

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

PATERNITY ESTABLISHMENT

Payment to Vital Records Agencies



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Inspector General**

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Update on State Child Support Agency Payment to Vital Records Agencies

PURPOSE

This report describes recent data collection regarding use of Federal funds to pay State vital records offices for paternity establishment services, following up on a prior recommendation that the Federal Office of Child Support Enforcement (OCSE) provide more detailed guidance to the States on this matter.

RESULTS IN BRIEF

We found that while the number of State vital records agencies who receive Federal funds for paternity establishment activities has increased over the last two years, half still do not. In some cases this is due to confusion over Federal rules governing such payments. Given the important role vital records agencies play in recording paternity establishments, we wish to re-emphasize the usefulness of clarity and consistency in interpreting Federal policy. By providing guidance to States on this issue, OCSE can help child support agencies make more reasoned decisions now which may promote more effective interagency collaboration well into the future.

BACKGROUND

Responsibility of Vital Records Agencies in Assisting With Paternity Acknowledgment Efforts

Vital records agencies have for a number of years been required to change birth records in response to completed paternity acknowledgment forms. Welfare reform legislation requires that State vital records agencies offer voluntary paternity acknowledgment services to parents, receive copies of paternity establishments, and, if designated by their State, keep a central database of all paternity establishments. At the time of our data collection, proposed regulations indicated that vital records agencies would be Federally required to maintain State paternity databases. State vital records agencies often request reimbursement from their child support agency for services rendered in administering paternity establishments. We reported in 1997 on the prevalence and perceived effect of such payments in our report on in-hospital voluntary paternity acknowledgment (OEI-06-95-00160). We found that, although fewer than half of State child support offices were paying their vital records agency for services, those who had payment agreements reported generally improved service and interagency relationships.

We have now completed data collection on a new study which more broadly addresses all State methods of establishing paternity. Through this inspection, we received new information on payment practices from the same State offices, allowing for follow-up analysis 18 months after our original research. Every State child support office and vital records agency responded to our surveys during the Summer and Fall of 1998.

Need for Consistent and Clear Information to States Regarding Use of Funds.

In our previous report, we recommended that OCSE clarify the appropriate use by child support agencies of Federal participation monies in compensating vital records agencies. Both State child support and vital records agencies expressed confusion over this issue, and varied in their interpretation of Federal mandates. Federal regulation written in 1994 indicated that Federal matching funds may be used to reimburse the “entity” responsible for the Statewide paternity database for selected functions, including the costs of determining whether voluntary acknowledgments are stored in a statewide database, providing copies of paternity establishment documents and birth certificates, and the costs of routine exchange of information or documents under an agreement (Federal Register, Vol. 59, No. 246). Yet, a number of States reported to us that Federal funds were not available for any reimbursement to vital records agencies, with several indicating they had received verbal communication from OCSE to this effect. Welfare reform legislation did not revise this policy on payment. Rather, the final rules interpreting welfare reform repeated the previous policy.

State vital records agencies have no Federal counterpart which issues regulations governing their practices. Their professional organization, The National Association of Public Health Statistics and Information Systems (NAPHSIS), earlier this year requested OCSE’s comment on the issue of payment in a letter covering a number of issues related to vital records agencies’ involvement in paternity establishment. The association expressed concern over a lack of funds available to implement the Federal provisions to maintain a paternity database and offer paternity services to parents. They also asked OCSE to “possibly be more definitive in what services are reimbursable and issue policy/guidelines which encourage State child support enforcement agencies to financially support vital records offices’ activities in paternity establishment.”

OCSE’s response to the association’s letter states that vital records agencies may be reimbursed using Federal matching funds, as may hospitals and other entities, up to 20 dollars for obtaining signed voluntary acknowledgment forms from parents pursuant to an agreement with the State child support enforcement agency. The letter also mentions availability of funds for “reasonable and essential short-term training associated with the State’s [paternity] program.” However, the response does not reiterate Federal regulations regarding use of Federal funds to reimburse vital records offices for expenses related to retrieving paternity establishment information from a vital records database. These costs may include fees charged for copies of voluntary acknowledgments or birth certificates, or expenses incurred in providing child support staff with on-line access to verify paternity information in a vital records database. By not including this information in their response, OCSE may have contributed to the confusion over payment.

