

The New Proposed Child Support Rule: What It Means for Low-Income Fathers

Monday, January 12, 2015

11:00 a.m. PST / 2:00 p.m. EST



PolicyLink is a national research and action institute advancing economic and social equity by Lifting Up What Works.

Promotional Partners





FEDERAL REGISTER

Vol. 79
No. 221

Monday,
November 17, 2014

Part III

Department of Health and Human Services

Centers for Medicare & Medicaid Services
42 CFR Part 433

Administration for Children and Families
45 CFR Parts 301, 302, 303, et al.

Flexibility, Efficiency, and Modernization in Child Support Enforcement
Programs; Proposed Rule

Goals

- Discuss key changes proposed by the rule
- Explain how changes could impact low-income, non-custodial fathers, including fathers of color

Presenters



Vicki Turetsky

Commissioner, Office of Child Support Enforcement



Yvette Riddick

Director, Division of Policy and Training, Office of Child Support Enforcement



Jacquelyn Boggess

Co-Director, Center for Family Policy and Practice



Dr. Ronald Mincy

Professor, Columbia School of Social Work

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Notice of Proposed Rulemaking

**Department of Health and Human Services
Administration for Children and Families
Office of Child Support Enforcement
January 2015**



Background

In response to *Executive Order 13563: Improving Regulation and Regulatory Review*, we:

- conducted a comprehensive review of existing regulations;
- sought recommendations from state and tribal child support programs, and other stakeholders; and
- identified outmoded requirements and technical fixes.

Flexibility, Efficiency and Modernization NPRM

The proposed regulations are designed to:

- add more flexibility for states to better serve families;
- promote efforts that enable states to work with tribes more effectively; and
- remove regulatory barriers to cost-effective approaches to increase regular and consistent support payments.

