

# The Story Behind the Numbers

## Impact of Modification Thresholds on Review and Adjustment of Child Support Orders

Most States' child support guidelines contain quantitative thresholds that must be met before the order can be modified. These thresholds are defined as a percentage and/or dollar change in the current child support obligation. For example, guidelines may provide that an order cannot be modified unless the new financial circumstances result in at least a 15% change in the order amount, either upward or downward.

The use of thresholds:

- ✓ sets the parameters for when modification actions are appropriate;
- ✓ helps manage the expectations of the parties about when a change in circumstances might warrant a modification to the support order;
- ✓ ensures stability in order levels when the parties' circumstances have not changed substantially;
- ✓ limits the number of modification actions the child support agency or private parties pursue; and
- ✓ allows the child support agency to manage its resources more efficiently.

This brief explores the impact of modification thresholds. Information was obtained by reviewing reports and data relevant to review and adjustment and by conducting interviews with nine States: Alaska, Colorado, Iowa, South Dakota, Maine, Montana, New York, Vermont, and Washington.<sup>1</sup> This study was conducted before passage of the Deficit Reduction Act of 2005,<sup>2</sup> which reinstates the requirement that States, beginning in October 2007, review all Temporary Assistance for Needy Families (TANF) cases with support orders at least once every three years.

### FEDERAL REQUIREMENTS AND MODIFICATION THRESHOLDS

Federal regulation requires that at least once every three years States must notify parties in IV-D cases of their right to request a review.<sup>3</sup> In addition, States must have procedures allowing a party to request a review outside the three-year cycle, if the requesting party demonstrates a

substantial change in circumstances (e.g., change in income).

The review is to be an objective evaluation of information necessary for application of the State's guidelines. The State may use a "reasonable quantitative standard," or threshold, as a basis for determining whether a variance between the current order amount and amount resulting from application of the guidelines—based on current information—is adequate grounds for petitioning for adjustment of the order.

In addition to guidelines-based reviews, Federal law and regulation allow States to apply a cost of living adjustment (COLA), as determined by the State, or use automated methods including income information from automated sources to identify orders eligible for review, conduct the review, and apply the appropriate adjustment.<sup>4</sup>

### STATE MODIFICATION THRESHOLDS

Nationally, almost all States report having a quantitative modification threshold.<sup>5</sup>

- ✓ thirty-six States set a percentage threshold;
- ✓ fifteen States provide both a percentage- and dollar-based threshold; and
- ✓ two States have only a dollar-based threshold.

A few States apply a higher threshold if the review is requested outside the state-determined cycle. Most of the percentage-based thresholds are evenly divided among a 10%, 15%, and 20% change in the support amount to be paid, although four States set a threshold of 25%. Dollar thresholds range from \$10 to \$100 per month, but most dollar-based thresholds are either \$25 or \$50 per month. Most thresholds pertain to the order amount, but a few States also have thresholds that apply to changes in a party's income.

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The lowest reported percentage threshold is a 10% change. The highest threshold is “a change of 50% or more in a parent's net income,” but this State only applies it to requests made less than 24 months since the order was entered, last modified or last reviewed.

## FINDINGS FROM STUDY STATES

✓ Study States received an average of 3-12 requests for review per year for every 100 ordered cases. The State with the most requests has no threshold if the order is more than 36 months old and a 10% threshold if the order is less than 36 months old. There were two States that averaged 3 requests for review per year for every 100 ordered cases. For one State, the threshold was a 15% change in order amount. For the other State, the threshold was a \$25 change in monthly order amount or a change in circumstances.

✓ In States that prescreened requests before proceeding with a review, between 4% and 12% of requests are not accepted for review. These States check to determine if three years have elapsed since the last review, and if not, whether the requesting party provides evidence of a change in circumstance or whether other state-determined criteria are met.

✓ Study States with available data find that about 40% of reviews are not completed. The most common reasons for this are that the requesting party changes his/her mind and the requesting party does not provide income information.

✓ “No change” in order amount—that is, the modification threshold was not met—occurs in about 8% to 17% of the reviews. The proportion of orders with “no changes” does not appear to be correlated with modification thresholds.

