

Federal Financial Participation (FFP) and the Cooperative Agreement

MFSRC Annual Training Conference
Monday, October 5, 2015

FFP and the Cooperative Agreement:
As exciting as toast



Federal Financial Participation (FFP):
The Basics

- FFP is the federal share of IV-D costs that states and counties can claim for their work in the IV-D Program
 - FFP is a flat rate of 66% or 2/3rd of the allowable costs
- Costs can be both direct and indirect
- A Cost Allocation Plan (CAP) defines the allocation methods for distributing FFP for both direct and indirect costs

**Federal Financial Participation (FFP):
The Basics**

- Generally, to be allowable under federal awards, costs must meet the following general criteria:
 - Be necessary and reasonable to carry out the work
 - Be allocable to the federal awards
 - Be authorized and not prohibited under state or local laws or regulations
 - Conform to any limitations or exclusions on federal law or policy
 - Be consistent with federal law or policy
 - Be treated consistently
 - Align with generally accepted accounting principles
 - Not to be used to meet cost sharing or other matching requirements
 - Be net of any applicable credits (like discounts, refunds, and adjustments)
 - Be adequately documented

**Federal Financial Participation (FFP):
The Basics**

- The IV-D State Plan spells out the services and activities for which FFP is available. These services and activities include:
 - Locating parents
 - Establishing paternity
 - Establishing basic support, child care support, and medical support orders
 - Enforcing basic support, medical support, and spousal maintenance (when tied to child support) orders
 - Reviewing and modifying basic support, child care support, and medical support
 - Working with other states
 - Collecting and disbursing current and/or past support payments

**Federal Financial Participation (FFP):
The Basics**

- County Attorney Time – track and account for attorney time expended on IV-D cases. If the attorneys do 100% IV-D work, 100% is eligible for reimbursement. Attorneys that work less than 100% for IV-D can be accounted for in two methods:
 - Hourly Cost Method – County Attorney tracks attorney and support staff time on an hourly basis; or
 - Time Study/Salary Method – County Attorney uses a periodic time study to determine the proportion of time the County Attorney and support staff spends on IV-D work versus all other work.
 - How to do the time study:
 - Complete a week long time study each month
 - The results will determine the percentage of time spent per staff for IV-D services in relation to that person's total hours worked per month
 - Apply the percentage to the individual staff member's direct salary and benefits costs

**MN IV-D Cooperative Agreement:
The Background**

- Federal regulations and state law requires the State IV-D unit to have cooperative agreements with counties that conduct IV-D business
 - The original cooperative agreement was essentially a way to allow the flow of money from the state to counties
- The Deloitte Service Delivery Study recommended work on governance
 - Members from MACSSA, AMC, and MCAA
 - The state and counties determined a more comprehensive cooperative agreement was needed
- The new comprehensive cooperative agreement was created
 - Allows for the flow of money from state to counties
 - Sets forth roles and responsibilities

**MN IV-D Cooperative Agreement:
The Background**

- Both the state and counties wanted a new cooperative agreement
 - Concerns about consistency and fair treatment across county programs
 - Need for clear expectations from the state for program operations and performance
 - Desire to improve county-state relationships
 - Need to improve the cost-effectiveness of the IV-D Program in Minnesota

**MN IV-D Cooperative Agreement:
The Development**

- In 2012, DHS and county partners embarked on enhancing the cooperative agreement to meet the intent of federal and state laws
 - First reviewed neighboring states' cooperative agreements, determined Wisconsin was most similar to Minnesota's culture
 - Modified the Wisconsin agreement, particularly by adding separate cooperative arrangements between the county, county attorney, and the county sheriff
- In 2014, DHS modified the agreement after meeting with AMC, MACSSA, and MCAA to include:
 - Dispute resolution process
 - Exemption to DHS weapons policy for county attorneys
 - Instructions on how county attorneys should track hours and seek payment

