively, these demonstrations and programs found positive outcomes in employment rates, earnings, child support payment rates, the amount of child support paid, and payment regularity.<sup>24</sup>

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<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Miller, Cynthia, and Virginia Knox (November 2001). Perez-Johnson, Irma, Jacqueline Kauff, Alan Hershey, “Giving Noncustodial Parents Options: Employment and Child Support Outcomes of the SHARE Program,” Princeton, NJ: Mathematica Policy Research (October 2003), available at [https://aspe.hhs.gov/sites/default/files/migrated\\_legacy\\_files/39936/report.pdf](https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/39936/report.pdf). Pearson, Jessica, Nancy Thoennes, Lanae Davis, David Price, Jane Venohr and Tracy Griffith, “OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes,” Denver, CO: Center for Policy Research and Policy Studies Inc. (September 2003), available at <https://www.frpn.org/asset/ocse-responsible-fatherhood-programs-client-characteristics-and-program-outcomes>. Martinson, Karin, Demetra Smith Nightingale, Pamela A. Holcomb, Burt S. Barnow, and John Trutko, “Partners for Fragile Families Demonstration Projects: Employment and Child Support Outcomes and Trends,” Washington, DC: The Urban Institute (September 2007), available at <https://www.urban.org/sites/default/files/publication/46816/411567-Partners-for-Fragile-Families-Demonstration-Projects.PDF>. Schroeder, Daniel and Nicholas Doughty, “Texas Non-Custodial Parent Choices: Program Impact Analysis,” Austin, TX: Lyndon B. Johnson School of Public Affairs, University of Texas (September 2009), available at <https://sites.utexas.edu/>

Research shows that reliable child support depends on the economic stability of noncustodial parents. For example, in Wisconsin, noncustodial fathers who paid at least 90 percent of their order during the first year after it was established were 9 times as likely to work all four quarters that year than those who paid nothing.<sup>25</sup> Nationally, over 70 percent of child support collections are made through wage withholding by employers.<sup>26</sup> Noncustodial parents with irregular employment are particularly unlikely to pay the full amount of their child support order.<sup>27</sup> As a result, substantial arrears accrue.

Data regarding unpaid child support debt shows that 78 percent of the \$114 billion in child support arrears that was owed in fiscal year (FY) 2022 was owed by parents who had annual reported

*raymarshallcenter/files/2005/07/NCP\_Choices\_Final\_Sep\_03\_2009.pdf*. Lippold, Kyle, Austin Nichols, and Elaine Sorensen, "Strengthening Families Through Stronger Fathers: Final Impact Report for the Pilot Employment Programs," Washington, DC: Urban Institute (October 2011), available at <https://www.urban.org/sites/default/files/publication/26676/412442-Strengthening-Families-Through-Stronger-Fathers-Final-Impact-Report-for-the-Pilot-Employment-Programs.PDF>. Born, Catherine E., Pamela Caudill Ovwigho, and Correne Saunders, "The Noncustodial Parent Employment Program: Employment and Payment Outcomes," Baltimore, MD: Family Welfare Research and Training Group, University of Maryland, School of Social Work (April 2011), available at <https://www.ssw.umaryland.edu/media/ssw/fwrtg/child-support-research/cs-initiatives/npep.pdf?e>. Pearson, Jessica, Lanae Davis and Jane Venohr, "Parents to Work! Program Outcomes and Economic Impacts," Denver, CO: Center for Policy Research (February 2011), available at <https://centerforpolicyresearch.org/wp-content/uploads/ParentsToWork.pdf>. Davis, Lanae, Jessica Pearson, and Nancy Thoenes, "Evaluation of the Tennessee Parent Support Program," Denver, CO: Center for Policy Research (November 2013), available at <https://centerforpolicyresearch.org/wp-content/uploads/EvaluationTennesseeParentSupportProgram.pdf>. Sorensen, Elaine, "What We Learned from Recent Federal Evaluations of Programs Serving Disadvantaged Noncustodial Parents," Washington, DC: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services (November 2020), available at [https://www.acf.hhs.gov/sites/default/files/documents/opre/OPRE%20NCP%20Employment%20Brief\\_508.pdf](https://www.acf.hhs.gov/sites/default/files/documents/opre/OPRE%20NCP%20Employment%20Brief_508.pdf). Wasserman, Kyla, Lily Freedman, Zaina Rodney, and Caroline Schultz, "Connecting Parents to Occupational Training: A Partnership Between Child Support Agencies and Local Service Providers," New York: MDRC (April 2021), available at [https://www.mdrc.org/sites/default/files/FamiliesForward\\_Report\\_0.pdf](https://www.mdrc.org/sites/default/files/FamiliesForward_Report_0.pdf).

<sup>25</sup> Cancian, Maria, Yoona Kim, and Daniel R. Meyer, "Who Is Not Paying Child Support?" Madison, WI: Institute for Research on Poverty (September 2021), available at <https://www.irp.wisc.edu/wp-content/uploads/2021/11/CSRPA-2020-2022-T2.pdf>.

<sup>26</sup> DCL-23-06, OCSS Preliminary FY 2022 Data Report and Tables, available at <https://www.acf.hhs.gov/css/policy-guidance/fy-2022-preliminary-data-report-and-tables>.

<sup>27</sup> Cancian, Maria, et al. (September 2021).

incomes below \$20,000, which is consistent with earlier published research that examined child support debt in nine States and found a similar result.<sup>28</sup> Studies have also shown that owing large amounts of child support arrears among low-income noncustodial parents can be counterproductive to the goals of the child support program as it can push these parents further away from the formal labor market, reduce their child support payments, and distance them from their children.<sup>29</sup> Parents who owe large amounts of arrears can be discouraged from working in jobs that withhold income for child support, especially if they can easily turn to other means of earning money where child support is not typically withheld, such as self-employment or working off the books.<sup>30</sup>

Based on the previously discussed research and evidence and the discussion below, OCSS has a greater understanding of the effectiveness of providing employment and training services to noncustodial parents in improving their ability to obtain employment and make regular child support payments. In allowing FFP for such employment and training services,

<sup>28</sup> The data regarding child support debt is based on a random sample of noncustodial parents who owed arrears in the OCSS Debtor File as of April 2022, which was matched to data from the National Directory of New Hires. Reported income is the amount of quarterly earnings and unemployment insurance reported for the noncustodial parent in the National Directory of New Hires for FY 2021. The \$113.4 billion figure is from the Office of Child Support Services FY 2022 Preliminary Data Tables, Table P-98 available at <https://www.acf.hhs.gov/css/policy-guidance/fy-2022-preliminary-data-report-and-tables>. Sorensen, Elaine, Liliana Sousa, and Simon Schaner, "Assessing Child Support Arrears in Nine Large States and the Nation," Washington, DC: Urban Institute (2007), available at <https://www.urban.org/sites/default/files/publication/29736/1001242-Assessing-Child-Support-Arrears-in-Nine-Large-States-and-the-Nation.PDF>.

<sup>29</sup> Miller, Daniel P. and Ronald B. Mincy, "Falling Further Behind? Child Support Arrears and Fathers' Labor Force Participation," *Social Service Review* 86:4 (2012), available at <https://www.journals.uchicago.edu/doi/10.1086/668761>. Cancian, Maria, Carolyn Heinrich, and Yiyoon Chung, "Discouraging Disadvantaged Fathers' Employment: An Unintended Consequence of Policies Designed to Support Families," *Journal of Policy Analysis and Management* 32:4 (2013), available at [https://www.researchgate.net/publication/264476066\\_Discouraging\\_Disadvantaged\\_Fathers'\\_Employment\\_An\\_Unintended\\_Consequence\\_of\\_Policies\\_Designed\\_to\\_Support\\_Families](https://www.researchgate.net/publication/264476066_Discouraging_Disadvantaged_Fathers'_Employment_An_Unintended_Consequence_of_Policies_Designed_to_Support_Families). Kimberly Turner and Maureen Waller, "Indebted Relationships: Child Support Arrears and Children." *Journal of Marriage and Family* 79:1 (2017), available at <https://onlinelibrary.wiley.com/doi/full/10.1111/jomf.12361>.

<sup>30</sup> Turetsky, Vicki and Maureen Waller, "Piling on Debt: The Intersections Between Child Support Arrears and Legal Financial Obligations." *UCLA Criminal Justice Law Review*, 4(1) (2020), available at <https://escholarship.org/uc/item/7vd043jw>.

we have not disregarded our previous interpretation of section 466(a)(15) of the Act. Section 466(a)(15) neither authorizes nor prohibits the child support program from providing employment and training services to noncustodial parents under title IV-D, and is not the legal basis for this final rule. OCSS bases this rule on sections 452(a)(1), 454(13) and 455(f), providing the Secretary with broad delegated express authority to establish standards and requirements for State and Tribal child support programs that make the program more effective in ensuring that children receive financial support from their parent. This rule allows State and Tribal expenses for providing these services under their IV-D plan to be eligible for FFP under section 455 of the Act.

#### *Relevant Studies of Employment and Training Services*

Since the 1990s, a significant body of research has examined the effectiveness of providing employment and training services to unemployed and underemployed parents who owe child support.<sup>31</sup>

The first large-scale effort was conducted by MDRC and was called Parents' Fair Share (PFS). PFS was first implemented as a pilot program in nine sites in 1992-1993, followed by a national random assignment demonstration implemented in seven sites in 1994-1996. More than 5,500 noncustodial parents were randomly assigned to PFS or a control group during the national demonstration.<sup>32</sup>

The PFS demonstration gave participating courts and child support agencies the ability to refer noncustodial parents facing contempt for nonpayment of child support to the PFS program where they received the following four

<sup>31</sup> Employment and training programs for noncustodial parents described here were evaluated using one of three evaluation methods: evaluating the outcomes of individuals randomly assigned to the program (*i.e.* the treatment group) or receive business as usual (*i.e.* the control group), typically referred to as a random control trial (RCT) or an experimental evaluation; evaluating the outcomes of individuals who enrolled in the program compared to a group of individuals who did not enroll in the program but are similar to those who did enroll, referred to here as a quasi-experimental evaluation; and evaluations that examine the outcomes of individuals who enrolled in the program, typically before and after they entered the program, which are often referred to as outcome evaluations. The first two evaluation methods are considered impact evaluations, which draw causal inferences, while the third evaluation method is not designed to attribute causality. Experimental evaluations are considered to be the most rigorous evaluation method, followed by quasi-experimental evaluations. Outcome evaluations are considered the least rigorous evaluation method.

<sup>32</sup> Miller, Cynthia, and Virginia Knox (November 2001).

core services: employment and training services, enhanced child support services, peer support, and mediation. The employment and training services included job search assistance/job clubs, job development, classroom-based education and training, on-the-job training, and job retention services. The enhanced child support services included assigning smaller caseloads to child support workers who handled PFS cases, expediting modification of child support orders, and offering flexible rules that allowed child support orders to be reduced while noncustodial parents participated in PFS. Peer support consisted of participating in a facilitated support group built around a responsible fatherhood curriculum developed by MDRC. The lead agency for these demonstration projects varied, however, two were led by a local child support agency.

The PFS demonstration found that PFS significantly increased the likelihood of paying child support during the two-year follow-up period. The average quarterly payment rate was 12 percent higher for parents who enrolled in PFS than those who did not.<sup>33</sup> While the final PFS report did not examine the regularity of child support payments, the interim report did. It found that parents who enrolled in PFS during the first year of the demonstration were 19 percent more likely than the control group to pay child support in at least four of the six quarters during the 18-month follow-up period.<sup>34</sup>

As noted earlier, in 1997, Congress authorized the WtW Grants program to help welfare recipients and noncustodial parents find and keep good jobs. A descriptive study conducted as part of the national evaluation of WtW grant programs examined the strategies that 11 purposively selected WtW programs used to provide employment services to noncustodial parents. The study found that a variety of organizations could successfully operate employment and training programs for noncustodial parents.<sup>35</sup> Eight of 11 programs

partnered with the State or Local child support agency. Child support agencies provided referrals, designated specific staff to work with the program, and offered flexible payment options and debt reduction options for participants. The principal employment services that all of the WtW programs provided were employability assessments, individualized employment plans, job search assistance, job readiness activities, job retention services, and assistance with transportation and work expenses. Some of the WtW programs also provided job development and placement services, on-the-job training, skills training, General Educational Development (GED) instruction, basic skills training, and work experience.