✓ Orders are modified in 52% to 65% of cases requesting a review in most of the study States. Two States had modification rates higher than 80%. One of those States relies on COLA. The other State requires a financial statement and evidence of income with the request for review.

✓ About half of the modified orders are upward and about half of the modified orders are downward.

✓ Most study States modify 2% to 3% of their ordered cases per year.

✓ States do not typically track which parent requested the review nor if there was an increase in compliance after modification.

## *Simulation of the Impact of Modification Thresholds on Low-Income Noncustodial Parents*

As part of the study, we performed simulations to determine how much the noncustodial parent's income would have to increase or decrease to meet modification thresholds of 10%, 15%, and 20%. The simulations considered a scenario in which the current order had been based on noncustodial parent earnings at minimum wage.<sup>6</sup> Most States will impute the noncustodial parent's income at minimum wage if income information is unavailable and the noncustodial parent has little or no work history, but is not incapacitated.

For noncustodial parents with minimum-wage incomes, the simulations indicated that the guidelines amount was a more important factor than if the modification threshold was set at 10%, 15%, or 20%. For example, in the four States where the guidelines amount for minimum-wage income is \$50-\$100 per month, a 10% threshold is reached when the noncustodial parent's income increases by about \$9-\$50 per month. For the same four States, a 20% threshold is reached when the noncustodial parent's income increases by about \$26-\$79 per month. In contrast, the two States where the guidelines amount for minimum-wage income is more than \$200 per month would require an increase in the noncustodial parent's income of about \$124-\$135 per month to reach a 10% threshold and about \$274-\$279 per month to reach a 20% threshold.

*Downward Modifications and Minimum Wage Income.* The decrease in income needed for a downward modification when the noncustodial parent has minimum-wage income is generally limited by the State's guidelines. Most of the study States have guidelines that provide minimum order amounts or set order amounts below child-

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rearing costs for incomes below or near minimum-wage income. For example, the minimum-wage order is the minimum guidelines amount in two of the study States. In these States, the order amount cannot be modified any lower than the States' minimum order amounts (i.e., \$50 and \$100 per month) even if a modification threshold is met without a deviation from the guidelines.

## ***Simulation of the Impact of Modification Thresholds for Incomes above Minimum Wage.***

The larger the order amount is, the larger the change that is needed in order to reach percentage-based modification thresholds. For example, 10% of a \$1,000-order (\$100) is more than 10% of a \$500-order (\$50). Since all State guidelines result in higher order amounts as income increases, the modification threshold generally becomes a more important factor as incomes increase. However, the State's guidelines model also plays a role in how much income is needed to reach a particular modification threshold. The change in income needed will vary depending on whether the guidelines (1) are based on the noncustodial parent's income only or both parents' incomes, and (2) assign a flat or decreasing percentage of income to support.

## ***Factors that Affect the Number of Review Requests and Modifications***

Based on their experiences, study States were asked to identify what factors affected the number of requests for reviews and whether the requests resulted in modifications.

✓ Sending the parties notification of their right to review. States have found a significant increase in review requests (up to 60% in one State) when they mail notifications to parties about their right to a review.

✓ Providing a process that is understandable and user friendly. One State developed tools and information to help parties review their own cases prior to submitting a review request to the child support agency. The State found that this reduced the number of requests by 11% and increased the proportion of requests that were ultimately modified. This also reduced the amount of staff time spent reviewing orders that resulted in no change.

✓ Changes in the circumstances of the case, such as a change in income. Anecdotal evidence suggests that parties are likely to pursue a modification when they know the other party's income has changed or when their own income changes.

✓ Information shared by the parties. Anecdotal evidence suggests that as parties learn more about each other's situation through the initiation of the review, the requesting party drops the request. For example, as parents learn more about child care expenses, health insurance premium costs, and other expenses considered in the order calculation, they decide to keep the order at the current level.

