

TANF.....Colorado Works

A BIT MORE ABOUT THE LEGAL
STUFF.....

STACY WILLIAMS

stacy.williams@denvergov.org

KELLY KEANE

kelly.keane@denvergov.org

Where does 'it' come from?

- TANF was essentially created by the 1996 Federal Welfare Reform Legislation
 - Legislation titled 'Personal Responsibility and work Opportunity Reconciliation Act (PRWORA)
- This created a block grant system – replacing the former entitlement program 'Aid to Families with Dependent Children'
- Each state receives money from the Federal Government to fund state welfare programs



THE CODE

- **Federal Law**

- Social Security Act
- 42 U.S.C. 7 (United States Code)
 - **Chapter 7, Subchapter IV** – Grants to States for Aide for Service to Needy Families With Child and For Child – Welfare Services
- 45 CFR – Public Welfare (Code of Federal Regulations)

- **Colorado Law**

- 9 CCR 2503-6 (Code of Colorado Regulations)
Colorado Works Program
- 9 CCR 2503-9 Child Care Assistance Program (CCAP)
- 9 CCR 2504 CSE Rules (CDHS Volume 6)
 - All state regulations can be found in CCR

COLORADO WORKS – 2 PROGRAM COMPONENTS

- Stability through benefits and services
- Stability through employment

Guiding Principles of Colorado Works

1. Inclusive and Responsive
2. Inform, Educate and Support
3. Services are appropriate and supportive of partnerships
4. Respectful of individual rights
5. Outcome and Results Oriented

THE STATE PLAN

- To be eligible to receive federal money, the state must submit a plan each fiscal year
 - 42 U.S.C. 602 (Eligible States; State Plan)
- Some highlights you might not have previously known:
 - The written documents should outline how the state intends to establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies.
 - The document (i.e. State Plan) shall indicate whether the state intends to

THE STATE PLAN,

CONT'D

- The Code of Colorado Regulations contains the administrative rules, and can be super fun to read!
- You can also access the Colorado State Plan – the current state plan is effective March 31, 2015

■ <http://www.colorado.gov/cs/Satellite/CDHS-COLORADOWorks/CCW/1251581757781>

■ The work veri
at Coloradogov



COLORADO
Department of Human Services

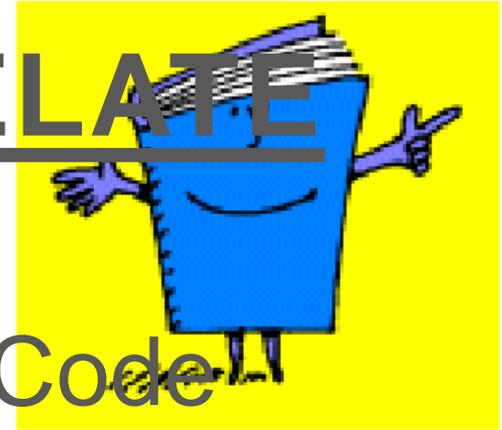
COLORADO STATE

PLAN

What Does it Contain?

- A lot of what Lori discussed including the Sanction Process and State and County Diversion
- Addresses the eligibility of non-citizens and refugees
- Time Limits and Hardship extensions
- Minor parents
- Disqualifications
- PREP (Personal Responsibility Education Program)

STATUTES THAT RELATE



- Title 26 – Human Services Code
- 26-2-701, C.R.S.: Colorado Works Program Act
- Works Program – Purposes (§705):
 - Assist participants to terminate their dependence on government benefits by promoting job preparation, work, and marriage;
 - Provide assistance to needy families so that children may be cared for in their homes or in the homes of family members;
 - Prevent and reduce the incidence of out-of-wedlock pregnancies and to establish annual numerical goals for preventing and reducing the incidences of these pregnancies;
 - Encourage the formation and maintenance of two-parent families; and
 - Allow the counties increased responsibility for the administration of

A COUPLE MORE STATUTES

- 26-2-801 – Child Care Assistance Program Act (CCAP)
- **Title 26 – Article 13 (Child Support Enforcement Act)**
- §108 – Recovery of Public Assistance paid for child support and maintenance-interest collected on support obligations



• **14-14-104 Recovery for Child Support Debt**

- Guidance on collection of debt for those Counties that collect a TANF/Debt Judgment
- **Statute uses the word 'shall'**
- Total amount of debt cannot exceed the total amount paid in public assistance

• **Which counties ask for judgments?**

AND, OF
COURSE.....
CASE LAW



EDIS AND CESPEDES

- **Edis v. Edis, 742 P.2d 954**
 - Mom tried to get interest on child support debt that was owed to Department (Department had waived interest).
 - Court said ‘no’ – found Department to be real party in interest (as assignee) and mother had no entitlement to payments at issue or interest thereon
- **IRM Cespedes, 895 P.2d 1172**
 - This case involved mom asking for a modification (increase) of c/s
 - Assignment of rights is partial, and Mother remains real party in interest
 - Differs from Edis (interest/modification), statute supports the findings