One WtW program that served noncustodial parents was evaluated as part of the national evaluation of the WtW grants program.<sup>36</sup> This program, called Support Has A Rewarding Effect (SHARE), operated in Yakima, Kittitas, and Klickitat counties in the State of Washington from July 1998 through September 2001. It was led by the Tri-County Workforce Development Council (WDC) and involved a strong collaboration among Tri-County WDC, the State's Division of Child Support, and the office of the Yakima County prosecuting attorney (YCPA). SHARE provided the courts and YCPA the ability to offer WtW services to noncustodial parents during a child support contempt hearing for failure to pay child support. WtW services consisted of employability assessments, individualized employment plans, and other WtW services structured to meet the needs of the noncustodial parent. Job search workshops and referrals for job openings were the principal service offered, but noncustodial parents could be offered pre-employment education, vocational training, or on-the-job training. After the noncustodial parent had secured a job, WtW case management continued for at least 90 days, during which time job retention services were provided. WtW funds were also available to help with work supports such as transportation, uniforms, work supplies, and other short-term emergency needs. The outcome evaluation examined employment and child support payment trends for 574 noncustodial parents who were referred to the SHARE program. The evaluation found that the earnings and child support payments of noncustodial parents referred to SHARE increased substantially after being referred to the program.<sup>37</sup>

In 1998, OCSS launched an eight-State demonstration to test the effectiveness of fatherhood programs.<sup>38</sup> The purpose of these programs was to assist unemployed or low-income noncustodial parents in paying their child support by improving their employment and earnings and encouraging more involved parenting. States were given wide latitude in program format, services provided, and client eligibility. Most States partnered with community-based organizations to lead the project and most projects offered employment services. The exact package of employment services varied by project, but employment services across all projects included job search assistance, job readiness services, job development and placement, work supports, and vocational skills training and assessments. This demonstration was evaluated by comparing participant outcomes before and after enrollment in the program. The outcome evaluation found that the percent of participants paying child support increased after enrollment in every participating State, by amounts ranging from four percent to 31 percent.<sup>39</sup> The average amount of child support due that was paid also increased after enrollment in every participating State, by amounts ranging from one percent to 16 percent.<sup>40</sup>

In 2000, OCSS and the Ford Foundation launched a national demonstration called Partners for Fragile Families (PFF), which was conducted in 13 sites and ended in 2003.<sup>41</sup> The goals of this demonstration were to promote voluntary paternity establishment; improve the parenting and relationship skills of young fathers; and help young fathers secure and retain employment. It targeted fathers between the ages of 16 and 25 years old who had not yet established paternity and did not have extensive involvement in the child support program. The lead agency in all 13 sites was a community-based organization, but each site partnered with the local child support agency and typically other organizations, such as workforce development agencies. The primary service consisted of a series of structured workshops on topics such as fatherhood, parenting, job readiness and

<sup>33</sup> Id.

<sup>34</sup> Doolittle, Fred, Virginia Knox, Cynthia Miller, and Sharon Rowser, "Building Opportunities, Enforcing Obligations: Implementation and Interim Impacts of Parents' Fair Share," New York: MDRC (1998), table 6.3, available at [https://www.mdrc.org/sites/default/files/full\\_38.pdf](https://www.mdrc.org/sites/default/files/full_38.pdf).

<sup>35</sup> Martinson, Karin, John Trutko, and Debra Strong, "Serving Noncustodial Parents: A Descriptive Study of Welfare-to-Work Programs," Washington, DC: Urban Institute (December 2000), available at <https://www.urban.org/sites/default/files/publication/62761/410340-Serving-Noncustodial-Parents-A-Descriptive-Study-of-Welfare-to-Work-Programs.PDF>.

<sup>36</sup> Perez-Johnson, Irma, et al. (October 2003).

<sup>37</sup> Id.

<sup>38</sup> Pearson, Jessica, et al. (June 2000).

<sup>39</sup> Pearson, Jessica, et al. (September 2003).

<sup>40</sup> Id.

<sup>41</sup> Martinson, Karin, John Trutko, Demetra Smith Nightingale, Pamela A. Holcomb, and Burt S. Barnow, "The Implementation of the Partners for Fragile Families Demonstration Projects," Washington, DC: The Urban Institute (June 2007), available at <https://www.urban.org/sites/default/files/publication/46576/411511-The-Implementation-of-the-Partners-for-Fragile-Families-Demonstration-Projects.PDF>.

job search, and child support. The exact package of employment services varied across projects, but the following employment services were offered across all projects: job readiness instruction, job search assistance, job referral and placement, job development, on-the-job training, GED classes, and job skills training. PFF enrolled over 1,470 noncustodial parents.<sup>42</sup> The outcome evaluation of PFF examined child support outcomes of participants at the time of enrollment and over the next two years. It found that the percentage of participants with child support orders increased from 14 percent to 35 percent during the first two years after program enrollment.<sup>43</sup> It also found that the average number of months participants paid child support increased from 4.2 months to 5.2 months, and the average annual amount of child support paid increased by 43 percent from \$1,238 to \$1,775 between the first and second year after enrollment.<sup>44</sup>

In 2005, the Child Support Division of the Office of the Attorney General of Texas and the Texas Workforce Commission established the Noncustodial Parent (NCP) Choices program.<sup>45</sup> The goal of the program is to help parents make regular child support payments and become financially stable.<sup>46</sup> This program remains in operation today and is currently operating in 21 of the 28 workforce development board areas in Texas.<sup>47</sup> To be eligible to receive services, noncustodial parents must be court-ordered to participate. When a noncustodial parent enters the program, workforce development staff perform an assessment of needs and barriers and create an individual employment plan designed to move that individual into a stable employment situation. Additional employment and training services offered to noncustodial parents mirror those provided to TANF recipients under the Texas' Choices Program.<sup>48</sup> The services emphasize Work First, providing job referrals and job search assistance, and may include development, support services, short-term training, subsidized employment/

work experience, GED and English as a Second Language classes, and job retention and career advancement assistance.

NCP Choices was evaluated during the initial years of its operation.<sup>49</sup> The impact evaluation was based on data from 2005 to 2009 and ten local workforce development areas. It used a quasi-experimental evaluation design.<sup>50</sup> A total of 2,296 noncustodial parents who participated in NCP Choices were included in the evaluation. The evaluation found monthly child support collection rates among NCP Choices participants were 47 percent higher than the comparison group in the first year after program enrollment, and the amounts collected averaged \$57 per month higher.<sup>51</sup> In addition, those ordered into NCP Choices paid their child support 50 percent more consistently over time than the comparison group.<sup>52</sup> All of these positive impacts continued well into the second through fourth years after program enrollment.<sup>53</sup>

In 2006, the New York State Legislature enacted the Strengthening Families Through Stronger Fathers Initiative, a pilot program to help low-income noncustodial parents find work and pay their child support.<sup>54</sup> The legislation authorized funding for five programs to provide employment and other supportive services to low-income noncustodial parents, which operated from 2006 to 2009. Employment services offered by the five programs consisted of job search and placement assistance, job readiness training, job development, job skills training, and

employment-related supports.<sup>55</sup> One program provided subsidized employment and job retention and career enhancement services. The pilot programs served 3,668 noncustodial parents.<sup>56</sup> The impact evaluation used a quasi-experimental design. It found that Strengthening Families Through Stronger Fathers increased the percent of parents paying child support by 22 percent, and the amount of child support paid by 35 percent in the first year after enrollment compared to the comparison group.<sup>57</sup>

In 2006, Maryland began the Noncustodial Parent Employment Program (NPEP), a joint effort of the Child Support Enforcement and Family Investment Administrations of the Maryland Department of Human Resources.<sup>58</sup> The purpose of this program is to provide employment services to noncustodial parents who are behind in their child support so that they can be a reliable source of income for their children. NPEP was a statewide program in its initial years and still operates today, but not in all counties.<sup>59</sup> During its initial phase, each NPEP program provided employment services similar to those offered in WtW grants programs. An evaluation of NPEP was conducted, which examined 3,900 noncustodial parents referred to NPEP in 2007 and 2008.<sup>60</sup> Outcomes for these participants were examined one year before and after enrollment. The outcome evaluation found that the average amount of child support paid increased from \$1,094 in the year prior to enrollment to \$1,246 in the year after enrollment, a 14 percent increase.<sup>61</sup> It also found that the average number of months that a participant paid child support rose from 3.7 months in the year prior to enrollment to 4.5 months in the year after enrollment, a 22 percent increase.<sup>62</sup>

In 2008, the Arapahoe County Division of Child Support Enforcement, the Arapahoe/Douglas Workforce Center, and the 18th Judicial District Court in Colorado established the Parents to Work program to secure jobs for unemployed and underemployed

<sup>49</sup> Schroeder, Daniel and Nicholas Doughty (September 2009).

<sup>50</sup> Quasi-experimental designs aim to assess causal relationships without using random assignment. When evaluating a program, they compare the group of individuals who participated in the program to a group of individuals who did not participate in the program who are as similar as possible to those who participated in the program in terms of pre-intervention characteristics. For further information, see Handley, Margaret A., Courtney Lyles, Charles McCulloch, and Adithya Cattamanchi, "Selecting and Improving Quasi-Experimental Designs in Effectiveness and Implementation Research" Annual Review of Public Health 39 (2018), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8011057/pdf/nihms-1671041.pdf>.

<sup>51</sup> Schroeder, Daniel and Nicholas Doughty (September 2009).

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> Tannehill, Tess G., Carolyn T. O'Brien, and Elaine J. Sorensen, "Strengthening Families Through Stronger Fathers Initiative: Process Evaluation Report," Washington, DC: Urban Institute (July 2009), available at <https://www.urban.org/sites/default/files/publication/28106/1001412-Strengthening-Families-Through-Stronger-Fathers-Initiative-Process-Evaluation-Report.PDF>.

<sup>55</sup> Id.

<sup>56</sup> Lippold, Kye, et al. (October 2011).

<sup>57</sup> Id.

<sup>58</sup> Born, Catherine E., et al. (April 2011).

<sup>59</sup> NPEP is currently referred to as the Noncustodial Party Employment Program. Maryland Department of Human Services, Child Support Administration. "Noncustodial Party Employment Programs," available at: <https://dhs.maryland.gov/child-support-services/noncustodial-parents/noncustodial-parent-employment-programs/>.

<sup>60</sup> Born, Catherine E., et al. (April 2011).

<sup>61</sup> Id.

<sup>62</sup> Id.

<sup>42</sup> Id., Exhibit 2.1.

<sup>43</sup> Martinson, Karin, et al. (September 2007).

<sup>44</sup> Id.

<sup>45</sup> Schroeder, Daniel and Nicholas Doughty (September 2009).

<sup>46</sup> Texas Workforce Commission, Noncustodial Parent Choices Program, available at <https://www.twc.texas.gov/programs/noncustodial-parent-choices#:~:text=The%20goal%20of%20NCP%20Choices,A%20Alamo.>

<sup>47</sup> Id.

<sup>48</sup> Texas Workforce Commission, Choices Program, available at <https://www.twc.texas.gov/programs/choices>.

noncustodial parents and generate child support payments.<sup>63</sup> The program is still in operation today.<sup>64</sup> An evaluation of this program was conducted, which examined the first two years of operation. During that time the following employment services were offered: intensive job search assistance, job readiness training, job placement, job development, on-the-job training, work experience, occupational and vocational training, subsidized employment, pre-GED or GED preparation, and assistance with transportation, work clothes and tools. The quasi-experimental evaluation examined the outcomes of participants one year before and after enrollment and compared them to a group of noncustodial parents who did not participate in Parents to Work.<sup>65</sup> It found that the average percentage of child support due that was paid by the treatment group rose from 36.6 percent in the year prior to enrollment to 41.3 percent in the year following enrollment, but it did not improve for the comparison group.<sup>66</sup> Payment regularity also improved significantly for the treatment group, rising from an average of 5.3 payments in the year prior to enrollment to 5.7 payments in the year following enrollment, but again payment regularity did not improve for the comparison group.<sup>67</sup>

In 2009, the Tennessee Department of Human Services was awarded a grant from OCSS to develop, implement, and evaluate a program providing employment, parenting time, and case management services to low-income, unwed parents in the child support program in three Tennessee judicial districts. The program, called the Parent Support Program (PSP), placed child support staff known as Grant Program Coordinators in each of the three local child support offices to provide services to families. These staff were the primary

providers of employment, parenting time, and case management services. The Grant Program Coordinators conducted a needs assessment at enrollment and developed a service plan for each participant. They also provided job search and job readiness assistance, job development, and financial assistance with work-related expenses. For other employment services, such as job training, participants were referred to other service providers. Enrollment began in January 2010 and ended in March 2013. During that time, PSP enrolled 1,016 noncustodial parents. The evaluation examined participant outcomes in the year before and after enrollment. The outcome evaluation found that the average percentage of child support due that participants paid rose from 33 percent in the year prior to enrollment to 36 percent in the year after enrollment.<sup>68</sup>

Many more States than those discussed above have operated employment and training programs for noncustodial parents, but they have not been able to use FFP to pay for these services. This has limited the potential impact and reach of these services. In February 2014, 30 States and the District of Columbia were operating 77 employment and training programs for noncustodial parents with active child support agency involvement. Three of these States were operating statewide programs—Georgia, Maryland, and North Dakota. But only a few of these programs have been able to secure resource commitments to fund these services in an ongoing, consistent, or statewide basis. As a result, many programs that were operating in 2014 are no longer in operation. Other programs have had to scale back because of reduced funding. Nonetheless, because of the continued work of child support agencies, some new programs have emerged but there are fewer States in 2024 that have employment and training programs for noncustodial parents with active child support agency involvement than in 2014.<sup>69</sup>

#### *Further Studies in Support of This Final Rule*

OCSS previously issued a notice of proposed rulemaking on November 17, 2014, that included regulatory changes similar to those included in this final

rule.<sup>70</sup> Although the 2014 proposed rule received overwhelming support from States, many Members of Congress, and the public, FFP for employment and training services was not included in the final rule issued on December 20, 2016, in order to allow for further study. The final rule stated, “While we appreciate the support the commenters expressed, we think allowing for Federal IV–D reimbursement for job services needs further study and would be ripe for implementation at a later time.” See Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, Final Rule, 81 FR 93492, 93496 (December 20, 2016).