Evolution of Child Support Program

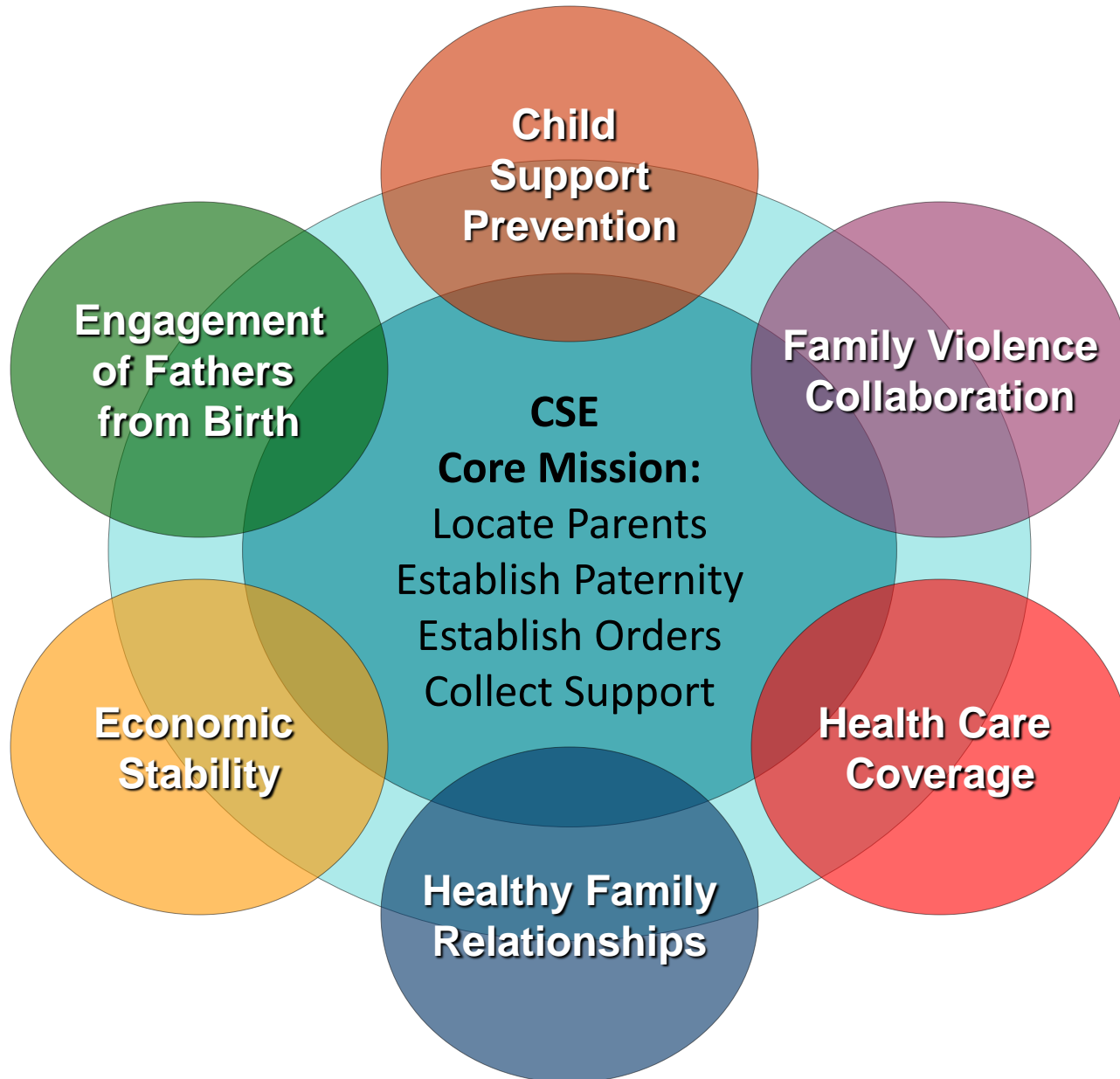
Welfare cost-recovery

- Debt-driven enforcement
- Imputing income to set orders
- Standardized “one size fits all” processes
- Recovering welfare costs
- Routine incarceration

Family-centered strategies

- Consistent, on-time payments
- Setting accurate orders
- Caseload segmentation: (“right tool for right case at right time”)
- Early intervention to prevent arrears
- Debt management
- Family distribution (95%)
- Enforcement + services