## **COLAS AND AUTOMATED METHODS**

**COLAs** - There are only three States that use COLAs: Minnesota, New Jersey, and New York. All three States will also conduct a guidelines-based review of the order upon request of a party. More information about COLAs can be found in a recent Federal Office of Child Support Enforcement (OCSE) report.<sup>7</sup>

## ***Review and Adjustment Automation***

Several of the study States--Alaska, Maine, and Vermont--have automated review and adjustment processes. In part, they were selected for the study because of the automation, because it was anticipated that they would be more likely to have numbers tracking requests and modifications. More information about how States have used automation to enhance their review and adjustment processes is provided in a new report by OCSE: *Automation System for Child Support Enforcement: A Guide for Enhancing Review and Adjustment Automation*. It is available on the Internet at: <http://www.acf.hhs.gov/programs/cse/pol/DCL/2006/dcl-06-22a.pdf>.

## ***Impact of COLAs and Automation on Modifications***

The percent of reviews resulting in modifications was higher among the study

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States with COLAs and with automated reviews than it was among the study States without them. While not all study States had information about the results of their reviews, the State using a COLA reported that over 80% of COLA reviews resulted in adjustments, and the two study States with automated processes reported that 64% of their automated reviews result in adjustments. In contrast, two study States without automated processes reported that just over 50% of requests result in adjustments.

## PERIODIC REVIEW OF TANF ORDERS

When the study was conducted, five out of the nine study States periodically reviewed all public assistance cases. This included three States that use electronic review processes, one State that applies a COLA, and one other State. The four States that do not review all public assistance cases do not have automated review processes.

Only one study State studied tracked the number of public assistance cases it reviewed per year. That State reviews about one-third of its TANF cases each year, resulting in a review of all TANF cases with orders over a three-year period. Two States with automated review processes reported that their automated systems annually checked all public assistance cases for review eligibility.

## CONCLUSIONS

Although information and analysis for this brief were limited, it does not appear that lower modification thresholds affect the number of requests for review. There is some evidence, however, to suggest that States can gain some efficiency by encouraging requests that are more likely to result in adjustments. Many reviews end because the requesting party does not provide income information, or because the requesting party withdraws the request after he or she learns more about the likely outcome. To eliminate the first problem, a State could require the requesting parent to provide a financial statement and income documentation with the review request. States could address the second problem by providing more information about thresholds and how the guidelines work so that parties are better informed of the likely consequences of a review.

Needed information may include how child care expenses and the child's health insurance premium are considered in guidelines calculations. It may also be advantageous for States to develop a guidelines calculator so that parties can estimate the potential effect of a guidelines review prior to making a request. States could also gain efficiencies by using COLAs and automated processes.

<sup>1</sup>DHHS/ACF/OCSE Contract Number 105-00-8300, Task Order 39 with Policy Studies Inc. States were selected because they represent a range of modification thresholds and because many had recently received OCSE 1115 grants to improve the review and adjustment process.

<sup>2</sup> See §7302 of the DRA of 2005, Public Law 109-171, which amends 42 USC 666(a)(10).

<sup>3</sup> 45 CFR §303.8.

<sup>4</sup> 45 CFR Ch. 111 §303.8.

<sup>5</sup> The count considers the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Information is derived from the 2005 *Intergovernmental Referral Guide* made available by OCSE. Information is reported by the States to OCSE, and may include thresholds established as part of a State's guidelines and/or thresholds set in the IV-D agency's policy for pursuing a modification after a review. The Guide is available on the Internet at:

<http://ocse.acf.hhs.gov/ext/irg/sps/selectastate.cfm>.

<sup>6</sup> The Federal minimum wage was \$5.15 per hour when the simulation was conducted, which is \$893 per month. In States with a higher minimum wage (Alaska, Maine, New York, Vermont, and Washington), the State's minimum wage of \$6.50 to \$7.35 was used.

<sup>7</sup> The Lewin Group, 2001. *Automated Cost-of-Living Adjustments of Child Support Orders in Three States: Report to the Department of Health and Human Services Assistant Secretary for Planning and Evaluation and Office of Child Support Enforcement*. Available on the Internet at:

<http://www.acf.hhs.gov/programs/cse/pubs/reports/cola>.

U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Child Support Enforcement

<http://www.acf.hhs.gov/programs/cse/>

No



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