Since 2016, findings from two new national demonstrations that offered employment and training services to noncustodial parents have been released. They are the Child Support National Parent Employment Demonstration and Families Forward Demonstration (FFD). These two demonstrations added considerably to OCSS’s understanding of the effectiveness of employment programs for noncustodial parents and further informed the development of this rule.

#### *Child Support National Parent Employment Demonstration (CSPED)*

CSPED was a randomized control trial (RCT) demonstration designed to test the effectiveness of child support-led employment programs for noncustodial parents. It was funded by OCSS, which awarded demonstration grants to eight State child support agencies in 2012. These child support agencies operated employment programs for noncustodial parents in 18 local jurisdictions from 2013 to 2017. A total of 10,173 noncustodial parents enrolled in the demonstration.<sup>71</sup> CSPED was able to reach a large number of noncustodial parents in part because it recruited noncustodial parents administratively as well as during contempt hearings. Key services included employment services, enhanced child support services, and parenting classes. Employment services consisted of one-on-one job counseling, job search assistance, job readiness training, and job placement and retention services. Programs were encouraged to offer short-term job skills training and

<sup>70</sup> See Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, Notice of Proposed Rulemaking, 79 FR 68548, 68556 (November 17, 2014).

<sup>71</sup> Cancian, Maria, Daniel R. Meyer, Robert Wood, “Final Impact Findings from the Child Support Noncustodial Parent Employment Demonstration,” Madison, WI: Institute for Research on Poverty (March 2019), available at [https://www.acf.hhs.gov/sites/default/files/documents/ocse/csped\\_impact\\_report.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/csped_impact_report.pdf).

<sup>63</sup> Pearson, Jessica, et al. (February 2011).

<sup>64</sup> Arapahoe/Douglas Works Workforce Center. “Parents to Work”, available at: <https://www.adworks.org/job-seekers/programs/parents-to-work/>.

<sup>65</sup> Pearson, Jessica, et al. (February 2011). Parents to Work was intended to be evaluated using random assignment, but the treatment group was disproportionately selected from case worker and court referrals, while the comparison group was disproportionately selected from ad hoc reports. Because of this difference in procedures, the two groups were statistically significantly different prior to program entry. In an effort to offset this limitation, the study examined the outcomes of noncustodial parents in both groups after controlling for observed differences in pre-program earnings, child support payments, and other characteristics. The sample size for the evaluation was 601 parents in the treatment group and 349 in the comparison group.

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Davis, Lanae, et al. (November 2013).

<sup>69</sup> Office of Child Support Services. “Child Support-led Employment Programs by State,” available at: <https://www.acf.hhs.gov/css/training-technical-assistance/child-support-led-employment-programs-state>.

vocational educational training, but not required to do so. Enhanced child support services were expected to include initiating order modifications if needed, removing license suspensions, and holding other enforcement remedies in abeyance while parents participated in the program, and reducing state-owed arrears if permitted by State law.<sup>72</sup>

CSPED increased the effectiveness of the child support program by increasing noncustodial parents' employment and earnings as measured by quarterly earnings, which, in turn, increased the likelihood of paying child support through wage withholding. Specifically, it increased participants' employment rate by three percent during the first two years after enrollment, and increased their earnings by four percent during the first year after enrollment, both of which are measured using quarterly earnings.<sup>73</sup> This, in turn, increased the likelihood of participants paying child support through income withholding by eight percent during the first year after enrollment.<sup>74</sup> It also increased noncustodial parents' satisfaction with the child support program, increased noncustodial parent-child contact, and improved noncustodial parents' attitudes about responsibility for children, all of which contributed to an improved image of the child support program and helped overcome significant distrust among noncustodial parents, paving the way for better communication, more cooperation, and a more effective child support program.<sup>75</sup> Finally, a benefit-cost analysis of CSPED found that the

benefits of CSPED outweighed its costs within two years when the costs of employment and parenting services received by members of the regular-services group were taken into account.<sup>76</sup>

#### Families Forward Demonstration

FFD was designed to test the effectiveness of offering free occupational training to increase reliable child support payments. It operated in five locations from 2018 to 2020 and enrolled 761 noncustodial parents. FFD was funded through a grant from the W. K. Kellogg Foundation, local funding raised by participating child support agencies, and matching Federal funds through section 1115 waivers<sup>77</sup> approved by the Office of Child Support Services.<sup>78</sup> FFD provided the following three services to noncustodial parents: free occupational training, other employment services and wraparound supports, and responsive child support services. Free occupational training targeted demand-driven occupations, which varied by location. Other employment services focused on job search and placement assistance and career planning. The most common wraparound supports were work-related, such as assistance with work-related transportation costs or other work-related expenses. Responsive child support services included child support navigation, arrears compromise programs, order modification if needed, and suspension of enforcement action.<sup>79</sup> The evaluation of this demonstration consisted of an implementation study and an analysis of child support outcomes for program participants prior to and after program enrollment.<sup>80</sup> It found that the trends in child support payments for noncustodial parent participants improved relative to their pre-enrollment trends.<sup>81</sup> While this study was not designed to attribute causality, these findings suggest that offering free training to noncustodial parents may have a positive impact on child support payments, providing further evidence that offering training services to

noncustodial parents increases the effectiveness of the child support program.

Informed by the child support program's positive experience with providing employment and training programs, and the positive outcomes of three decades of national demonstrations and State evaluations, OCSS has determined that providing FFP under title IV-D for employment and training services improves the effectiveness of the child support program. Thus, this final rule allows States and Tribal child support programs to access FFP for these services and establishes standards and requirements for States and Tribes or Tribal organizations when opting to provide federally funded employment and training services under their IV-D plans. This final rule provides additional stability and support for States and Tribal child support programs to increase the effectiveness of their respective programs for collecting child support payments.

#### Summary Description of Regulatory Changes

The following is a summary of the regulatory provisions included in this final rule and, where applicable, how these provisions differ from the notice of proposed rulemaking (NPRM). The NPRM was published in the **Federal Register** on May 31, 2024 (89 FR 47109 through 47120). The comment period ended July 30, 2024.

This final rule allows States and Tribes the option to use FFP to provide certain employment and training services designed to supplement traditional enforcement tools to help noncustodial parents find and retain employment so they can support their children.

#### Section 302.76 Employment and Training Services

This rule adds a new optional State plan provision at 45 CFR 302.76, *Employment and training services*, to allow States to provide certain employment and training services to eligible noncustodial parents in accordance with the newly designated § 303.6(c)(5). This State plan provision is optional as each State will need to determine the level of resources the State wishes to commit in order to draw down Federal matching funds under title IV-D.<sup>82</sup> If a State chooses this

<sup>72</sup> Office of Child Support Enforcement, "National Child Support Noncustodial Parent Employment Demonstration Projects." Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, HHS-2012-ACF-OCSE-FD-0297 (2012), available at [https://www.acf.hhs.gov/sites/default/files/documents/ocse/hhs-2012-acf-ocse-fd-0297\\_csped.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/hhs-2012-acf-ocse-fd-0297_csped.pdf).

<sup>73</sup> Sorensen, Elaine (November 2020).

<sup>74</sup> Id. While CSPED was successful at increasing the likelihood of paying child support through income withholding, it did not increase the amount of child support paid. As noted in the text, CSPED provided both employment and enhanced child support services. It appears that these services worked at cross-purposes to one another. As part of enhanced child support services, child support agencies offered order modification services to participants, which reduced their average amount of child support orders. Reducing child support orders will necessarily reduce income withholding orders, which reduces the amount of child support paid since most child support is paid via income withholding. In contrast, employment services are designed to increase the employment and earnings of noncustodial parents, which, in turn, are expected to increase child support payments. Thus, it appears that one service reduced the amount of child support paid while the other increased it, resulting in no impact on the amount of child support paid.

<sup>75</sup> Cancian, Maria, et al. (March 2019).

<sup>76</sup> Cancian, Maria, Daniel R. Meyer, and Robert G. Wood, "Carrots Work Better than Sticks? Results from the National Child Support Noncustodial Parent Employment Demonstration," *Journal of Policy Analysis and Management*. 41:2 (2022), available at <https://onlinelibrary.wiley.com/doi/epdf/10.1002/pam.22370>.

<sup>77</sup> See section 1115(a) and (b) of the Social Security Act, 42 U.S.C. 1315(a) and (b).

<sup>78</sup> The FFD program in New York was additionally supported by the Robin Hood Foundation.

<sup>79</sup> Wasserman, Kyla, et al. (April 2021).

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Under section 455 of the Social Security Act (42 U.S.C. 655), the Federal government provides reimbursement to each state program (including the District of Columbia and territorial programs) of 66% of all allowable child support program expenditures.

option, § 302.76 requires that the State include a description of the employment and training services and eligibility criteria in its State plan. In addition, to ensure the IV–D agency is providing well-coordinated and non-duplicative employment and training services, it also requires that States include in their State plan an explanation of how the State child support program has consulted with, and taken into consideration services provided by, the State agencies administering the following programs: TANF (45 CFR part 261), the Supplemental Nutrition Assistance Program Employment and Training program (7 CFR 273.7 and 273.24), the Adult, Dislocated Worker, and Youth programs under Title I of the Workforce Innovation and Opportunity Act (20 CFR parts 675 through 688), the Adult Education and Family Literacy Act program (34 CFR part 463), the Employment Service program (20 CFR part 652), and the Vocational Rehabilitation program (34 CFR part 361). The final rule revises § 302.76 by removing the reference included in the NPRM to the “six core programs of the state’s workforce development system established under the Workforce Innovation and Opportunity Act (WIOA)” and instead identifies, by name, the six core programs. These core programs are the three programs for Adults, Dislocated Workers, and Youth under title I, the Adult Education and Family Literacy Act program under title II, the Employment Service program under title III, and the Vocational Rehabilitation program under title IV. The final rule also requires that States electing the option to provide employment and training services using FFP under title IV–D must comply with future reporting requirements prescribed by the Office.

States are required to consult with, and take into consideration services provided by, the State agencies administering the listed programs in order to provide the most appropriate mix of services that ensures effective service delivery for addressing the multiple barriers to employment often faced by low-income noncustodial parents in their caseload, while minimizing costs to the child support program. We strongly encourage States to partner with high-quality training programs and other evidence-based training models that have been shown to lead to sustained earnings gains—to increase noncustodial parents’ ability to meet their financial obligations to their children. Partnering with other programs at the State and local level can

allow child support programs to broaden the types of services they provide to noncustodial parents in their caseload. OCSS’s policy goals are to make it possible for State child support agencies to provide employment and training services to noncustodial parents who need and lack access to services, while minimizing unnecessary duplication of services that are already successfully being provided by the listed federally-funded programs. We encourage child support agencies to partner wherever possible with local American Job Centers to leverage their specialized experience and knowledge of job development and to partner with labor organizations to access employment and training services that they provide.

OCSS anticipates that many State child support agencies will purchase employment and training services by entering into contracts with public, private and community-based employment, fatherhood, and reentry programs, community action agencies, community colleges, or other service providers, rather than offer these services in-house, in accordance with 45 CFR 304.22, *Federal financial participation in purchased support enforcement services*. However, this does not preclude a child support agency from providing employment and training services to noncustodial parents directly.

#### *Section 303.6 Enforcement of Support Obligations*

We redesignate existing § 303.6(c)(5) as new § 303.6(c)(6) and add new § 303.6(c)(5) to provide program standards related to the optional State plan provision § 302.76.

#### *Employment and Training Services*

The final rule establishes basic eligibility requirements that must be met for States to provide employment and training services to noncustodial parents. Eligibility for employment and training services is limited to noncustodial parents who: have an open IV–D case; have a child support order or have been determined by the IV–D agency to be fully cooperating with the IV–D agency to establish a child support order; and are unemployed or underemployed or at risk of not being able to comply with their support order. In addition, the IV–D agency must have adopted policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services under the following programs: TANF (45 CFR part 261), the Supplemental Nutrition Assistance Program (SNAP)

Employment and Training program (7 CFR 273.7 and 273.24), the Federal Pell Grant program (34 CFR part 690), the Adult, Dislocated Worker, and Youth programs under title I of the Workforce Innovation and Opportunity Act (20 CFR parts 675 through 688), the Adult Education and Family Literacy Act program (34 CFR part 463), the Employment Service program (20 CFR part 652), or the Vocational Rehabilitation program (34 CFR part 361). States may establish additional criteria not in conflict with those required by this rule.