MN IV-D Cooperative Agreement: The Development

- In 2014, the DHS and county partner group agreed that the cooperative agreement met the needs of counties, county attorneys, and DHS, and it went through the DHS approval process
- The cooperative agreement was approved by DHS in the Spring of 2014
- In the Winter of 2014, MACSSA, AMC, and MCAA introduced the cooperative agreement to their members in cooperation with DHS
- By the Fall of 2015 with a few minor changes, particularly to the dispute resolution components, the cooperative agreement was finalized
- On September 9, 2015, letters went out to County IV-D directors explaining that a new, more detailed version of the cooperative agreement would be provided to them, and provided highlights
- Counties should begin using the new version of the cooperative agreement for the 2016 calendar year

MN IV-D Cooperative Agreement: Where and When?

- The Cooperative Agreement can be found on DHS-SIR
 - Hover your mouse on the PRISM button
 - A list will appear
 - Click "Documentation" (Figure 1)
 - Once on the PRISM Documentation Page, select Cooperative Agreement (Figure 2)

The Cooperative Agreement must be fully executed by **March 31, 2016**

If not, the county cannot claim FFP for the first quarter 2016

Figure 1

Figure 2

MN IV-D Cooperative Agreement: The Highlights

- The cooperative agreement defines responsibilities without compromising the flexibility needed by counties
- Goals of the new cooperative agreement/arrangement
 - Collaborative Relationship
 - Best Practices shared
 - User friendly access to information
 - Process for conflict resolution
 - Efficient and lawful processes

**MN IV-D Cooperative Agreement:
The Highlights**

- The new cooperative agreement provides counties with:
 - Process for questioning and challenging policies
 - Expected time before policies are implemented
 - Consideration of financial impact of policies
 - Limited reimbursement guarantee
 - Collaborative process

**MN IV-D Cooperative Agreement:
The Structure**

- Cooperative **Agreement**
 - Between State and County
- Cooperative **Arrangement**
 - Between County Program + County Attorney + County Sheriff

**MN IV-D Cooperative Agreement:
Highlights of the Important Parts**

- Important Parts of the Agreement and Arrangement
 - Communication
 - Timely Policies and Opportunity to Respond
 - Notice of and Collaboration regarding Case Appeals and Case Adverse Decisions
 - Collaborative and Cooperative Process
 - HIPPA and IRS Security
 - County Attorney Reimbursement
 - Documentation
 - Actual Costs
 - Conflict or Dispute Resolution
 - Financial
 - County Policy
 - County Attorney
 - Corrective Action Plans



MN IV-D Cooperative Agreement: Communication and Timely Policies

- Communication and Timely Policies
 - DHS to communicate with counties promptly about pending changes
 - When possible counties will be given time to comment on new policies
 - Reasonable time
 - More time if there is a financial impact on the counties or if new policies are not required by law



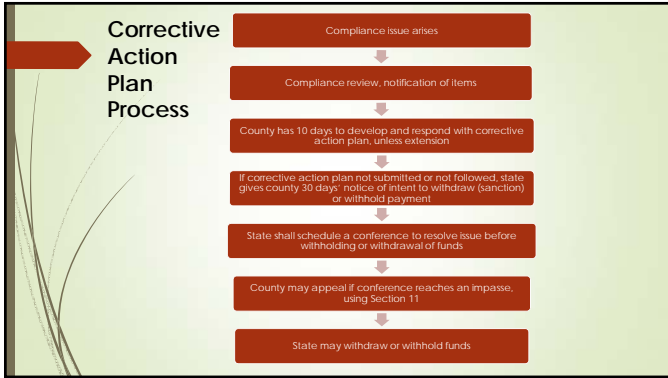
MN IV-D Cooperative Agreement: Notice of Appeals

- Appeals
 - County and County Attorney to communicate with DHS of any case appealed to a higher court that affects the child support program
 - County and County Attorney to communicate with DHS about any cases where your magistrate or district court make a ruling that calls the constitutionality or enforceability of the child support statute or program instructions into question—even if your county decides not to appeal the decision
 - Not just when the counties want the Attorney General to weigh in



