The U.S. Office of Child Support Enforcement (OCSE) has announced two grants that total more than $1.5 million to promote marriage among low-income families. The awards were made to two state coalitions that are comprised of government, community and religious groups. In Grand Rapids, Michigan, the “Healthy Marriages/Healthy Relationships” initiative will receive $990,000 to increase the number of healthy relationships including marriages; decrease the divorce rate; increase participation by noncustodial parents, and increase parenting skills for both married and non-married parents. In Nampa, Idaho, the “Healthy Families Nampa” Coalition will receive $544,400 for similar purposes. Both sought and received federal waivers that allow for alternative child support rules and policies in order to implement a demonstration project. More than $500,000 in similar grants was awarded to three organizations last January (See CFFPP January 2003 Policy Briefing).

The grants signal a strategy of the Bush administration to use the child support enforcement agency as a vehicle for transferring federal funds to programs that promote marriage. This course of action ensures that government funds will be used for marriage promotion, regardless of the outcome of TANF reauthorization in Congress. President Bush’s TANF reauthorization proposal contains provisions that would provide $1.5 billion over five years for marriage promotion activities, but Congress has not yet reauthorized the TANF program.

The U.S. Office of Child Support Enforcement (OCSE) has issued a Policy Interpretation Question, PIQ-03-01, that provides federal guidance to states on issues related to paternity disestablishment. According to the PIQ, dated April 28, 2003, states have increasingly enacted legislation that allows a putative father to challenge his paternity, by presenting genetic evidence excluding him as the biological father.

Though not explicitly stated in the PIQ, the new state laws could impact many men whose paternity was established either by default or by voluntary acknowledgment, but who have reason to believe that they are not the biological father of the child in question. For fathers in this situation, the state laws could provide some relief from an inappropriate child support obligation. Moreover, it is possible that the increased stress on establishing paternity quickly and easily has led to an increase in the number of paternities that are established in error.

The PIQ states that if paternity is disestablished, the support order and arrearages that accrued under the order can be vacated (under state law). According to the PIQ, this
would not constitute a violation of the Bradley Amendment, or section 466(a)(9) of the Social Security Act, which prohibits the retroactive modification of a child support order.

The PIQ is available at www.acf.dhhs.gov/programs/cse/pol/piq-03-01.htm.

Two State Supreme Courts Affirm Constitutionality of Child Support Guidelines

Supreme Court decisions in both Georgia and Tennessee this month have reversed lower trial court rulings that would have declared the state child support guidelines unconstitutional. Without these rulings, the states may have been obligated to make dramatic changes in their systems for establishing child support orders. The Georgia Supreme Court reversed an earlier trial court ruling based on the following findings:

• The state’s guidelines provide an outline for trial courts to use in setting child support obligations, but courts retain the discretion to deviate from the guidelines based on 18 “special circumstances” listed in the state statutes.
• Guidelines do not violate due process rights, because they have the reasonable objective of securing support for children of divorce or separation, and because they are reasonably related to the income level of the noncustodial parent.
• Constitutional rights to equal protection also are not violated by child support guidelines, because the distinctions made in the treatment between custodial and noncustodial parents are based on their distinct situations. The trial court was also determined to have erred in assuming that only noncustodial, and not custodial parents are affected by the guidelines and the amount of support ordered.
• The state guidelines do not represent “illegal taking” because the funds are not taken for public purposes, but to pay the costs of supporting their children.

In Tennessee, the case before the court involved a child born outside the father’s married relationship. The subject father remained married with 3 other minor children. He challenged the constitutionality of the state guidelines, a Court of Appeals agreed that the guidelines violated equal protection provisions of the state and federal constitution, and the Supreme Court reviewed and reversed the Court of Appeals judgment. A key point in the review was whether or not the costs of caring for children for whom there is no child support obligation (in this case, the father’s 3 children who lived with him) should be deducted from the income of the father before determining a formal child support order for a nonresident child. The Court determined that:

• The guideline’s prohibition on the consideration of informal, or in-kind child support in the calculation of a child support order is not a violation of the equal protection or due process provisions of the U.S. or Tennessee Constitutions.
• The state’s guidelines do not represent an impermissible delegation of rulemaking authority to a state agency, because the guidelines were established in accordance with federal law.