The final rule does not allow States to provide a noncustodial parent the same employment and training services that he or she is already receiving from a set list of federally-funded employment and training programs. Child support programs will need to adopt policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services from the other federally-funded programs listed in § 303.6(c)(5). We recognize the challenges for States to verify non-duplication of services due to the limited availability of data needed for verification. In the NPRM, OCSS suggested that attestation may be used to verify non-duplication of services. However, many commenters expressed concern that requiring attestation would create a barrier to program participation and requested that OCSS allow States flexibility to determine the verification approaches. In response to these comments, the final rule does not prescribe a verification method for child support agencies to use, but leaves it to States to establish a process for how best to confirm that a noncustodial parent is not already receiving the same services under the programs listed in § 303.6(c)(5). For example, to meet this requirement, the child support agency may obtain a verbal or other confirmation from the noncustodial parent that the parent is not receiving the same employment and training services under the Federal programs listed in § 303.6(c)(5) and document the confirmation in the case record. This will allow a noncustodial parent who may be receiving services from the American Job Center to also receive nonduplicated employment and training services through the child support program.

Under new § 303.6(c)(5), allowable employment and training services are limited to:

- Job search assistance;
- Job readiness training;
- Job development and job placement services;

- Skills assessments to facilitate job placement;
- Job retention services;
- Work supports, such as transportation assistance, uniforms, and tools; and
- Occupational training and other skills training directly related to employment, which may also include activities to improve literacy and basic skills, such as programs to complete high school or a high school equivalency certificate, or English as a second language.

We recognize that providing these services may require case management. Thus, consistent with OCSS PIQ–12–02, FFP may also be used to provide case management for these allowable services.<sup>83</sup>

We have included a focused set of employment and training services because our review of research found that employment and training programs for noncustodial programs tended to provide this package of employment and training services in their effort to improve the effectiveness of child support program. The list of allowable services includes those services that were most frequently provided in various demonstrations, research evaluations, and state-based programs detailed in the rule.

We have included work supports and job retention services as allowable expenditures because, as described above, many of the employment and training programs for noncustodial parents that have been evaluated included these services as part of a package of employment and training services, which were found effective at improving child support outcomes. Work supports consist of costs incurred for bona fide services and assistance provided to noncustodial parents so that they may find and retain employment or participate in employment and training services. For example, a common form of work supports is transportation assistance, such as bus tokens and gas vouchers. Work supports may also include the cost of providing emergency child care assistance for children on the child support case associated with the noncustodial parent receiving employment and training services if that emergency inhibits participation in employment and training services or finding or retaining work. Other eligible work supports may include, but are not limited to costs incurred for bona fide

services and assistance such as: work-related tools; work-related clothing or uniforms; emergency vehicle repairs if affordable transportation alternatives are not available; referrals for child care assistance; referrals to health care, mental health counseling or drug treatment; license fees; application fees; and other costs of employment and training tests or certifications. Job retention services are services that assist a job holder with retaining employment and can include regular check-ins with job holders as well as supporting managers who hired job holders with on-the-job issues. Job retention services can be offered directly to the job holder or to the employer to serve the job holder.

The proposed rule included language at § 303.6(c)(5)(vii) about an employment and training services plan. We have revised this section and no longer use the term “employment and training services plan” because commenters found this requirement confusing. OCSS does not believe an employment and training plan is necessary to meet the requirements of the rule.

In the NPRM, OCSS proposed not to allow employment and training services for noncustodial parents with arrears-only cases because, as stated in the NPRM, the primary goal of offering employment and training services is to increase the consistency of current support payments to families with minor children. Many commenters urged OCSS to allow noncustodial parents with arrears-only cases to be eligible for these services, noting that many of them are of working age, unemployed, and could benefit from employment and training services to help them find work and pay their overdue child support. OCSS agrees with the commenters that noncustodial parents with arrears-only cases are still responsible for paying overdue child support and may face barriers to employment that limit their ability to pay and thus could benefit from employment and training services, which, if provided, could lead to employment and increased child support payments to custodial families. In response to comments, we removed the word “current” in proposed § 303.6(c)(5) describing the eligibility criteria to allow noncustodial parents with child support orders in arrears-only cases to be eligible for employment and training services funded under title IV–D.

In the NPRM, a list of costs that would not be eligible for FFP was included in the proposed language of § 303.6(c)(5). In the final rule, these

prohibited costs are moved to § 304.23, *Expenditures for which Federal financial participation is not available*, as described below.

#### *Section 304.20 Availability and Rate of Federal Financial Participation*

We redesignate existing § 304.20(b)(3)(vii) as new § 304.20(b)(3)(viii), and add new § 304.20(b)(3)(vii) allowing FFP for employment and training services when they are provided in accordance with § 303.6(c)(5).

#### *Section 304.23 Expenditures for Which Federal Financial Participation Is Not Available*

The final rule adds new § 304.23(k) to move the list of costs related to employment and training services that the NPRM said would not be eligible for FFP under proposed § 303.6(c)(5) to § 304.23, *Expenditures for which Federal financial participation is not available*. Specifically, under § 304.23(k) this final rule prohibits expenditures under title IV–D for payments of cash, checks, reimbursements, or any other form of payment that can be legally converted to currency provided to the noncustodial parent. The final rule also prohibits FFP for costs of subsidized employment for noncustodial parents. The NPRM proposed that these costs not be eligible for FFP in § 303.6(c)(5), but also requested comments on all of the employment and training services in § 303.6(c)(5). A few commenters argued FFP should be available for these costs, but these arguments did not overcome the concerns that the Federal government has with allowing FFP for these costs as discussed in response to Comments 13 and 31 below.

#### *Section 309.65 What must a Tribe or Tribal organization include in a Tribal IV–D plan in order to demonstrate capacity to operate a Tribal IV–D program?*

In response to comments received in support of FFP for Tribes to offer employment and training services, we redesignate existing § 309.65(b) as new § 309.65(c) and add new § 309.65(b) to add a new optional Tribal plan provision to allow Tribes to provide certain employment and training services to eligible noncustodial parents.

This Tribal plan provision is optional to Tribes and Tribal organizations. This final rule adds provisions in the Tribal regulations at part 309, specifically new §§ 309.65(b), 309.121, 309.145, and 309.155 to clarify, in response to comments, that this final rule makes

<sup>83</sup> PIQ–12–02, Partnering with other programs, including outreach, referral, and case management activities, is available at: [https://www.acf.hhs.gov/sites/default/files/documents/ocse/piq\\_12\\_02\\_partnering\\_with\\_other\\_programs\\_and\\_activities.pdf](https://www.acf.hhs.gov/sites/default/files/documents/ocse/piq_12_02_partnering_with_other_programs_and_activities.pdf).

Federal funding available to Tribes for employment and training services. If a Tribe or Tribal organization chooses this option, § 309.65(b) requires that the Tribe or Tribal organization include a description of the employment and training services and eligibility criteria in its Tribal IV–D plan. In addition, to ensure the IV–D agency is providing well-coordinated and non-duplicative employment and training services, § 309.65(b) also requires that the Tribe or Tribal organization include in its Tribal IV–D plan an explanation of how the Tribal child support program has consulted with, and taken into consideration the services provided by, federally-funded employment and training programs administered by the Tribe. It also requires that Tribes electing the option to provide employment and training services using FFP under title IV–D must comply with future reporting requirements prescribed by the Office.

Consistent with Executive Order 14112, 88 FR 86021 (December 6, 2023), *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*, the final rule takes into account the unique needs, capacity, and barriers faced by Tribal IV–D programs, and thus does not provide a set list of federally-funded programs that Tribes must coordinate with to ensure noncustodial parents are not receiving duplicative employment and training services. Tribes must consult with, and take into consideration the services provided by, federally-funded employment and training programs administered by the Tribe to ensure effective service delivery and to provide the most appropriate mix of services that address the multiple barriers to employment faced by low-income noncustodial parents in their caseload, while minimizing costs to the child support program. To meet this requirement, Tribal IV–D agencies have flexibility to coordinate with any of the federally-funded employment and training programs administered by the Tribe. OCSS's policy goals are to make it possible for Tribal child support agencies to provide employment and training services to noncustodial parents who need them but are not available to them, while minimizing unnecessary duplication of services that are already successfully being provided by other federally-funded programs administered by the Tribe.

OCSS anticipates that many Tribal child support agencies will purchase employment and training services by entering into contracts with public,

private and community-based employment, fatherhood, and reentry programs, community action agencies, community colleges, or other service providers, rather than offer these services in-house, in accordance with 45 CFR 309.60(c), *Who is responsible for administration of the Tribal IV–D program under the Tribal IV–D plan*. However, this does not preclude a Tribal child support agency from providing employment and training services to noncustodial parents directly.

#### *Section 309.121 Employment and Training Services*

This rule adds a new optional Tribal plan provision, § 309.121, *Employment and training services*, to allow Tribes to provide certain employment and training services to eligible noncustodial parents in accordance with the newly designated § 309.65(b).

The final rule establishes basic eligibility requirements that must be met for Tribes to provide employment and training services for noncustodial parents. Eligibility for employment and training services is limited to noncustodial parents who: have an open IV–D case; have a child support order or have been determined by the IV–D agency to be fully cooperating with the IV–D agency to establish a child support order; and are unemployed or underemployed or at risk of not being able to comply with their support order. In addition, the IV–D agency must have adopted policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services under other federally-funded employment and training program administered by the Tribe. Tribes and Tribal organizations may establish additional criteria not in conflict with those established in the rule.

Consistent with Executive Order 14112, the final rule takes into account the unique needs, capacity, and barriers faced by Tribal IV–D programs, and thus does not include a set list of programs for Tribes to verify non-duplication of services. Tribal child support programs will need to adopt policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services from other federally-funded program administered by the Tribe. The final rule does not prescribe a method for child support agencies to use, but leaves it to Tribes and Tribal organizations to determine how best to confirm that a noncustodial parent is not already receiving the same services from

another federally-funded program administered by the Tribe.

The list of allowable services includes those services that were most frequently provided in various demonstrations, research evaluations, and state-based programs detailed in the rule. Other eligible work supports may include, but are not limited to costs incurred for bona fide services and assistance such as: work-related tools; work-related clothing or uniforms; emergency vehicle repairs if affordable transportation alternatives are not available; referrals for child care assistance; referrals to health care, mental health counseling or drug treatment; license fees; application fees; and other costs of employment and training tests or certifications.

#### *Section 309.145 What costs are allowable for Tribal IV–D programs carried out under § 309.65(a)?*

As a result of the comments received concerning the applicability of this rule for Tribal child support programs, we add new § 309.145(c)(5) allowing FFP for certain employment and training services when they are provided in accordance with § 309.121.

#### *Section 309.155 What uses of Tribal IV–D program funds are not allowable?*

To address comments received in support of the availability of funds for Tribal child support programs, we redesignate existing § 309.155(f) as new § 309.155(g), and add new § 309.155(f) to provide a list of costs related to employment and training services that the NPRM said would not be eligible for FFP.

#### **Responses to Comments**

OCSS received 58 sets of comments from States, 2 previous Federal Office of Child Support Commissioners, national child support associations, fatherhood, research and other non-profit organizations, private companies and other interested individuals. We posted 54 sets of comments on [www.regulations.gov](http://www.regulations.gov), three of which were duplicates; 4 sets of comments were not posted because they were not related to the NPRM. All expressed overwhelming support for the NPRM.

#### *Section 302.76 Employment and Training Services*

*Comment 1:* We received multiple comments about statewide requirements related to the State plan. All of these commenters requested that the final rule not require States to implement employment and training services statewide. Commenters noted that the labor market conditions and outlook can vary substantially within a State,

affecting the need for employment and training services. Other commenters noted that the capacity to provide employment and training services can vary substantially within a State. Still others noted that available resources to draw matching FFP to pay the non-Federal share of costs for employment and training services can vary substantially by county within a State. For these reasons, the commenters urged OCSS to allow States to tailor employment and training services to local conditions. The commenters suggested the final rule should waive the statewide requirement for optional employment and training services, if permissible. If not permissible, they suggested the final rule should clarify that a State may indicate in its State plan that the option to use FFP for employment and training services is available to all counties within the State and may be used at county option.

*Response 1:* OCSS appreciates the concerns about States being required to offer employment and training services statewide given these services are optional under the State plan. The regulations at 45 CFR 302.10 implement section 454(1) of the Act and requires in § 302.10(a) the State plan be in operation on a statewide basis in accordance with equitable standards for administration that are mandatory throughout the State. The regulations at 45 CFR 302.10(c) require the IV–D agency will assure that the plan is continuously in operation in all appropriate offices or agencies through (1) methods for informing staff of policies, standards, procedures, and instructions and (2) regular planned examination and evaluation of operations in local offices. As 45 CFR 302.10 requires IV–D State plans to be in operation on a statewide basis, States electing to provide employment and training services using FFP must make at least a minimum level of services available statewide. These services for some jurisdictions could be virtual job readiness trainings that individuals could access online or at their local child support services offices (*e.g.*, online training on how to interview, prepare a resume, navigating job announcement websites, or occupational training and other skills training directly related to employment such as programs to complete high school or a high school equivalency certificate), while other jurisdictions may offer more intensive employment and training services. States, however, will have the flexibility to determine what additional services are appropriate in their jurisdictions based on local

conditions, resources, and needs. OCSS encourages States to review and consider successful programs operated by other States, some of which have included piloting employment and training services in select areas first and then expanding to other service areas.