FINDINGS

In Most States, Vital Records Agencies Contribute Significantly to Paternity Establishment Efforts, Primarily As a Source for Birth Record Information.

Participation by vital records agencies in paternity efforts can be broken into two general categories: provision of services to clients at local offices; and storage and retrieval of paternity data for use in child support enforcement. The first category, direct service to clients, can include providing forms and outreach materials on paternity acknowledgment procedures to the public and assisting parents in acknowledging paternity by discussing, notarizing and accepting acknowledgment forms at local offices. Although 46 State child support agencies claimed parents could complete these forms at local vital records offices, only 32 State vital records offices report providing these services through most or all of their local branches. When asked whether they perceived this task as easy or difficult for staff to complete, 22 vital records offices report that providing the service is at least somewhat difficult, typically because their staff lack time or adequate training.

Thirty-three State vital records agencies also view the second category of participation, storage and retrieval of information, as the responsibility of vital records agencies. The level of collaboration between vital records agencies and child support agencies in storing and retrieving information varies greatly by State. At least five State child support agencies follow documentation procedures which circumvent their State's vital records agency almost entirely. Still, many States make use of the vital records agency's expertise in working with birth documents and rely particularly on their vital records agency to record paternitys established through courts and birthing hospitals. About three-fourths of vital records agencies also help train hospital staff on administering acknowledgments. Although a large number of local child support offices surveyed report only limited access to vital records agency information due to backlogs and technical problems, many State vital records agencies maintain they could offer better and faster service with additional resources.

Nine More State Child Support Enforcement Agencies Began Paying Their State Vital Records Agency in the Last Two Years.

Only 19 State child support agencies reported paying their vital records agency two years ago, while 28 report payments in 1998. However, child support agencies in at least six other States report they do not pay because they are unsure whether Federal matching funds are available for such payment. Vital records agencies in a few more States claim payment negotiations have been hampered by child support agency reluctance to use Federal monies. There is clearly still much debate about the appropriate use of Federal matching funds.

In four of the States which have just begun paying, the two agencies have formal agreements which specify services rendered and payment amounts, while the payment process appears to be somewhat informal in other States. In our 1997 report, we recommended that OCSE consider

encouraging States to draft a flexible interagency agreement to, among other things, clarify the distribution of State and Federal funds. The document processing services for which payments are currently made in order of prominence are: fees for retrieval and copying of birth documents; payment for additional office supplies and equipment; and fees for on-line access to vital records agency databases. Five vital records offices report child support staff are made available to help process forms and enter data. Only seven vital records agencies report they receive a fee for actually *obtaining* voluntary paternity acknowledgment forms either by mail or through completion in a local vital records office, with fees averaging 20 dollars. It is this payment for obtaining acknowledgments which is highlighted in OCSE's response to NAPHSIS.

In Half of the States Receiving Payments (14 States), Most Paternity Establishment Expenses Are Still Paid With Vital Records Agency Funds.

We did not feel it was useful to ask States the exact amount of money being paid to vital records agencies, since State budgets, populations and resources vary significantly. Furthermore, it may be difficult for vital records agencies to clearly delineate expenses in processing paternity acknowledgments and the resulting changes in birth records from normal birth registry costs. The same automated systems, office equipment and staff are likely to be used jointly for all office tasks. Instead, we tried to ascertain both the relative amount and impact of payment by asking vital records agency respondents who were paid to estimate in a general way how much of their cost in obtaining and processing paternity acknowledgments is covered by child support agency compensation.

