



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report
Department of Social and Health
Services

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Cheryl Strange
Department of Social and Health Services

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 18-031 at the Department of Social and Health Services.

The State Auditor's Office received an assertion of improper governmental activity at the Department. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

If you are a member of the media and have questions about this report, please contact Director of Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Assistant Director of State Audit Troy Niemeyer at (360) 725-5363.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Andrew Colvin, Public Disclosure/Ethics Administrator
Kate Reynolds, Executive Director, Executive Ethics Board
Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a whistleblower complaint asserting a Department of Social and Health Services (Department) employee (subject) did not follow federal and state timeframes for child support collection efforts.

We found no reasonable cause to believe an improper governmental action occurred.

Background

The Department's Division of Child Support collects child support payments from non-custodial parents and distributes them to custodial parents. Collection may begin at the request of the custodial parent, through a court or administrative order, or subsequent to a custodial parent receiving state assistance.

When the collection is initiated through a court or administrative order, the Division of Child Support must make a reasonable effort to notify and seek payment from the non-custodial parent. Federal and state laws establish the timeframe for these notifications.

About the Investigation

We requested a list of all cases assigned to the subject with a court or administrative order date that occurred between January 1, 2017, and March 31, 2018. The Department identified 109 cases.

We asked the Department to provide an expert to help in our review. The assigned expert performed a random review of 74 cases and found only two cases did not meet federal or state mandated timeframes.

Based on his experience, he said it is common for employees to extend the dates of some state review codes, as long as they are meeting the federal timeframe. The expert said the subject did this 97 percent of the time. Overall, he said the subject "met her timeframes."

Therefore, we found no reasonable cause to believe an improper governmental action occurred.

State Auditor's Office Concluding Remarks

We thank Department officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

45 CFR 303.2(b) Establishment of cases and maintenance of case records.

(b) For all cases referred to the IV-D agency or applying for services under § 302.33 of this chapter, the IV-D agency must, within no more than 20 calendar days of receipt of referral of a case or filing of an application for services under § 302.33, open a case by establishing a case record and, based on an assessment of the case to determine necessary action:

- (1) Solicit necessary and relevant information from the custodial parent and other relevant sources and initiate verification of information, if appropriate; and
- (2) If there is inadequate location information to proceed with the case, request additional information or refer the case for further location attempts, as specified in § 303.3.

RCW 74.20A.055(2) - Notice and finding of financial responsibility of responsible parent – Service – Hearing – Decisions – Rules.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. The notice may be served upon the custodial parent who is the nonassistance applicant or public assistance recipient by first-class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent.

WAC 388-14A-3350 – Are there any limits on how much back support the division of child support can seek to establish?

(1) When no public assistance is being paid to the custodial parent (CP) and the children, the division of child support (DCS) starts the claim for support as of the date:

(a) DCS receives the application for nonassistance services if the CP applies directly to DCS for services; or

(b) An Indian tribe or another state or country received the application for nonassistance services or the actual date the tribe, state, or country requests that child support start, whichever is later, if the initiating jurisdiction requests DCS to establish a support order.

(2) When the children are receiving medicaid-only benefits, DCS starts the claim for support as of the date the medicaid benefits began. See WAC 388-14A-2005(4) to determine whether DCS seeks to establish medical support only for a particular case.

(3) This section does not limit in any way the right of the court to order payment for back support as provided in RCW 26.26.130 and 26.26.134 if the case requires paternity establishment.

(4) When an Indian tribe or another state or country is paying public assistance to the CP and children, DCS starts the claim for support as of the date specified by the tribe, state, or country.

(5) For the notice and finding of parental responsibility, WAC 388-14A-3120(9) limits the back support obligation.

(6) When the state of Washington is paying public assistance to the CP and/or the children, the following rules apply:

(a) For support obligations owed for months on or after September 1, 1979, DCS must exercise reasonable efforts to locate the noncustodial parent (NCP);

(b) DCS serves a notice and finding of financial or parental responsibility within sixty days of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought;

(c) If DCS does not serve the notice within sixty days, DCS loses the right to reimbursement of public assistance payments made after the sixtieth day and before the notice is served;

(d) DCS does not lose the right to reimbursement of public assistance payments for any period of time:

(i) During which DCS exercised reasonable efforts to locate the NCP; or

(ii) For sixty days after the date on which DCS received an acknowledgment of paternity for the child for whom the state has assumed responsibility, and paternity has not been established.

(7) The limitation in subsection (6) does not apply to:

(a) Cases in which the physical custodian is claiming good cause for not cooperating with the department; and

(b) Cases where parentage is an issue and:

(i) Has not been established by superior court order; or

(ii) Is not the subject of a presumption under RCW 26.26.320.

(8) DCS considers a prorated share of each monthly public assistance payment as paid on each day of the month.