*Comment 2:* We received various comments regarding the requirement that States must comply with future reporting requirements prescribed by OCSS if they elect to provide employment and training services. Some commenters suggested that OCSS consult with States about any reporting requirements and give States the opportunity to provide feedback to OCSS ahead of the adoption of these requirements, especially if system changes would be required to meet these reporting requirements. One commenter suggested OCSS address the reporting requirements in the regulation or in supplemental guidance released before the regulation is finalized, while another commenter suggested reporting requirements be provided before States elect the option. Another commenter urged that the reporting requirements closely match existing IV–D agency requirements to reduce the likelihood of burdensome or negative impacts on a State’s child support system, while another commenter argued that consideration should be given to the practical utility of the reporting measures and the ability of States to easily obtain and maintain the mandated data. Other commenters recommended that OCSS align reporting requirements with the performance measures of existing employment and training programs. Still others recommended specific items be included in the reporting requirements, and one commenter recommended that reporting be disaggregated by characteristics such as race, ethnicity, disability status, and gender. One commenter encouraged OCSS to include reporting requirements that would allow States to conduct program analysis and evaluation of their employment and training services. Other commenters suggested FFP be available for system enhancements to capture any required data elements.

*Response 2:* OCSS clarifies there are no Federal reporting requirements that are specifically related to employment and training programs at this time. We understand that commenters are concerned about the potential burden that future reporting requirements may have. After the rule is published, we will consult with States and Tribes about Federal reporting requirements under this rule, and in accordance with the Paperwork Reduction Act, 44 U.S.C.

3501 *et seq.*, OCSS will publish the proposed information collection in the **Federal Register** providing States, Tribes, and the public the opportunity to comment on the reporting requirements.

*Comment 3:* Two commenters expressed support for Tribal child support programs receiving FFP for employment and training services.

*Response 3:* OCSS appreciates and agrees with the commenters and has included amendments in the Tribal child support regulations at 45 CFR part 309 to specifically allow FFP for Tribal child support programs’ employment and training activities. This final rule amends part 309 to expressly include FFP for Tribes and Tribal organizations operating IV–D programs that elect to implement optional employment and training services. This change aligns with President Biden’s Executive Order 14112.

Allowing FFP for Tribal child support programs to provide employment and training services promotes equity and honors Tribal sovereignty and the trust relationship between the Federal Government and Tribal Nations. As set out by the 1977 Senate report of the American Indian Policy Review Commission, “The purpose behind the trust is and always has been to insure the survival and welfare of Indian Tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government and also includes those economic and social programs which are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society.”<sup>84</sup>

Child support programs adding employment and training services help Tribal communities support parental financial responsibility, so children receive economic support from both parents even when they live in separate households. Allowing Tribal child support programs to receive FFP for employment and training service activities will help to ensure that Tribal Nations can offer culturally appropriate and affirming services to their communities. Tribes and Tribal organizations exercising their sovereignty to operate their own child support programs is, in fact, what Congress intended when it authorized funding under PRWORA. Allowing FFP for Tribal child support programs to

<sup>84</sup> See American Indian Policy Review Commission Final Report (May 1977), page 130 available at <https://files.eric.ed.gov/fulltext/ED164229.pdf>.

deliver employment and training services helps to achieve this and to ensure the continued focus on promoting parenting responsibility and support for child well-being.

Allowing Tribal child support programs to receive FFP for employment and training service activities is also important because many Federal programs that assist Tribal Nations and promote Tribal sovereignty are underfunded, according to the 2018 U.S. Commission on Civil Rights report on Federal funding for Native Americans.<sup>85</sup> The changes to expressly include Tribal child support programs honors and reflects the trust relationship and doctrine, which requires the Federal Government to support Tribal self-government and economic prosperity.<sup>86</sup>

This final rule allows Tribes and Tribal organizations, at their option, to provide employment and training services to eligible noncustodial parents and provides that such services are eligible for FFP at the applicable matching rate.

*Comment 4:* We received multiple comments related to the requirement to coordinate with other federally-funded employment and training programs to ensure that noncustodial parents are receiving well-coordinated employment and training services across these programs and that services are not being duplicated. Some commenters requested specific guidance on how to comply with coordination requirements, while others requested additional guidance about how to co-enroll a parent paying child support into multiple training programs and how to allocate costs across programs. Some asked for guidance about selecting which funding stream is utilized when and whether each program could pay a percentage of costs. One commenter recommended State child support agencies be included as optional partners of WIOA State plans and that State child support agencies should leverage State workforce agencies. Another commenter suggested requiring partnership with State workforce agencies and encouraged OCSS to work closely with the U.S. Department of Labor and other Federal agencies in the development and implementation of the final rule.

<sup>85</sup> See U.S. Commission on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans* (December 2018) at <https://www.usccr.gov/files/pubs/2018/12-20-Broken-Promises.pdf>.

<sup>86</sup> See Administration for Children and Families, *American Indians and Alaska Natives—The Trust Responsibility Fact Sheet* at <https://www.acf.hhs.gov/ana/fact-sheet/american-indians-and-alaska-natives-trust-responsibility>.

Another commenter suggested eliminating the coordination requirement because it would be unduly burdensome. Other commenters asked if the coordination requirement results in an additional requirement to have cooperative agreements in place with the other federally-funded employment programs listed in § 302.76 and whether the prohibition against duplicative services prevents a State from offering different but related services from more than one agency.

*Response 4:* This final rule provides States and Tribes flexibility regarding how they will coordinate with State and Tribal agencies that administer federally-funded programs, as States and Tribes may structure their employment and training service delivery differently. States and Tribes have discretion to implement coordination efforts with other federally-funded employment and training service providers that best support successful program execution and stable employment outcomes for eligible noncustodial parents while preventing duplication of services. States and Tribes also have discretion to establish enrollment policies and processes for employment and training services programs they provide for eligible noncustodial parents. We encourage child support programs to work with partner agencies to educate noncustodial parents regarding partner agencies' enrollment policies. OCSS's website includes Knowledge Works and Tribal Employment Pathways resources for child support agencies who have interest or already provide employment and training services to noncustodial parents.<sup>87</sup>

This rule allows States and Tribes discretion to determine the appropriateness of who they should target as partners to provide employment and training services. This final rule does not require child support agencies to partner with workforce agencies as the providers of job services, only that they consult with, and take into consideration the services provided by, other federally-funded employment and training programs. We do not want to restrict the ability of States, Counties, Tribes, and Tribal organizations to determine the most appropriate partner to offer employment and training services tailored to local conditions, the employment needs of noncustodial parents, labor market outlook, and

<sup>87</sup> OCSS's Knowledge Works website is available at: <https://www.acf.hhs.gov/css/employment-programs>; OCSS's Tribal Employment Pathways website is available at: <https://www.acf.hhs.gov/css/child-support-professionals/tribal-agencies/tribal-employment-pathways>.

existing capacity within local employment programs.

We disagree with comments requesting that OCSS remove the coordination requirement as we believe it is important for a child support program to explain how they have consulted with, and taken into consideration the services provided by, other federally-funded employment and training programs to ensure noncustodial parents are receiving well-coordinated employment and training services across these programs, and that services provided to noncustodial parents are not being unnecessarily duplicated.

The coordination requirement does not require IV–D agencies to have cooperative agreements in place with other federally-funded employment and training programs and does not prevent a State or Tribe from offering different services to a noncustodial parent from more than one agency.

*Comment 5:* One commenter suggested OCSS encourage coordination with fatherhood programs. Another commenter suggested OCSS provide examples and guidance related to coordinating with criminal justice agencies, especially during reentry into communities, and provide guidance on how to align protections for individuals already in place through Civil Rights offices with the services in the NPRM. Another commenter said States are interested in opportunities for peer-to-peer learning and knowledge transfer and mentioned that both the National Association of State Workforce Agencies (NASWA) and the American Public Human Services Association (APHSA) have such networks.

*Response 5:* We recommend that child support programs build robust partnerships with existing education and workforce programs and providers of supportive services, such as workforce agencies, TANF and SNAP agencies, the Native Employment Works program, Public Law 102–477 programs, community colleges, labor organizations, criminal justice agencies including probation, parole and corrections, fatherhood programs and other community-based organizations. Partnering with other programs can allow child support agencies to broaden the types of services they provide to noncustodial parents in their caseload. States and Tribes are permitted and encouraged to provide additional services under different funding streams to complement the limited set of services funded under title IV–D to help noncustodial parents with significant barriers to employment obtain and retain stable employment that prevent

them from making full and regular child support payments.

OCSS has Knowledge Works and Tribal Employment Pathways resources on our website for child support agencies who have interest or already provide employment and training services to noncustodial parents.<sup>88</sup> Several of these resources assist with peer-to-peer learning and knowledge transfer and highlight the successful programs operating in various jurisdictions. These resources share documents compiled by various jurisdictions and include a peer-to-peer training series that includes an ability to view all previously recorded webinars. OCSS will endeavor to develop and expand both websites after the publication of this rule. Further we encourage child support agencies to consider participating in the networks of NASWA and APhSA.

#### *Section 303.6 Enforcement of Support Obligations*

*Comment 6:* Numerous commenters recommended extending eligibility criteria for employment and training services in § 303.6(c)(5) to noncustodial parents with arrears-only cases. Many noted that noncustodial parents with arrears-only cases are still responsible for paying child support and may face barriers to employment that limit their ability to pay. Many of them are of working age, unemployed, and could benefit from employment and training services to help them find work and pay their child support. Some commenters noted that they currently operate employment and training programs for noncustodial parents and do not exclude arrears-only cases and have found their programs to be effective at getting noncustodial parents into paying status. They argued that since these programs are effective, child support agencies should be able to provide these services regardless of whether the parent owes current support.

Commenters also noted that excluding noncustodial parents with arrears-only cases is unfair to custodial parents who could receive increased arrears payments if the noncustodial parent received employment and training services. Some noted that these custodial parents went without child support payments when their children were young through no fault of their own, so they shouldn't be denied the opportunity to receive these payments simply because their children had emancipated. Still others noted that this exclusion was unfair to noncustodial parents with arrears-only cases who

were never given the opportunity to receive employment and training services when they had a current support order. If they had been given that opportunity, their child support debt may not exist today. Thus, it is unfair to deny these parents employment and training services that they needed then and still need.

Some commenters agreed with OCSS that noncustodial parents with a current support order should be given priority for employment and training services since they are responsible for supporting minor children, but they noted that both the custodial parent and the noncustodial parent may have other minor children that could benefit from the increased financial stability that noncustodial parents with arrears-only cases could achieve if they received employment and training services.

Some commenters noted that prohibiting noncustodial parents with arrears-only cases from employment and training services was an administrative burden for the child support agency since it would require child support agencies to keep track of a parent's order status. It would also require the child support agency to terminate services if a noncustodial parent's child emancipates while the parent is receiving services, which is disruptive for the parent and may undermine the success of the services.

If OCSS continues to prohibit noncustodial parents with arrears-only cases from receiving employment and training services, some commenters recommended that OCSS allow certain exceptions to a strict prohibition. The most common exception suggested was for noncustodial parents who have custody of the minor children covered by the arrears-only case.

*Response 6:* OCSS is persuaded by these comments and has revised the eligibility criteria in §§ 303.6(c)(5) and 309.121 to clarify that a noncustodial parent with an arrears-only case is eligible to receive employment and training services. As noted in the NPRM, OCSS wanted to prioritize noncustodial parents who have a current support order for employment and training services since the primary goal of offering these services is to increase the consistency of current support payments to families with minor children. However, we agree that noncustodial parents with arrears-only cases are still responsible for paying child support and may face barriers to employment that limit their ability to pay and thus could benefit from employment and training services, which, if provided, could lead to an improved employment situation and

increased child support payments to custodial families. In response to these comments, we removed the word "current" in proposed § 303.6(c)(5) describing the eligibility criteria to allow States and Tribes the option to provide noncustodial to allow noncustodial parents with child support orders in arrears-only cases to be eligible for employment and training services funded under title IV–D in addition to noncustodial parents with a current support order.

*Comment 7:* Some commenters suggested extending eligibility criteria for employment and training services in § 303.6(c)(5) to custodial parents.

*Response 7:* OCSS disagrees with these comments. The purpose of allowing child support programs to provide employment and training services to noncustodial parents is to obtain child support payments, which will benefit custodial families and that is the focus of this rule. OCSS encourages child support agencies to develop robust referral networks with other programs that provide employment and training services to custodial parents.

*Comment 8:* One commenter suggested extending eligibility for employment and training services in § 303.6(c)(5) to noncustodial parents who do not have a support order.