Most respondents who were paid were able to estimate cost coverage on a scale we provided, ranging from all expenses covered to little expenses covered. Of the 28 States being paid, 11 State vital records agencies claim *most or all* of their paternity acknowledgment expenses are covered by child support agency reimbursement, and another three States report *about half* of their expenses are covered. However, exactly half (14 States) report only *some or little* of their expenses are covered by such payment. Additionally, expenses incurred are not exclusively due to voluntary paternity acknowledgments. Vital records offices must change the birth record when they are notified of any and all paternity establishments, regardless of whether they were finalized through voluntary acknowledgment, other administrative processes, or the State courts. As one respondent wrote, "*The burden is not processing acknowledgments anymore, but amending the birth record. With the increase in voluntary acknowledgments signed, we have a greater backlog in correspondingly changing the birth certificate to match the new acknowledgments.*"

Forty-nine States charge parents a fee for amending birth records and producing new certificates, but user fees may not cover related expenses. One State vital records agency which provided budget data reports a full 20 percent of their State appropriation is now spent on processing paternity establishments, although they consider the task to be somewhat ancillary to their overall objectives as a public health agency. Although vital records agencies have had an increase in the number of establishments and of requests for documentation from both parents and child support offices, they desire to keep fees to parents low so as not to discourage paternity establishments

and the proper notification of such to vital records agencies. While 41 vital records agencies report they considered paternity establishment efforts important to their agency mission, over half (28 States) believe these are services they perform primarily, or even wholly, for the benefit of child support enforcement and do not view it as part of their general public health initiative.

Despite Potential Benefits to Both Agencies, Payment to Vital Records Agencies May Not Always Be Appropriate Due to Wide Variations in State Funding, Policy and Practice.

State child support offices which have developed their own creative and effective documentation methods may need their vital records agency only for occasional verification of information. Yet, other States appear to be struggling to meet the Federal requirement of a Statewide paternity database, and may be well served to further explore solutions which would utilize the unique capabilities of vital records agencies. A majority of child support agencies which pay vital records agencies, however, did report in our prior study that they perceived at least some improvement in service or in their interagency relationship when they began paying. Additionally, vital records agency respondents indicate lack of payment is overwhelmingly the biggest barrier to offering faster and more efficient service.

If OCSE mandated payment for services, though, it might cause problems in some States which do not pay, in part, because of State government resistance to setting a precedent for paying vital records agencies for public registry documents. Even a State vital records registrar expressed understanding of the concern about setting a precedent, reporting “*State officials decided not to pay hospitals for completed acknowledgments because they thought it would set a bad precedent that would haunt future health statistic efforts. Medical records personnel have traditionally done vital statistic work at no charge.*” The official maintained that paying for completion of voluntary paternity acknowledgments (whether to birthing hospitals, vital records offices, or other entities) might cause them to expect payment for other, similar services. Still, child support agencies which are both relatively independent of their vital records agencies and highly interdependent report they are unaware of their authority to offer the vital records agency compensation for information that furthers paternity establishment objectives.

RECOMMENDATION

OCSE Should Clearly and Consistently Interpret Federal Regulations When Providing Information to States Regarding Use of Federal Funds for Reimbursement to Vital Records.

A number of State child support agencies report they believe it inappropriate to use Federal matching funds for any sort of reimbursement to vital records agencies, although Federal regulation clearly indicates reimbursement may be made for selected expenses. This confusion may be caused by OCSE not fully addressing all aspects of their payment policy when providing guidance to States. When States request assistance or when general policy documents are distributed to all States, OCSE should consistently provide information which clearly reflects the complete content of the Federal regulation. Although Federal funds are not available for a

number of services potentially provided by vital records agencies, OCSE should make clear that funds may be used for some selected functions, including obtaining acknowledgments from parents, the costs of determining whether voluntary acknowledgments are stored in a statewide database, providing copies of paternity establishment documents and birth certificates, and the costs of routine exchange of information or documents under an agreement.

AGENCY COMMENTS

The Administration for Children and Families (ACF) states that while OCSE is willing to work with States to determine the best way to assist the vital records community in establishing paternity for children, it cannot support the initial recommendation presented in our draft of this report to clarify that matching funds may be used to reimburse vital records agencies for certain paternity establishment expenses. ACF notes that, according to Office of Management and Budget (OMB) Circular A-87, Federal funds are not available to offset the general costs of a State or local government. ACF states that the OMB circular precludes use of Federal funds to finance general government services normally provided to the public, such as filing birth records. ACF concludes that Federal Financial Participation (FFP) funds are not available to reimburse State or local vital records agencies responsible for maintaining a database of paternity establishments. ACF also concludes that FFP is not available to reimburse such offices for the costs of establishing a system to process or store affidavits because they are required to perform those activities by State law.