MN IV-D Cooperative Agreement: Corrective Action Plans

- Corrective Action Plans
 - Counties must follow state policy and procedures
 - The state may withhold or sanction a county that is not in compliance with the cooperative agreement or state policy and procedures
 - There are exceptions to this - a county is not responsible for compliance when uncontrollable circumstances prevent the county from working
 - Before any funds can be withdrawn or withheld, the state and county must go through a compliance review process and the county must be given the opportunity to implement a corrective action plan
 - The county has the right to appeal the state's determination of noncooperation



MN IV-D Cooperative Agreement: Conflict or Dispute Resolution

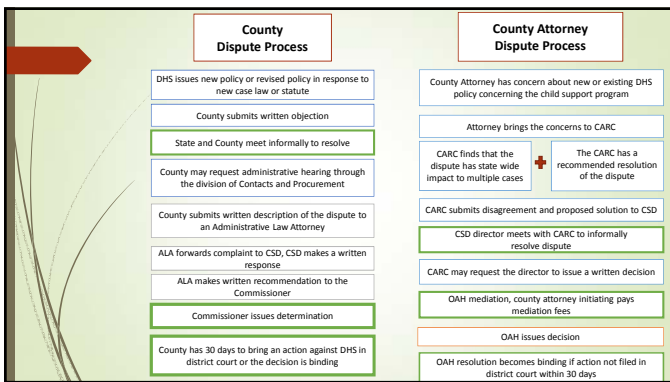
- Conflict or Dispute Resolution
 - Financial Dispute
 - Policy Conflict or Dispute
 - When the state issues a new or changed policy, or new case law, state or federal law brings an existing policy into question
 - The county has 90 days from the issuance of the policy, court decision, or effective date of the law change "to make a written objection to the legal risk associated with the policy or direction"
 - Process is in Section 11
 - The state and county will meet to try to informally resolve the objection
 - Within 30 days of the meeting, the state will issue a determination
 - What if the county does not agree with the state's determination?

MN IV-D Cooperative Agreement: Administrative Appeal

- What if the county does not agree with the state's determination?
 - The county may pursue an administrative appeal to the DHS Division of Contracts, Procurement, and Legal Compliance (CPLC)
 - Notice of a request for an administrative appeal, along with the appeal and supporting documentation, must be submitted to the CPLC Administrative Law Attorney (ALA) within 30 calendar days of the determination of the state
 - The ALA sends the appeal information to the CSD Division Director within 7 business days of receipt. The Director has 14 business days to submit a written response with supporting documentation, a copy of which must be sent to the county
 - The ALA makes a determination based on the written submissions and law, and makes a recommendation to the DHS Commissioner
 - The Commissioner issues an order affirming, reversing, or modifying the action or decision of the state
 - The order is binding on the county and state unless an appeal is filed with the District Court within 30 calendar days of the Commissioner's order

MN IV-D Cooperative Agreement: Legal Issues Dispute Resolution

- County Attorney Dispute Resolution for Legal Issues Process
 - Dispute is vetted by the Cooperative Agreement Review Committee (CARC)
 - 3 delegates from MCAA, 3 delegates from MACSSA, and if necessary, facilitated by DHS (not a member)
 - The CARC proposes a solution
 - DHS and CARC must attempt to resolve the differences in an informal manner
 - If DHS and CARC are unable to reach a resolution through the informal manner, CARC asks director to issue a written decision
 - Office of Administrative Hearings mediation and written decision
 - The order is binding on the county and state unless an appeal is filed with the District Court within 30 calendar days of the Commissioner's order



MN IV-D Cooperative Agreement: Review of the Cooperative Agreement

- Cooperative Agreement Review Committee
 - The CARC is responsible for representing the County and County Attorney offices in seeking policy dispute resolution under this Cooperative Agreement and Arrangement.
 - In 2016, the CARC will also monitor the implementation of the Cooperative Agreement and recommend any necessary changes
 - The committee will consist of:
 - 3 county attorney members, appointed by MCAA; and
 - 3 county director members, appointed by MACSSA