*Response 8:* This final rule limits eligibility criteria for employment and training services to noncustodial parents who have a child support order or have been determined by the IV–D agency to be fully cooperating with the IV–D agency to establish a child support order, however the child support agency must have an open IV–D case in accordance with section 454(4) of the Act and 45 CFR 302.33. OCSS leaves it to States, Tribes, or Tribal organizations to determine if a noncustodial parent is fully cooperating with the IV–D agency to establish a child support order.

*Comment 9:* We received multiple comments regarding the language in the preamble of the NPRM that a State may obtain an attestation from the noncustodial parent that he or she is not receiving the same employment and training service from the programs listed in § 303.6(c)(5). Some commenters suggested that OCSS should allow States to determine the process to confirm whether the noncustodial parent is receiving the same services. Other commenters suggested a verbal confirmation from the noncustodial parent that they are not receiving the same services, documented in case record, should be sufficient. Some commenters suggested that if attestation is required, the attestation requirement

<sup>88</sup>Id.

should be added to the regulatory language.

*Response 9:* OCSS disagrees with the need to prescribe the method by which States and Tribes confirm that duplicative services are not provided in any particular case, including adding specific attestation requirements. As indicated in response to comments above, this final rule provides States and Tribes flexibility to adopt policies and procedures for determining that the noncustodial parent is not receiving duplicative services from federally-funded employment and training programs.

*Comment 10:* A commenter recommended that OCSS clarify that if a noncustodial parent confirms they are not receiving the same services from another program and is later found to have received duplicated services, the IV-D agency will not be liable for repayment of such costs.

*Response 10:* OCSS appreciates the commenters concerns, and in response to comments regarding the non-duplication of services requirement for individual cases, we made changes in § 303.6(c)(5) of the final rule to clarify that to meet this requirement States and Tribes must adopt policies and procedures for determining that a noncustodial parent is not already receiving the same services under federally-funded programs. States and tribes have broad discretion to determine what policies and procedures to adopt for determining that services are not being duplicated. An unallowable expenditure would not occur so long as the IV-D agency adopts and implements such policies and procedures.

*Comment 11:* Two commenters recommended adding legal services or legal assistance to the list of allowable services in § 303.6(c)(5). While one commenter suggested including legal services focused solely on child support issues such as order modification and enforcement petitions, the other commenter suggested including legal assistance that addressed employment barriers more broadly, including help with expungement, reinstating revoked driver's licenses, and other common barriers people have to securing and keeping a job.

*Response 11:* OCSS disagrees that legal services or legal assistance should be separately added to the list of allowable services in §§ 303.6(c)(5) and 309.121. Child support agencies already have authority to initiate a review and adjustment of child support orders and, if necessary, enforcement actions. However, we agree that noncustodial parents may need legal assistance

incidental to removing employment barriers, such as expungement or reinstating a driver's license, which may be considered work supports under §§ 303.6(c)(5)(vi) and 309.121(b)(6).

*Comment 12:* One commenter suggested this rule require States to incorporate domestic violence prevention and awareness into employment and training services programs to reduce the incidence of domestic violence in the future and suggested that training staff about domestic violence and the characteristics of healthy relationships would enhance the delivery of services to noncustodial parents.

*Response 12:* OCSS requires all States to have and use a Family Violence Indicator on appropriate cases, work diligently to ensure they appropriately screen referrals and applications, flag affected cases in automated systems, and restrict information sharing with other data collection systems. OCSS reminds child support programs they are responsible for providing domestic violence safeguards in operating any aspect of the child support program. See 45 CFR 303.21, 307.11, and 307.13. Additionally, OCSS offers training to child support programs regarding domestic violence.

*Comment 13:* Five commenters recommended including subsidized employment as an allowable service, emphasizing the need for this service and the multiple benefits generated by this service.

*Response 13:* We are not including subsidized employment as an allowable service. OCSS appreciates and understands the potential need for subsidized employment especially for some noncustodial parents facing a specific set of barriers. However, including subsidized employment can significantly increase the cost of providing employment and training services. Although subsidized employment is not included as an allowable service under this final rule, as referenced in PIQ-12-02,<sup>89</sup> child support agencies may partner with other agencies that can fund subsidized employment and other employment and training activities beyond those allowed under this rule. Additionally, a State can consider submitting an exemption request to the Secretary to reinvest IV-D incentive payments and States, Tribes, or Tribal organizations can apply

for a section 1115 waiver to provide subsidized employment.

*Comment 14:* Various commenters asked about the definitions used to describe the allowable employment and training services found in § 303.6(c)(5). One commenter recommended that OCSS seek to better align its definitions of employment and training services with existing programs, asking, for example, whether “vocational education training,” a core activity within the TANF program, would be considered within “occupational training and other skills training directly related to employment.” Another commenter asked why OCSS combined occupational training with activities to improve literacy and basic skills. A third commenter offered definitions for some of the employment and training services that are allowable under this rule, including job search assistance, job readiness training, occupational training, job retention services, and work supports.

*Response 14:* OCSS selected the list of allowable employment and training services found in §§ 303.6(c)(5) and 309.121 based on research that examined the effectiveness of employment and training programs for noncustodial parents described in this rule. Through further research, OCSS decided on the term “occupational training” since it is more encompassing than “vocational education training.” Thus, OCSS would consider “vocational education training” within “occupational training and other skills training directly related to employment.” OCSS combined occupational training with activities to improve literacy and basic skills because both of these activities increase a person's employment skills. OCSS has included descriptions for job retention services and work supports in the Summary Description of the Regulatory Changes in the preamble to the rule. OCSS has not provided definitions of job search assistance, job readiness training, and occupational training. We defer to reasonable State and Tribal definitions for these terms.

*Comment 15:* One commenter recommended including attainment of a “general educational diploma (GED)” as an allowable training service in § 303.6(c)(5). Another commenter recommended including comprehensive training programs that are aligned with market demands and offer certifications that enhance employability in § 303.6(c)(5).

*Response 15:* OCSS has included programs to complete a high school or a high school equivalency certificate as an allowable training service, which

<sup>89</sup> PIQ-12-02 is available at: <https://www.acf.hhs.gov/css/policy-guidance/partnering-other-programs-including-outreach-referral-and-case-management>.

includes attainment of a “general education diploma (GED).” OCSS uses the phrase “high school equivalency” instead of “General Education Development (GED)” since it is a more encompassing term that includes GED programs as well as other programs similar to GED. OCSS has also included occupational training and other skills training directly related to employment, which includes comprehensive training programs that are aligned with market demands and offer certifications that enhance employability.

*Comment 16:* One commenter asked for clarification regarding the term “employment and training services plan,” which is used in § 303.6(c)(5)(vii).

*Response 16:* We have revised this section and no longer use the term “employment and training services plan” because commenters found this requirement confusing. OCSS does not believe an employment and training services plan is necessary to meet the requirements of the rule.

*Comment 17:* One commenter recommended that the definition of job retention services, one of the allowable services in § 303.6(c)(5), be expanded to include support for re-employment should a job be lost and advancement services to support the job holder’s career growth.

*Response 17:* OCSS disagrees with this recommendation. We believe that the list of allowable employment and training services that are included in §§ 303.6(c)(5) and 309.121 are sufficient for child support programs to support maintaining employment or re-employment should the noncustodial parent experience job loss. We did not include job advancement services since they are not needed to find and maintain employment to pay child support consistently. However, we do value investments in career development and education as an effective route out of poverty for parents and their children. We encourage child support programs to partner with other programs and agencies with a long-term career development mission. States, Tribes, and Tribal organizations are permitted and encouraged to provide additional services under different funding streams to complement the limited set of services provided in §§ 303.6(c)(5) and 309.121 to help noncustodial parents succeed in the workforce.

*Comment 18:* Several commenters requested further clarification regarding work supports, one of the allowable services in § 303.6(c)(5). One commenter requested that OCSS provide States with adequate flexibility to use funding for

work supports to meet individual and population-specific needs. One commenter asked whether work supports could include cell phones. Another asked if it included educational materials (e.g. books, supplies, reading glasses, etc.) and fees (e.g. motor vehicle records fees, application and enrollment fees, physicals, and drug screenings, etc.). One commenter asked that OCSS prescribe how States would determine if an ancillary expenditure is an approved work support.

*Response 18:* OCSS describes work supports in the preamble of the rule as costs incurred for bona fide services and assistance provided to noncustodial parents so that they may find and retain employment or participate in employment and training services. We believe this description provides States, Tribes, and Tribal organizations with adequate flexibility to meet individual and population-specific needs. OCSS considers expenditures for cell phones, educational materials, and the fees mentioned by the commenter as allowable work supports if they are needed to find or retain employment or participate in employment and training services.

*Comment 19:* One commenter asked that OCSS define “emergency child care,” which, under certain circumstances, is an allowable work support in § 303.6(c)(5).

*Response 19:* OCSS considers emergency child care to be the provision of child care services for a limited period of time due to a sudden and unplanned interruption in the regular child care routine.

*Comment 20:* One commenter recommended adding financial literacy to the list of allowable services in § 303.6(c)(5), noting that financial literacy can help individuals prevent devastating financial mistakes, prepare for financial emergencies, reach their goals, and gain fiscal confidence.

*Response 20:* OCSS disagrees that financial literacy should be separately added to the list of allowable services in §§ 303.6(c)(5) and 309.121 as a stand-alone service. However, when financial literacy is integrated into job readiness training, the financial literacy component of the training is eligible for FFP under §§ 303.6(c)(5)(ii) and 309.121(b)(2).

*Comment 21:* Various commenters asked for further clarification regarding the eligibility criteria for receiving employment and training services. Two commenters asked whether noncustodial parents with support orders set at zero dollars were eligible for employment and training services. Other commenters asked for

clarification regarding the eligibility criteria that says noncustodial parents are eligible if they are “unemployed or underemployed or at risk of not being able to comply with their child support order”.

*Response 21:* OCSS clarifies that noncustodial parents who have zero-dollar child support orders meet the eligibility criteria in §§ 303.6(c)(5) and 309.121. OCSS hasn’t defined unemployed, underemployed, or at risk of not being able to comply with their child support order. This final rule provides child support programs discretion and flexibility to define these terms based on the employment conditions in their jurisdictions.

*Comment 22:* One commenter asked OCSS about the confidentiality and security requirements for the partner agencies that provide the employment and training services. Specifically, the commenter asked whether these agencies can use their own policies and procedures for confidentiality and security of program participants’ data. If not, commenters asked if the partner agencies are required to follow IV–D requirements for storing, transmitting, sharing, and maintaining electronic and hard-copy IV–D data.

*Response 22:* States need to meet the requirements of § 303.21, *Safeguarding and disclosure of confidential information*, and adhere to all appropriate Federal, State, and local reporting and safeguarding requirements regarding data and information related to the provision of employment and training services. Tribes and Tribal organizations need to meet the requirements of § 309.80, What safeguarding procedures must a Tribe or Tribal organization include in a Tribal IV–D plan, and adhere to all appropriate Federal and Tribal reporting and safeguarding requirements regarding data and information related to the provision of employment and training services.

*Comment 23:* One commenter recommended adding an eligibility criterion to the rule that would permit States to exclude noncustodial parents who receive Social Security Administration (SSA) benefits from receiving employment and training services listed in § 303.6(c)(5). Alternatively, the commenter recommended including the Ticket to Work Program among the federally-funded programs detailed in §§ 303.6(c)(5) and 302.76 to ensure child support agencies are establishing a coordinated, nonduplicative set of employment and training services with other federally-funded programs. The commenter noted that individuals who

receive Social Security Disability and/or Supplemental Security Income benefits are eligible to participate in the Social Security's Ticket to Work Program, which provides services similar to those in this rule.

*Response 23:* While OCSS appreciates this commenter's interest in ensuring that employment and training services provided under §§ 303.6(c)(5) and 309.121 are well targeted and nonduplicative, we do not think noncustodial parents who are receiving Social Security benefits should be excluded from receiving employment and training services in §§ 303.6(c)(5) and 309.121 if they meet the other eligibility criteria for employment and training services. We do not see any benefit to the child support program to exclude parents from these services simply because they receive government benefits in general, or Social Security benefits in particular. We also think that the final rule already includes the major federally-funded programs that provide employment and training services that child support agencies need to coordinate with to ensure noncustodial parents are not receiving duplicative employment and training services. However, we note that the rule allows child support agencies to add eligibility criteria when offering employment and training services provided under §§ 303.6(c)(5) and 309.121, and agencies are welcome to coordinate with other federally-funded programs that provide employment and training services not listed in §§ 302.76 and 309.65(b).

*Comment 24:* Various commenters noted the importance of implementing employment and training programs for noncustodial parents that are supportive and transparent to help overcome the apprehension and distrust that noncustodial parents can have toward the child support program. One commenter suggested lowering the monthly obligation during participation and establishing clear and consistent communication channels to inform noncustodial parents about their rights, obligations, and available support services. Another commenter suggested forgoing certain enforcement remedies for parents who are cooperating with the employment and training program and relaxing certain Federal requirements for cooperating parents, such as forgoing credit reporting or arrearage payments on income withholding notices. It was also suggested that OCSS encourages States to perform a review of participating noncustodial parents' child support orders.