We wish to note that our draft report appeared to recommend that ACF authorize the use of funds for anything agencies think reasonable. Our intent, rather, is for OCSE to clarify what expenses may or may not be reimbursed. We have therefore changed our recommendation to emphasize that any communication between OCSE and the States should provide consistent and complete information regarding allowable costs under the regulation.

The ACF response to our report emphasizes only those purposes for which States may *not* use FFP to reimburse vital records agencies for paternity establishment expenses. However, in its final rules implementing welfare reform, OCSE repeats from prior regulation the three relevant purposes for which States *can* use FFP for paternity establishment expenses, including: “. . . the State child support agency's costs in determining whether a voluntary acknowledgment has been recorded with the statewide database in State child support cases needing paternity establishment; . . . reasonable and necessary costs, including fees, incurred by the State child support agency in obtaining copies from an entity of documents such as voluntary acknowledgments or birth certificates; . . .and, the IV-D agency's costs incurred under an agreement, including the State child support agency's costs of establishing an agreement, governing the routine exchange of information or documents regarding acknowledgments, between the State child support agency and the designated entity that maintains the statewide database, or any entity that gives the State child support agency access to copies of acknowledgments if such an agreement is necessary.” (OCSE Action Transmittal 99-02)

Even though these regulatory provisions have been in effect since 1994 and allow payment for certain services, some State respondents from both agencies reported to us through surveys in 1996 and informally in 1998 that they remain confused about the use of funds. OCSE's guidance, as evidenced by their response to NAPHSIS and to our report, may be contributing to this confusion. Therefore, we continue to believe there is a need for complete, clear and consistent guidance to the States, in both written and verbal communication, on this issue.

ACF's comments are provided in their entirety in Appendix A.

AGENCY COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
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Washington, D.C. 20447

DATE: June 4, 1999

TO: June Gibbs Brown
Inspector General

FROM: - Olivia A. Golden
Assistant Secretary
for Children and Families

SUBJECT: OIG Draft Reports "Paternity Establishment Notification of Rights and Responsibilities for Voluntary Paternity Acknowledgement"(OEI-06-98-00051); "Paternity Establishment Payment to Vital Records Agencies"(OEI-06-98-00056); and "Paternity Establishment Payment to Vital Records Agencies"(OERI-06-98-00052).

Thank you for the opportunity to comment on the above-captioned reports. If you have questions, please contact David Ross, Commissioner, Office of Child Support Enforcement, at (202) 401-9370.

Attachment

APPENDIX A

COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES ON THE OFFICE OF INSPECTOR GENERAL DRAFT REPORTS: "PATERNITY ESTABLISHMENT NOTIFICATION OF RIGHTS AND RESPONSIBILITIES" (OEI-06-98-00051); "PATERNITY ESTABLISHMENT PAYMENT TO VITAL RECORDS AGENCIES" (OEI-06-98-00056); AND "PATERNITY ESTABLISHMENT USE OF ALTERNATIVE SITES FOR VOLUNTARY PATERNITY ACKNOWLEDGMENT" (OEI-06-98-00052).

General Comments:

The Federal Office of Child Support Enforcement (OCSE) would like to thank the Office of Inspector General (OIG) for being given the opportunity to comment on these three draft reports. We would like to generally note the quality of the reports and we are pleased that OCSE's significant work in this area is noted.

Background:

Paternity establishment is a crucial step to establishing a legal relationship between a child and father. Paternity establishment can provide basic emotional, social, and economic ties between a father and his child. It can also provide a child with legal rights and privileges including rights to inheritance, rights to a father's medical and life insurance benefits, and to social security and possibly veteran's benefits. It also provides a child the opportunity to develop a sense of identity and connection with the father, and may be important for the health of the child for doctors to have knowledge of the father's medical history. Paternity establishment is also the first step to establishing an enforceable child support order.

The administration has made paternity establishment a top priority. In fiscal year 1997, an estimated 1.28 million paternities were established and acknowledged. Of these, nearly 480,000 were in-hospital paternities that were voluntarily acknowledged. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) streamlined the legal process for paternity establishment and required States to publicize the availability of and encourage the use of the paternity establishment process.