MONTEZUMA COUNTY DEPARTMENT OF SOCIAL SERVICES V. LANER, 937 P.2D 903

1. Current version of statute governing recovery of child support debt applied (C.R.S. §14-14-104).
2. In determining a parent's obligation for purposes of a department's recovery of child support debt, guidelines must be applied to parents' *current* income, not the income from the time the debt arose.
3. Doctrine of laches did not bar Department's claim for reimbursement from father . The Court found 'based on the testimony, that Social Services acted as promptly as it could in light of the information it obtained and that it pursued efforts to obtain reimbursement shortly after confirming father's income and address'.

IRM OF ROBBINS, 8 P.3D 625

1. Further defines the Department's status when collecting child support.
2. Department acting on its own behalf as assignee to collect child support arrearages from father in order to reimburse the department for amounts of AFDC (what is now TANF) paid to mother vs. Department collecting child support for mother's benefits once debt paid in full (CSEU acted with apparent authority and therefore is estopped from claiming it did not act as mother's agent).
3. The Court also addressed the trial court's denial of the department's request for interest on behalf of the mother. The Court found that whether there is a waiver is a question of fact. Here, the trial court had made proper findings (Department hadn't included interest in calc, hadn't required dad to pay interest on arrears, hadn't told dad they wanted interest, etc), so the determination was upheld.

IN THE INTEREST OF D.C., 797

P.2D 840

1. The moral of this case: **follow the court order.**
2. Department had to repay some money that was sent to the agency instead of mother - - - (the money was sent to the Department contrary to the specific court order).
3. Court also found that the 'Department's actions in seeking to collect arrearages did not deprive petitioner of her right to receive current support nor did they substantially impair her ability to collect such support'
 1. Federal regulations do not require the Department to notify former AFDC recipients no longer receiving IV-D services of its actions to collect arrearages (see also, Hill v. Ibarra)

HILL V. IBARRA, 954 F.2D 1516

1. Department obtained a judgment for arrears, plus interest, after Petitioner/mom was no longer receiving state assistance. Petitioner was not notified. Department had an income assignment in place for arrears. No current child support was being collected.
2. Petitioner filed a claim for relief contending her rights under federal law were violated, that she was denied her constitutional right of due process, and the state denied her property without just compensation. (She was not successful on any claim.)
3. 10th Circuit Court of Appeals found Petitioner did not authorize the Department to collect current child support payments – so she has no statutory entitlement enforceable under §1983 (and for this reason Petitioner also has no property rights in the money collected by the Department to satisfy the Department's judgment).
4. Finally, since Petitioner was no longer receiving AFDC, and had not asked for assistance in collecting current support, Petitioner had the exclusive right to collect, and the Department collecting on arrears did not preclude or impede her from collecting current

WESTON V. CASSATA, 37

P.3D 469

1. This case deals a little more with notice – important to remember all the different interests at play.
2. Class action brought to determine the validity of sanction notices under TANF program.
3. Major rulings:
 - a. Once welfare recipients have complied with statutory standards and have begun receiving welfare benefits, the right to welfare benefits is a property right that cannot be compromised without procedural due process protections.
 - b. The due process right under the new scheme is not “the guarantee of getting the benefit,” but rather the guarantee that, if and when the benefit is granted, the “government will employ a decision making protocol reasonably likely to yield correct application of the legally relevant substantive criteria to the individual case.”
 - c. If an administrative regulation sets forth the minimum standards for notice requirements, those standards serve as the minimum notice required for due process.
 - d. Don’t need to exhaust administrative remedies when it is clear that further review would be futile.

LEGISLATIVE UPDATE



CO HB 15-012

- Title: Concerning Treatment of Child Support for Purposes of the Colorado Works Program, and, in Connection Therewith, Making an Appropriation.
- Sent to Governor Hickenlooper on May 8, 2015
- Sponsored by Senator John Kefalas and Representative

Currently.....

- Under federal law, states are allowed to retain collected child support to reimburse themselves and the federal government for TANF payments to families (up to the child support order amount).
- States are allowed to decide to “pass through” a portion or all of the child support directly to the

Goals

- Reduce depth of poverty for children on TANF
- Improve child support compliance
- Strengthen families
- Keep parental income in Colorado

Bill Would:

- Allow custodial parents of children on TANF to receive the timely child support payments made by the non-custodial parent
- Disregard child support as income for determining the level of benefit for Colorado Works
- Provide General Fund appropriations to counties to offset lost revenue and to the state for computer systems and other potential administrative changes and for enhanced communication or marketing to inform parents of the changes

Future of this New Law: Questions as to how this Affects our Court Hearings?

- Do we think as attorneys, more obligors will pay knowing money is going to the custodial parent? (The socioeconomic effect)