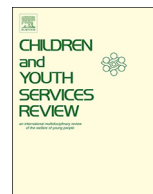




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## How accurate are imputed child support orders?

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### A B S T R A C T

Child support agencies face the challenging task of setting right-sized orders when the non-custodial parent's income cannot be ascertained through state or federal administrative records and the non-custodial parent is unwilling or unable to provide documentation of recent income. In these cases, child support agencies will often impute the non-custodial parent's income assuming their earnings are equal to those of someone who works full-time at the minimum wage. This study uses detailed earnings and hours worked data for employees in Washington state to assess how well this imputation matches the actual earnings of low-wage non-custodial parents. Our results reveal that this imputation would likely set orders that are too high or too low for the majority of non-custodial parents with no income information. The findings suggest the need for child support agencies to move away from a "one-size fits all" imputation approach and develop strategies to better monitor non-custodial parents to determine whether an order modification is necessary.

### 1. Introduction

To improve child support compliance, it is imperative that child support agencies use comprehensive information on non-custodial parents' income to right-size orders. This is a particularly challenging task when a non-custodial parent's income cannot be ascertained from state and federal administrative records and the non-custodial parent is unable or unwilling to provide documentation of recent income. In such cases, most states have typically assumed the non-custodial parent's earnings are those of someone who works full-time (40 h/week), full year (52 weeks) at the state minimum wage (Fleming, 2017).

For some non-custodial parents, this imputation will be fairly accurate and the ensuing order will be approximately right-sized.<sup>1</sup> But for many, the imputation is likely to be significantly below or above actual earnings. Some low skill non-custodial parents will only be able to work part-time, while others will succeed in finding full-time work at wages 20% higher than the state minimum.

Non-custodial parents whose actual earnings are significantly less than their imputed earnings will face support orders that require a relatively large share of their income. Such non-custodial parents are likely to view their orders as excessive and unfair, and their limited earnings (relative to the order) will make it difficult to comply. The likely consequence is that many will either make partial support pay-

ments and steadily accrue arrears, or decide they cannot afford to make any payments.

Conversely, non-custodial parents whose actual earnings significantly exceed their imputed earnings will have support orders that require a relatively small share of their income. These non-custodial parents' orders will be too low relative to their ability to pay, which will compromise their children's financial well-being.

This study conducts the first analysis of how well earnings equal to full-time work at the minimum wage match the actual earnings of low-wage non-custodial parents. To do so, it uses data from Washington's Employment Security Department (ESD) to provide information about the annual incomes and hours worked of low-wage employees. We present findings for three classes of "low-wage" worker: employees who earn  $\leq \$11$  per hour,  $\leq \$15$  per hour, and  $\leq \$19$  per hour. For each class we compare annual earnings to those of a person who worked full time at the state minimum wage in 2016, which was \$9.47.

The study also disaggregates the results by major industry. Doing so shows whether one can obtain more fine grained information about the earnings capacity of non-custodial parents when more is known about their work history.

While the specific results reflect the situation in Washington State, which in 2016 had one of the highest minimum wages in the nation, they may interest the other 48 states that use imputed income as a last

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<sup>1</sup> This would happen, of course, if the non-custodial parent works full-time at the minimum wage. It also may be reasonably accurate for someone with a wage 25% higher than the minimum but who is only offered 30 h of work per week, or someone who works off the books more than full time but at a sub-minimum wage.

resort to set orders (Fleming, 2017). The findings are especially relevant for the many states that have set their own minimum wage significantly above the federal level of \$7.25.<sup>2</sup>

The study's key finding shows that a benchmark equal to 100% of full-time earnings at the minimum wage does not accurately reflect the actual earnings of most low-wage workers. Among workers earning no more than \$11 per hour, only 31% had earnings within a 20 percentage point bandwidth of such a benchmark. Fully 65% of these workers earn less than 80% of the benchmark. Among workers earning no more than \$15 or \$19 per hour, 31% and 24%, respectively, earned within a 20 percentage point bandwidth of that benchmark. Lower benchmarks increase the share of workers earnings within a 20 percentage point bandwidth, but it never exceeds 43%.

These findings and others presented here can help child support agencies understand the implications for policy and practice of income imputations and the extent to which they produce appropriate orders for non-custodial parents with no income information. The conclusion discusses implications of the findings for setting support orders for non-custodial parents lacking documentation of recent earnings.

## 2. Right-sizing and compliance with child support orders

Child support professionals recognize that setting appropriate orders based on a non-custodial parent's ability to pay can result in reliable and consistent collection of child support. This is of particular concern for non-custodial parents who have limited ability to earn and, hence, to make payments (e.g. low education, criminal record). While enforcement once an order has been established may increase compliance under some circumstances, it cannot generate payments from individuals who do not have the means to pay. The right-sizing of orders has the potential to eliminate two closely related barriers to compliance: ability to pay and willingness to pay.