*Response 24:* OCSS agrees that it is important to implement employment and training programs for noncustodial

parents that are supportive and transparent to help overcome the apprehension and distrust that noncustodial parents can have toward the child support program. States, Tribes and Tribal organizations currently have discretion to initiate the review and adjustment of child support orders where appropriate and suspend or suppress certain enforcement remedies during program participation. These practices were successfully utilized during the Child Support Noncustodial Parent Employment Demonstration (CSPED). OCSS encourages child support agencies to incorporate these practices into their employment and training programs. OCSS also encourages child support agencies to establish clear and consistent communication channels to inform noncustodial parents about their rights, obligations, and available support services. With regard to Federal requirements, a State, Tribe, or Tribal organization may request a waiver under section 1115 of the Social Security Act to waive Federal requirements for noncustodial parents who are cooperating with the employment and training program.

*Comment 25:* One commenter recommended that OCSS should provide clear and detailed guidance on how to implement employment and training programs for noncustodial parents after the rule goes into effect so that States can establish effective programs and avoid costly challenges. Guidance was encouraged around service delivery, monitoring, coordination between child support agencies and other service providers, performance measurement, evaluation, and continuous improvement.

*Response 25:* OCSS currently provides technical assistance to States, Tribes, and Tribal organizations that are implementing employment and training programs for noncustodial parents through its Knowledge Works! and Tribal Employment Pathways web pages. OCSS may issue additional guidance as needed to assist child support programs implement the rule.

*Comment 26:* One commenter expressed interest in OCSS—in partnership with the U.S. Department of Labor—supporting opportunities for state workforce and human services agencies to research and evaluate various approaches for using FFP to deliver employment and training services.

*Response 26:* OCSS appreciates this commenter's interest in continuing to develop the evidence base for delivering employment and training services to noncustodial parents. OCSS encourages

States, Tribes, and Tribal organizations to use IV–D funds to evaluate the success of the employment and training services and make adjustments accordingly to maximize the efficiency and effectiveness of such services in increasing child support payments to families. These activities are allowable under 45 CFR 304.20(b)(1)(ii) and 309.145(a)(2).

*Comment 27:* One commenter recommended offering enhanced FFP for costs associated with programming data exchanges that child support agencies might undertake with workforce agencies to avoid duplication of services. This commenter thought that the States' ability to meet the nonduplication requirement would depend upon a robust and timely data exchange between child support and other programs.

*Response 27:* We appreciate the comment. However, OCSS has no authority to increase the FFP rate through the regulatory process. This would require a statutory change by Congress. The final rule does not require automated data exchanges between these agencies. As discussed in comment and response 9, child support programs will make case-by-case determinations about whether a noncustodial parent is receiving the same employment and training services from federally-funded programs, but the final rule allows States, Tribes, and Tribal organizations to determine the method it will use to avoid duplication of these services with these programs.

*Comment 28:* Two commenters requested clarification regarding the use of incentive funds for employment and training services. One comment requested clarification that States can use incentive payments for allowable employment and training services without the need to request an exemption to reinvest incentive payments.

*Response 28:* OCSS clarifies that since employment and training services will be eligible for title IV–D funds as an allowable activity under title IV–D, an exemption is not necessary for States to use incentive dollars to provide the allowable services included in § 303.6(c)(5) to eligible noncustodial parents. Those services would be an allowable activity for FFP. However, an exemption is necessary if a State wants to provide employment and training services other than those listed in § 303.6(c)(5) or wants to serve parents who are not eligible for employment and training services under this rule.

*Comment 29:* One commenter recommended that OCSS clarify if FFP is available for administrative costs

associated with implementing employment and training services in § 303.6(c)(5), such as costs associated with start-up, staffing, technology, training, outreach, and rent.

*Response 29:* This rule allows child support agencies to use FFP to provide employment and training services in accordance with §§ 303.6(c)(5) and 309.121, which includes costs of associated administrative activities, such as grant administration costs associated with start-up, staffing, technology, training, outreach, and rent, provided those costs are necessary, reasonable and appropriately allocable to the employment and training services and comply with 45 CFR parts 304, 307, and 310 and HHS’ uniform grant administration requirements.

*Comment 30:* A commenter asked if FFP would be available for partner agencies to make systems enhancements.

*Response 30:* FFP is not available for partner agencies to make enhancements to existing workforce systems.

*Comment 31:* A few commenters opposed the prohibitions against using FFP for the cost of cash payments, checks, reimbursements, or any other form of payment that can be legally converted to currency and recommended eliminating the prohibition. Another commenter suggested allowing reimbursement for time critical, *de minimus* expenses up to a set dollar threshold, and pointed out that this prohibition is not consistent with other federally-funded employment and training programs such as those funded under WIOA.

*Response 31:* We thank the commenters but have determined to maintain the NPRM restriction providing that FFP may not be used to provide cash payments, checks, reimbursements, or any other form of payment that can be legally converted to currency. Nothing prohibits State and Tribal child support agencies from forming collaborations with organizations (e.g., community-based groups; workforce system entities, such as those funded through WIOA systems; and others) that do provide resources such as emergency assistance and reimbursement of expenses.

*Comment 32:* One commenter asked for clarification that FFP is available for employment and training services when the noncustodial parent is ordered to participate and the noncustodial parent voluntarily agrees to participate.

*Response 32:* This final rule allows child support agencies to determine their enrollment process for providing employment and training services. In the past, some State child support agencies have limited enrollment to noncustodial parents who appear at a show cause or civil contempt hearing for failure to pay child support and are encouraged or ordered to participate in the employment and training program as an alternative sentencing option. Research shows that this approach to enrollment yields positive outcomes in terms of noncustodial parent employment and child support payments.<sup>90</sup> Other State child support agencies have enrolled noncustodial parents on a voluntarily basis as part of early intervention efforts. This approach

has also been found to be associated with positive improvements in noncustodial parent employment and child support outcomes.<sup>91</sup> Still other State child support agencies have used a no wrong door approach to enrollment and research shows this approach can also be effective.<sup>92</sup> Because the research shows that various approaches to enrollment can generate positive results, we have decided to allow child support agencies to determine their enrollment process. However, OCSS encourages States, Tribes, and Tribal organizations to consider using a no wrong door approach to enrollment because it increases the number of noncustodial parents who can potentially benefit from employment and training services.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act (PRA) (Pub. L. 104–13), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. There is one new State plan and one new Tribal plan reporting requirement because of this final rule for States, Tribes, or Tribal organizations that choose to implement the optional and nonduplicative employment and training services. The description and total estimated burden on the “State Plan for Child Support Collection and Establishment of Paternity Under Title IV–D of the Social Security Act,” and the State Plan Transmittal Form [OMB 0970–0017] are described in the chart below.

Section and purpose	Instrument	Number of respondents	Average burden hour per response	Total cost	National Federal share	National State share
Added optional requirement § 302.76 Employment and training services.	State plan amendment.	One time for 33 States.	3 hours × \$66.82 × 33 States.	\$6,615.18	\$4,366.02	\$2,249.16

A State, Tribe, or Tribal organization may submit a plan amendment for the optional and nonduplicative employment and training services at any time. But not all States, Tribes, and Tribal organizations will implement these optional services. Out of the 54 States, we estimate 33 will eventually submit plan amendments for these optional services. Out of the 63 Tribes and Tribal organizations, we estimate that 35 will eventually submit plan

amendments for these optional services. Additionally, we estimate that States will take 3 hours to draft the required information to amend their State plans. The cost to respondents was calculated using the Bureau of Labor Statistics job code for State Government Management Analyst [13–1111] and wage data from May 2021, which is \$33.41 per hour. To account for fringe benefits and overhead, the rate was multiplied by two, which is \$66.82. The total

estimated cost is \$6,615.18 with a State share of \$2,249.16. OCSS reimburses States for 66 percent of the administrative costs incurred to administer the State plan.

The description and total estimated burden on the “Tribal Child Support Enforcement Direct Funding Requests” are described in the chart below.

<sup>90</sup> Schroeder, Daniel and Nicholas Doughty (September 2009).

<sup>91</sup> Davis, Lanae, et al. (November 2013).

<sup>92</sup> Lippold, Kye, et al. (October 2011).

Section and purpose	Instrument	Number of respondents	Average burden hour per response	Total cost	National Federal share
Added optional requirement § 309.65(b) Employment and training services.	Tribal plan amendment ..	One time for 35 Tribes ..	6 hours × \$76.26 × 35 Tribes.	\$16,014.60	\$16,014.60

We estimate that Tribes will take 6 hours to draft the required information to amend their Tribal plans. The cost to respondents was calculated using the Bureau of Labor Statistics (BLS) job code for Social and Community Service Managers [11–9151] and wage data from May 2022, which is \$38.13 per hour (mean). To account for fringe benefits and overhead, the rate was multiplied by two, which is \$76.26. The total estimated cost is \$16,014.60. Tribal child support programs receive 100% FFP so there is no Tribal share incurred to administer the Tribal plan.

This final rule would revise two approved information collections (State Plan for Child Support Collection and Establishment of Paternity Under Title IV–D of the Social Security Act; OMB #: 0970–0017 and Tribal Child Support Enforcement Direct Funding Requests; OMB #0970–0218), as States, Tribes, and Tribal organizations that elect to participate in Employment and Training Services for Noncustodial Parents in the Child Support Program may submit a State and Tribal plan amendment to OCSS. To account for States, Tribes, and Tribal organizations that elect to provide employment and training services in accordance with this rule submitting revisions to their State or Tribal Plans and as required by PRA, we will submit the proposed revised data collections to OMB for review and approval. This will include an updated description in the Supporting Statement A justification and an updated burden table to show an estimated number of States, Tribes, or Tribal organizations that might submit amendments annually. The request to revise the title IV–D plan pages will include a comment period inviting comments on the new data collection and related burden. The public comment period will be announced through separate notices published in the **Federal Register**.

### Regulatory Impact Analysis

#### *Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule meets the standards of Executive Order 13563 because providing employment training and services benefits the public, particularly children and families whose economic security would be improved by increasing family income and improving financial stability. These services help to reduce the need for and cost of providing public assistance. This rule was designated by OMB as a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. This rule will not result in economic impacts that exceed the monetary threshold in section 3(f)(1) of Executive Order 12866 (as amended by Executive Order 14094).

For the chosen regulatory approach, it is estimated that the fiscal impact of the final rule against a baseline of no action, accounting for existing trends, will increase Federal expenditures in FY 2025 by \$17.8 million, the anticipated first fiscal year of implementation. As more child support programs use this authority, the estimated fiscal impact will increase. By FY 2034, the estimated fiscal impact is expected to be \$98.5 million per budget year. These estimates do not reflect the potential benefits to the Federal Government of implementing this program, such as reducing the cost of providing child support enforcement services and reducing reliance on means-tested programs; they only reflect the estimated cost of providing employment and training services to noncustodial parents in accordance with this final rule.

ACF also assessed and considered a regulatory alternative of finalizing the proposed rule as published. As an example of the differences, in contrast to the final rule, the proposed rule did not contain a provision explicitly authorizing Tribal child support programs to receive FFP for employment and training service activities. It also did not allow child support programs to receive FFP for employment and training service

activities for noncustodial parents with arrears-only cases. Compared to a baseline scenario of no regulatory action, adopting this policy alternative would result in an increase of \$15.1 million in Federal expenditures during FY 2025, the first fiscal year of implementation, increasing to \$74.0 million by FY 2034. These estimates are slightly different than those included in the NPRM because the current estimates use more recent caseload information than used when estimating the fiscal impact of the NPRM. Compared to our estimated impacts of the final rule, this regulatory alternative would result in a lower increase in Federal expenditures by \$2.7 million in the first year, and a lower increase in Federal expenditures by \$24.5 million in the final year of the time horizon of our analysis. We note that, compared to the final rule, this regulatory alternative would be less likely to ensure that Tribal Nations can offer culturally appropriate and affirming services to their communities.

#### *Regulatory Flexibility Analysis*

The Secretary has determined that, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), this rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State and Tribal governments. State and Tribal governments are not considered small entities under the Regulatory Flexibility Act.

#### *Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an annual expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). That threshold level is currently approximately \$177 million. This rule does not impose any mandates on State, local, or Tribal governments, or the private sector, that will exceed this threshold in any year.

*Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. We certify that we have assessed this final rule's impact on the well-being of families. This rule will have a positive impact on family well-being as defined in the legislation by proposing evidence-informed policies and practices that help to ensure that noncustodial parents support their children more consistently and reliably.

*Congressional Review*

This final rule is not a major rule as defined in 5 U.S.C. chapter 8.

*Executive Order 13132*

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This rule does not have federalism impacts as defined in the Executive Order 13132.

**Tribal Consultation Statement**

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, requires agencies to consult with Indian Tribes when regulations have "substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes." Similarly, ACF's Tribal Consultation Policy says that consultation is triggered for a new rule adoption that significantly affects Tribes, meaning the new rule adoption has substantial direct effects on one or more Indian Tribes, on the amount or duration of ACF program funding, on the delivery of ACF programs or services to one or more Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This rule does not meet either standard for consultation. Executive Order 13175 does not apply to this rule because it does not impose any burden or cost on Tribal IV–D agencies, nor does it impact the relationship or distribution of power

between the Federal Government and Indian Tribes. Rather, it provides IV–D agencies an option for claiming Federal financial participation (FFP) for the provision of employment and training services to noncustodial parents. Although not required for this final rule, ACF is committed to consulting with Indian Tribes and Tribal leadership to the extent practicable and permitted by law.