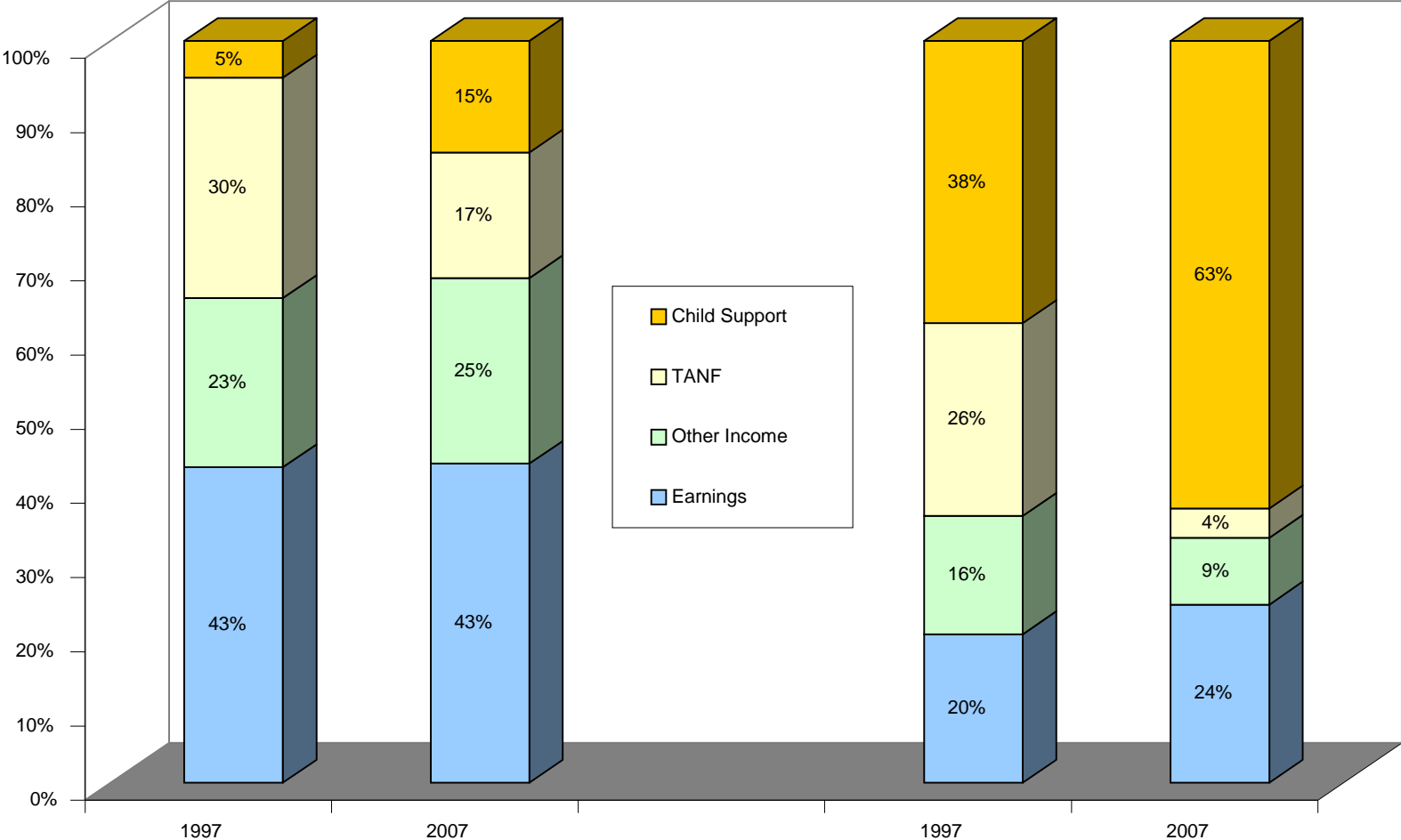
Family-Centered Child Support Strategies



Five Evidence-Based Tools to Increase Collections

- ❑ Right-sized orders (Formoso, 2003; HHS/OIG, 2000)
- ❑ Debt reduction (Heinrich, 2009; Cancian, 2009)
- ❑ Family distribution (Wheaton, 2008; Meyer, 2003; Bloom, 1998)
- ❑ Parenting time (Pearson, 2006)
- ❑ Employment services (Sorensen, 2011; Shroeder, 2009; Miller, 2001)

Income of deeply poor custodial families



All Deeply Poor Custodial Families

Deeply Poor Custodial Families Who Receive Child Support

Source: Urban Institute
1/6/2015

Setting Accurate Support Orders (§ 302.56)

- A state's child support guidelines must be based on:
 - a noncustodial parent's actual, not presumed, ability to pay; and
 - subsistence needs (e.g., self-support reserve).
- A state may set an order based on evidence of income or assets in absence of proof of earnings (e.g., lifestyle inconsistent with reported income)
- A state may deviate from guidelines by exception based on factors established by the State (e.g., willful refusal to support)
- State guidelines may not treat incarceration as "voluntary unemployment", which prohibits order modification.

Review and Adjustment of Child Support Orders (§ 303.8)

- Requires a state to notify both parents of the right to request review and adjustment of the order when a parent is incarcerated.

- Allows a state to automatically review and adjust a child support order:
 - after being notified that a noncustodial parent will be incarcerated for more than 90 days;

 - without waiting for a specific request to initiate review and adjustment; and

 - after providing notice to both parents.