### 2.1. Ability to pay and compliance

Right-sizing orders based on individuals' ability to pay can increase compliance and prevent accrual of arrears. A non-custodial parent's income – that is, ability to pay – is positively related to the amount of support paid, the proportion of order paid, and the probability of being compliant (i.e. paying the full order amount). Notable studies that support this finding include Bartfeld and Meyer (1994), Meyer and Bartfeld (1996), Mincy and Sorensen (1998), Lin (2000), Huang, Mincy, and Garfinkel (2005), and Meyer, Ha, and Hu (2008). For instance, using Wisconsin data from 2000 to 2003, Meyer, Ha, & Hu (2008, Table 4) report that a 10% increase in earnings is associated with 9.7% increase in payments and a one percentage point increase in the proportion of the support order that is paid.

The size of the support order relative to income is a second well-established determinant of compliance. Holding non-custodial parent income constant, as the ratio of child support order to income increases, compliance – typically measured as the percent of order paid – tends to decrease (Bartfeld & Meyer, 1994; Huang et al., 2005; Meyer et al., 2008; Meyer & Bartfeld, 1996). Early research by Bartfeld and Meyer (1994) found that compliance rates are significantly lower for those non-custodial parents whose support orders are more than 20% of their income, compared to those with orders that are less than 20%. Their later research regarding divorced non-custodial parents, in particular, suggests that burden influences compliance only when it exceeds 35% of income (Meyer & Bartfeld, 1996).

More recent research reports similar findings. Huang et al. (2005) used data from the Current Population Survey and documented that

fathers in the lowest quartile are, on average, expected to pay 27% of their income in child support, while fathers in the top quartile of income are obligated to pay only 16%. For men in the lowest income group, higher obligation rates translated to lower compliance rates. Meyer et al. (2008) found that non-custodial parents who owe more than 35% of their income for child support pay a significantly smaller percentage of their orders than non-custodial parents who owe less than 15% of their income. Interestingly, both studies also find that higher obligation rates, though leading to a lower percentage of order paid, induce higher actual dollar payments.

Several technical reports also provide evidence that ability to pay is an important determinant of compliance.<sup>3</sup> A study of Washington state revealed that parents with limited ability to pay did pay when the order made up a smaller proportion of their monthly income. When the order exceeded 20% of their income, parents were more likely to accumulate arrears (Formoso & Peters, 2003). In a study of over 100,000 cases in California, Takayesu (2011) observed that when a support order is set above 20% of the parent's income, compliance and payment reliability decline over time. In Maryland, researchers also found an important connection between a parent's ability to pay and compliance. Orders that were more consistent with a parent's income were more likely to be paid (Hall, Passarella, & Born, 2014).

### 2.2. Willingness to pay and compliance

Research also examines factors that influence non-custodial parents' willingness to pay the current and past-due child support. An important influence on willingness to pay is non-custodial parents' perception of the fairness of their support obligations. Lin (2000) finds that fathers in Wisconsin pay more of their obligation when they think their orders are somewhat fair or very fair, compared to fathers who report somewhat unfair or very unfair order amounts. This result is consistent with qualitative research that finds fathers who view their obligations as inflexible, unfair, or insurmountable, such as extremely high arrearages, tend to ignore these orders. In some cases, researchers found that fathers would go so far as to quit their jobs to avoid wage garnishment (Waller & Plotnick, 2001).

Though states have begun to make efforts to right-size orders, policies have not reached a consensus on how to handle cases in which one of the parents has no reported income. In these cases, income is often imputed by the state. For example the state of Washington imputes a parent's income assuming that he or she is employed full-time (40 h per week). But, this rule incorrectly sets order sizes too high for parents who generally work fewer than 40 h per week at the minimum wage.

In sum, right-sized orders based on ability to pay can improve compliance by asking non-custodial parents to contribute a reasonable share of their income to support their children. And, right-sized orders are more likely to be regarded as fair by non-custodial parents, which also tends to increase compliance. Therefore, it is critical to right-size child support orders to ensure compliance and consistent payments and better serve the child support caseload.

In the absence of information on a non-custodial parent's income, setting support orders based on the assumption that the parent can work full-time at the minimum wage could be seen as a reasonable practice. Yet, to our knowledge there is no research that assesses how appropriate this practice is. This article seeks to fill this gap in knowledge. Specifically: do most low-wage non-custodial parents, in fact, earn roughly this amount? Or do many earn well below or well above it?

<sup>2</sup> In 2018, the minimum wage in 29 states and Washington DC exceeds \$7.25. Thirteen states and Washington DC have minima ranging from \$10.00 to \$12.50; 9 have minima between \$8.50 and \$9.84 (U.S. Department of Labor, 2018).

<sup>3</sup> A review of these studies was presented to the Virginia Child Support Guidelines Review Panel. See <http://dls.virginia.gov/groups/childsupport/meetings/042417/pendingissues.pdf>.

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