Poverty Concentration Declines During 1990’s

A recent report from the Brookings Institution examined changes in the concentration of poverty from 1990 to 2000, using data obtained from the 1990 and 2000
The report found that:

- The number of people living in high-poverty areas declined by 24% or 2.5 million people during the 1990’s. The Midwest and the South experienced the sharpest declines, and the declines were consistent for most central cities and rural areas. Suburban areas, however, experienced almost no change.
- Of the 331 metropolitan areas in the U.S. in 2000, the concentration of poverty among blacks decreased substantially in 227 of those areas over the decade from 1990 to 2000. The proportion of black individuals living in high-poverty neighborhoods declined from 30% in 1990 to 19% in 2000, but blacks remained the largest racial/ethnic group living in high-poverty neighborhoods.
- For Hispanics, more than half of all metropolitan areas had decreases in concentrated poverty, but the number of Hispanic individuals living in high-poverty neighborhoods increased slightly, by 1.6%.
- While most regions in the U.S. experienced the declines, a minority of metropolitan areas experienced deterioration in poverty concentration. Seven of the 15 areas with the largest increase in high-poverty neighborhoods were in California, six of which were in southern California or the San Joaquin Valley. Washington, DC ranked 4th among areas that experienced increased poverty concentration during this period.


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### Report Recommends Abolishing Medicaid Child Support Cooperation Requirement

A recent report from the Center for Law and Social Policy (CLASP), *Rethinking the Medicaid Child Support Cooperation Requirement*, by Paula Roberts, examines the requirement that parents who obtain Medicaid coverage must assign their rights to private health insurance to the state and must cooperate with the state in pursuing health coverage from the noncustodial parent. Refusal to cooperate can lead to a denial of Medicaid benefits for the custodial parent. According to the report:

- The Medicaid child support cooperation requirement should be abolished. Instead, parents who receive Medicaid coverage should be informed of the child support services that are available, and allowed to choose for themselves whether or not to pursue child support from the noncustodial parent.
- The inability of the child support agency to ensure that domestic violence victims receive a “good cause” exemption from the cooperation requirement leads many victims to avoid Medicaid coverage because they fear that the pursuit of paternity or medical support from the noncustodial parent will result in more violence.
- Cooperation requirements that differ by program and state for Medicaid, TANF, State Children’s Health insurance Program (SCHIP), and Food Stamps, create a confusing cooperation policy for custodial parents and state agencies. For example, since SCHIP rules do not require states to obtain child support information but Medicaid does, and states may want families to apply for both programs in order to ensure that they enroll in Medicaid if eligible, it is not always clear to families or state agencies if the cooperation requirement is in effect. As a result, eligible children may be deprived of medical coverage if the parent either avoids both programs out of fear of the cooperation requirement or is sanctioned from the program unnecessarily. When families participate in TANF or Food Stamps as well, overlapping rules become even more complicated.
Abolishing the Medicaid cooperation requirement would have the added effect of prohibiting states from reimbursing Medicaid pre-natal and birth costs from the father. The report is available at www.clasp.org.

Iowa Equalizes Penalties for Crack And Powder Cocaine in Effort to Ease Racial Disparities in Sentencing

Following the lead of over 30 states that have attempted to align penalties for drug offenses involving crack and powder cocaine, the state of Iowa passed legislation this month that includes provisions to equalize the state’s cocaine penalties. Recent research and advocacy has pointed to the disparities in the law’s treatment for these two types of drugs as one reason for corresponding racial disparities in incarceration rates. African-Americans represent 2% of the population in Iowa, but 25% of its prison population. Crack cocaine is a drug for which African-Americans are disproportionately arrested and powder cocaine is more closely associated with drug use among white Americans. Harsher sentences for the use of crack cocaine result in the overrepresentation of African-Americans in prison for drug offenses. The legislation reduces some penalties for crack cocaine and increases some for powder cocaine. Without the legislation, Iowa’s penalties for possession of crack cocaine are 100 times greater than for the possession of a comparable amount of powder cocaine.

State Fact Sheets on Child Welfare for 2003 Available

The Child Welfare League of America has updated state-by-state fact sheets for 2003 and made them available on-line. For each state, information is available concerning: rates of child abuse and neglect; rates of child poverty and income support receipt; participation rates for subsidized child care, Head Start, SCHIP and Medicaid; rates of teen births, high school graduation, HIV/AIDS infection, alcohol or substance abuse; and foster care, relative care and adoption rates. The fact sheets are available at www.cwla.org/advocacy/statefactsheets03.htm.