OIG Recommendation:

OCSE should encourage outreach by child support offices to educate service providers about their responsibility to provide oral notification for parents, and simplify the language used.

ACF Response:

OCSE has taken a number of steps to encourage State child support enforcement offices to provide information about the oral notification requirements. For example: soon after the passage of PRWORA in 1996, OCSE worked with our State partners to develop and issue a number of "legislative implementation guides" one of which was devoted to paternity establishment. It contained a "plain English" version of the new requirements and provided examples of State practices that were particularly good. OCSE and our State partners

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disseminated these guides widely, in an attempt to educate service providers about their new responsibilities. In the years following the enactment of PRWORA, OCSE has held a number of conferences in which the new paternity requirements were discussed. OCSE has also amended its paternity regulations to require States to have in effect laws requiring parents to be given both oral and written notice of the rights and responsibilities of acknowledging paternity, and to have safeguards in place to ensure that due process protections are afforded to both parents (see 64 FR 11802, March 10, 1999). Regarding the OIG's recommendation to encourage States to simplify the language they use in their documents, OCSE tries to ensure that its own documents are written clearly, and in plain English, and we will encourage our State partners to do the same.

We would like to note that on page 1 of the report on the notification of rights and responsibilities for voluntary paternity acknowledgment, it indicates that PRWORA requires mothers and putative fathers to be given notice that the father's name not be added to the birth certificate without a signed acknowledgment of paternity. We believe that this is a misreading of the law, which requires that the father's name may not go on the birth certificate unless he has acknowledged paternity. However, this requirement is not part of the rights and responsibilities language in the statute.

Page 2 of that report refers to the "proposed rule" on paternity establishment, which has now been issued in final (see 64 FR 11802, March 10, 1999).

OIG Recommendation:

OCSE should promote use of innovative paternity establishment practices.

ACF Response:

OCSE endeavors to promote innovative State practices on a wide variety of areas, including paternity establishment, and will continue to do so. Several examples of the way in which innovative paternity practices are promoted are: 1) publication of examples in the OCSE *Best Practices* guide; 2) discussion of innovative practices at OCSE conferences; and, 3) articles in the OCSE *Child Support Report* describing new practices.

OIG Recommendation:

OCSE should clarify that matching funds may be used to reimburse vital records agencies for reasonable paternity establishment expenses, and should allow reasonable State discretion, in view of the wide variety of State funding, policy and practice.

ACF Response:

We are willing to work with our State partners to determine the best way to assist the vital records community establish paternity for the nation's children, but we are unable to support this recommendation. As we stated in the final rule on paternity establishment (64 FR 11802, March 10, 1999), according to the OMB Circular A-87, "Cost Principles for State and Local Governments"; the general rule governing this issue is that Federal funds are not available to

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offset the general costs of a State or local government. That is, Federal funds may not be used to finance general types of government services normally provided to the public, such as filing birth records. For that reason, FFP is not available to reimburse a State or local vital records agency that has responsibility for maintaining paternity acknowledgments. FFP is also not available to reimburse a State or local vital records office for the costs of establishing a system to process or store paternity affidavits because those activities are required of those entities under State law.

OIG Recommendation:

OCSE should capitalize on voluntary paternity acknowledgment in alternative sites, including focusing technical assistance on the most promising sites; minimizing complexity for participating entities; encouraging full-service participation; considering developing incentives for alternative site participation; and encouraging State agencies to monitor sites more closely.

ACF Response:

OCSE has made a commitment to State development of alternative sites by allowing States to provide up to \$20 to birthing hospitals and other entities that provide prenatal or birthing services for each voluntary acknowledgment of paternity they obtain pursuant to an agreement with a IV-D agency. We anticipate that, in an effort to increase their paternity establishment ratios to the levels PRWORA requires, States are working closely with, and monitoring, the progress of voluntary paternity acknowledgment in alternative sites.

In the last paragraph of page one of the report, please note that the paternity establishment regulations have now been issued in final (see 64 FR 11802, March 10, 1999), the report refers to proposed regulations.

The OIG might also want to consider updating the endnotes on page 8 of this report to refer to OCSE Action Transmittal 99-02, March 10, 1999.