In April 2023 OCSS held a consultation where tribal leaders shared concerns with high unemployment and expressed a need for additional funding in employment and training for noncustodial parents. During that same consultation leaders expressed there was no reason for Tribes to not have the same enforcement measures as States. At the June 2023 ACF Tribal Advisory Committee (TAC) OCSS shared it was exploring ways to fund employment and training services. Members of the TAC expressed support for funding employment and training services.

Meg Sullivan, Principal Deputy Assistant Secretary for the Administration for Children and Families, performing the delegable duties of the Assistant Secretary for Children and Families, approved this document on December 3, 2024

**List of Subjects***45 CFR Part 302*

Child support, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Unemployment compensation.

*45 CFR Part 303*

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

*45 CFR Part 304*

Child support, Grant programs—social programs, Reporting and recordkeeping requirements.

*45 CFR Part 309*

Child support, Grant programs—social programs, Indians-tribal government, Reporting and recordkeeping requirements.

Dated: December 6, 2024.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR parts 302, 303, 304, and 309 as set forth below:

**PART 302—STATE PLAN REQUIREMENTS**

■ 1. The authority citation for part 302 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

■ 2. Add § 302.76 to read as follows:

**§ 302.76 Employment and training services.**

The State plan may provide for employment and training services for eligible noncustodial parents in accordance with § 303.6(c)(5) of this chapter. If the State chooses this option, the State plan must include a description of the employment and training services and the eligibility criteria. In addition, to ensure the IV–D agency is providing well-coordinated and non-duplicative employment and training services, the State plan must explain how the IV–D agency has consulted with, and taken into consideration the services provided by, the State agencies administering the following programs: the Temporary Assistance for Needy Families program (45 CFR part 261), the Supplemental Nutrition Assistance Program Employment and Training program (7 CFR 273.7 and 273.24), the Adult, Dislocated Worker, and Youth programs under title I of the Workforce Innovation and Opportunity Act (20 CFR parts 675 through 688), the Adult Education and Family Literacy Act program (34 CFR part 463), the Employment Service program (20 CFR part 652), and the Vocational Rehabilitation program (34 CFR part 361). States electing the option must comply with future reporting requirements prescribed by the Office.

**PART 303—STANDARDS FOR PROGRAM OPERATIONS**

■ 3. The authority citation for part 303 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k), and 25 U.S.C. 1603(12) and 1621e.

■ 4. Amend § 303.6 by:

■ a. Removing the word "and" at the end of paragraph (c)(4)(iii);

■ b. Redesignating paragraph (c)(5) as paragraph (c)(6); and

■ c. Adding a new paragraph (c)(5).

The addition reads as follows:

**§ 303.6 Enforcement of support obligations.**

\* \* \* \* \*

(c) \* \* \*

(5)(i) As elected by the State in § 302.76 of this chapter, provide

employment and training services to eligible noncustodial parents. In addition to eligibility criteria that may be set by the IV–D agency, the noncustodial parent must: have an open IV–D case; have a child support order or be determined by the IV–D agency to be fully cooperating with the IV–D agency to establish a child support order; and be unemployed or underemployed or at risk of not being able to comply with their support order. In addition, the IV–D agency must have adopted policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services under the following programs: the Temporary Assistance for Needy Families program (45 CFR part 261), the Supplemental Nutrition Assistance Program Employment and Training program (7 CFR 273.7 and 273.24), the Federal Pell Grant program (34 CFR part 690), the Adult, Dislocated Worker, and Youth programs under title I of the Workforce Innovation and Opportunity Act (20 CFR parts 675 through 688), the Adult Education and Family Literacy Act program (34 CFR part 463), the Employment Service program (20 CFR part 652), or the State Vocational Rehabilitation program (34 CFR part 361);

(ii) These IV–D agency employment and training services are limited to:  
 (A) Job search assistance;  
 (B) Job readiness training;  
 (C) Job development and job placement services;  
 (D) Skills assessments to facilitate job placement;  
 (E) Job retention services;  
 (F) Work supports, such as transportation assistance, uniforms, and tools; and

(G) Occupational training and other skills training directly related to employment, which may also include activities to improve literacy and basic skills, such as programs to complete high school or a high school equivalency certificate or English as a second language; and

(iii) Federal financial participation may also be used to provide case management in connection with the allowable services under this paragraph (c)(5); and

\* \* \* \* \*

**PART 304—FEDERAL FINANCIAL PARTICIPATION**

■ 5. The authority citation for part 304 continues to read as follows:

**Authority:** 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

■ 6. Amend § 304.20 by:

- a. Removing the word “and” at the end of paragraph (b)(3)(vi);
  - b. Redesignating paragraph (b)(3)(vii) as paragraph (b)(3)(viii); and
  - c. Adding a new paragraph (b)(3)(vii).
- The addition reads as follows:

**§ 304.20 Availability and rate of Federal financial participation.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(vii) Employment and training services activities in accordance with §§ 302.76 and 303.6(c)(5) of this chapter; and

\* \* \* \* \*

■ 7. Amend § 304.23 by adding paragraph (k) to read as follows:

**§ 304.23 Expenditures for which Federal financial participation is not available.**

\* \* \* \* \*

(k) Any expenditures under § 303.6(c)(5) of this chapter for subsidized employment or payment of cash, checks, reimbursements, or any other form of payment that can be legally converted to currency provided to the noncustodial parent.

**PART 309—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D) PROGRAM**

■ 8. The authority citation for part 309 continues to read as follows:

**Authority:** 42 U.S.C. 655(f) and 1302.

■ 9. Amend § 309.65 by:

■ a. Redesignating paragraph (b) as paragraph (c); and

■ b. Adding a new paragraph (b).

The addition reads as follows:

**§ 309.65 What must a Tribe or Tribal Organization include in a Tribal IV–D plan in order to demonstrate capacity to operation a Tribal IV–D program?**

\* \* \* \* \*

(b) The Tribal plan may provide for employment and training services for eligible noncustodial parents in accordance with § 309.121. If the Tribe or Tribal organization chooses this option, the Tribal plan must include a description of the employment and training services and the eligibility criteria. In addition, to ensure the Tribal IV–D agency is providing well-coordinated and non-duplicative employment and training services, the Tribal plan must explain how the Tribal IV–D agency has consulted with, and taken into consideration services provided by, federally-funded employment and training programs administered by the Tribe. Tribes or Tribal organizations electing the option must comply with future reporting

requirements prescribed by the Office of Child Support Services.

\* \* \* \* \*

■ 10. Add § 309.121 to read as follows:

**§ 309.121 Employment and training services.**

(a) As elected by the Tribe or Tribal organization in § 309.65(b), provide employment and training services to eligible noncustodial parents. In addition to eligibility criteria that may be set by the Tribal IV–D agency, the noncustodial parent must: have an open IV–D case; have a child support order or be determined by the Tribal IV–D agency to be fully cooperating with the Tribal IV–D agency to establish a child support order; be unemployed or underemployed or at risk of not being able to comply with their support order. In addition, the Tribal IV–D agency must have adopted policies and procedures for determining that the noncustodial parent is not receiving the same employment and training services under federally-funded employment and training programs administered by the Tribe.

(b) These IV–D agency employment and training services are limited to:

- (1) Job search assistance;
- (2) Job readiness training;
- (3) Job development and job placement services;
- (4) Skills assessments to facilitate job placement;
- (5) Job retention services;
- (6) Work supports, such as transportation assistance, uniforms, and tools; and
- (7) Occupational training and other skills training directly related to employment, which may also include activities to improve literacy and basic skills, such as programs to complete high school or a high school equivalency certificate, or English as a second language.

(c) Federal financial participation may also be used to provide case management in connection with the allowable services under this section.

■ 11. Amend § 309.145 by:

■ a. Removing the word “and” at the end of paragraph (c)(3);

■ b. Removing the period at the end of paragraph (c)(4) and adding; “and” in its place; and

■ c. Adding paragraph (c)(5).

The addition reads as follows:

**§ 309.145 What costs are allowable for Tribal IV–D programs carried out under § 309.65(a) of this part?**

\* \* \* \* \*

(c) \* \* \*

(5) Employment and training services activities in accordance with §§ 309.65(b) and 309.121.

\* \* \* \* \*

■ 12. Amend § 309.155 by:

■ a. Removing the word “and” at the end of paragraph (e);

■ b. Redesignating paragraph (f) as paragraph (g); and

■ c. Adding a new paragraph (f).

The addition reads as follows:

**§ 309.155 What uses of Tribal IV–D program funds are not allowable?**

\* \* \* \* \*

(f) Any expenditures under § 309.121 for subsidized employment or payment of cash, checks, reimbursements, or any other form of payment that can be legally converted to currency provided to the noncustodial parent; and

\* \* \* \* \*

[FR Doc. 2024–29081 Filed 12–11–24; 8:45 am]

BILLING CODE 4184–41–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Part 401**

[Docket No. USCG–2024–0406]

RIN 1625–AC94

**Great Lakes Pilotage Rates—2025 Annual Review**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the statutory provisions enacted by the Great Lakes Pilotage Act of 1960, the Coast Guard is issuing new pilotage rates for 2025. This rule adjusts the pilotage rates to account for changes in district operating expenses, an increase in the number of pilots, and anticipated inflation. These changes, when combined, result in a 7-percent net increase in pilotage costs compared to the 2024 season.

**DATES:** This final rule is effective January 13, 2025.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), type USCG–2024–0406 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email Mr. Brian Rogers, Commandant, Office of Waterways and Ocean Policy—

Great Lakes Pilotage Division (CG–WWM–2), Coast Guard; telephone 410–360–9260, email [Brian.Rogers@uscg.mil](mailto:Brian.Rogers@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

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A. Step 1: Recognize Previous Operating Expenses  
 B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation  
 C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots  
 D. Step 4: Determine Target Pilot Compensation Benchmark and Apprentice Pilot Wage Benchmark  
 E. Step 5: Project Working Capital Fund  
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 G. Step 7: Calculate Initial Base Rates  
 H. Step 8: Calculate Average Weighting Factors by Area  
 I. Step 9: Calculate Revised Base Rates  
 J. Step 10: Review and Finalize Rates

District Three

A. Step 1: Recognize Previous Operating Expenses  
 B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation  
 C. Step 3: Estimate Number of Registered Pilots and Apprentice Pilots  
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**I. Abbreviations**

2023 final rule Great Lakes Pilotage Rates—2023 Annual Rulemaking and Review of Methodology  
 2024 final rule Great Lakes Pilotage Rates—2024 Annual Review  
 2025 Rulemaking NPRM Great Lakes Pilotage Rates—2025 Annual Review notice of proposed rulemaking  
 APA American Pilots’ Association  
 BLS Bureau of Labor Statistics  
 CFR Code of Federal Regulations  
 CPI Consumer Price Index  
 DHS Department of Homeland Security Director U.S. Coast Guard’s Director of the Great Lakes Pilotage  
 ECI Employment Cost Index  
 FOMC Federal Open Market Committee  
 FR Federal Register  
 GLPAC Great Lakes Pilotage Advisory Committee  
 LPA Lakes Pilots Association  
 MOU Memorandum of Understanding  
 NAICS North American Industry Classification System  
 NPRM Notice of proposed rulemaking  
 OMB Office of Management and Budget  
 PCE Personal Consumption Expenditures § Section  
 SBA Small Business Administration  
 SLSPA Saint Lawrence Seaway Pilots Association  
 U.S.C. United States Code  
 WGLPA Western Great Lakes Pilots Association

**II. Basis and Purpose, and Regulatory History**

The legal basis of this rulemaking is 46 U.S.C. Chapter 93,<sup>1</sup> which requires foreign merchant vessels and United States vessels operating “on register”—meaning United States vessels engaged in foreign trade—to use United States or Canadian pilots while transiting the United States waters of the St. Lawrence Seaway and the Great Lakes system.<sup>2</sup> For U.S. Great Lakes Pilots, the statute requires the Secretary to “prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.” Title 46 of the U.S.C. 9303(f) also requires that rates be established or reviewed and adjusted each year, no later than March 1. The Secretary’s duties and authority under 46 U.S.C. Chapter 93 have generally been delegated to the Coast Guard.<sup>3</sup>

The purpose of this final rule is to issue new pilotage rates for 2025 by revising a base rate established in 2023.

<sup>1</sup> 46 U.S.C. 9301–9308.

<sup>2</sup> 46 U.S.C. 9302(a)(1).

<sup>3</sup> Department of Homeland Security Delegation No. 00170.1 (II)(92)(f), Revision No. 01.4. The Secretary retains the authority under Section 9307 to establish, and appoint members to, a Great Lakes Pilotage Advisory Committee.