Medical Support

For securing and enforcing medical support obligations (§§ 303.31 and 303.8):

- clarifies that health insurance includes both public and private insurance;
- omits the requirement that health insurance costs be measured based on the marginal cost of adding the child to the policy; and
- deletes the language that prohibits Medicaid from being considered medical support.

Parenting Time

- State child support orders may address parenting time if pursuant to State child support or parenting time guidelines, or when both parents have agreed to parenting time provisions.
- Does not allow FFP, except for *de minimis* costs associated with establishing parenting time provisions incidental to establishing a child support order.

Job Services

- Federal financial participation (FFP) is available for job services for eligible noncustodial parents that are identified in the state plan. (§ 302.76 and 303.6(5))
- The noncustodial parent must have a IV-D case, a current child support order, be unemployed or not making child regular child support payments and not be receiving job services in certain benefit programs.
- Job services may include:
 - job search assistance;
 - job readiness training;
 - job development and job placement service;
 - skills assessment to facilitate job placement;
 - job retention services; and
 - certificate programs and other skills training directly relates to employment; and work supports such as transportation, uniforms, and tools.

Enforcement of Support Obligations (§ 303.6)

A state must:

- have procedures to ensure that in civil contempt procedures take into consideration the noncustodial parent's subsistence needs and income level;
- require that any purge amount a noncustodial parent pays in order to avoid jail takes into consideration the parent's actual income and subsistence needs (implementing *Turner v. Rogers*).

Federal Benefits Excluded from Garnishment

Case Closure (§ 303.11)

- Allows a state to close a case when a noncustodial parent's sole income is from SSI, from both SSI and Title II benefits concurrently, or other needs-based benefits.

Functional requirements for computerized support enforcement systems (§ 307.11)

- Requires a state to identify cases where the noncustodial parent receives those federal benefits exempt from garnishment (e.g., SSI).
- Requires a state to refund monies within 2 days after child support agency determines account has been incorrectly garnished.

Tribal-State Coordination

- Permits a state to close the case if it has been transferred to a Tribal IV-D agency, regardless of whether there is a State assignment.
- Before transferring the case, a recipient of services must request the transfer; or the state must obtain recipient's consent.
- A state may enter into an agreement with a tribal child support agency to compromise any state-assigned arrearages.
- Requires a state to close a Medicaid reimbursement case, if the child is eligible for Indian Health Service (IHS) health care services (CMS is also proposing conforming changes)

More Flexible Services (§§ 302.33 and 303.11)

- Gives states and parents more flexibility to apply for limited services instead of the “all-or-nothing” approach in current rules.
- Allows a state to provide applicants the option to request limited services.
- A state must define its policy, require all mandatory enforcement services (if enforcement services are requested), and charge appropriate fees.

Federal Reimbursement of Costs

Clarifies that Federal Financial Participation (FFP) is available for child support services and activities “necessary and reasonable” to carry out the title IV-D State plan. (§ 304.20)

- Job services activities pursuant to § 303.6(c)(5).
- Activities designed to increase parents *pro se* access to adjudicative and alternative dispute resolution processes in IV-D cases.
- Educational and outreach activities
- Bus fare or other minor transportation expenses.
- Does not permit FFP for parenting time activities, except for *de minimis* costs associated with establishing parenting time provisions in the child support order.

Other Changes

- Expands optional criteria for state case closure with notice (§ 303.11)
- Standardizes income withholding to address employer concerns
- Updates rules to account for electronic records and other advances in technology
- Clarifies maintenance of effort requirements for incentive payments

Thank You!

2014 Proposed Child Support Regulations:

Requirements, Options, and Opportunities

Jacquelyn L. Boggess

Center for Family Policy and Practice

January 2015

Requirements and Options

- State plans requirements (Post U.S. Supreme Court decision in *Turner v Rogers*)
- State plan options
- Child Support Agency Opportunities

Impact and Effect

With these new regulations in place, what will be the fate of the poorest, least resourced IV-D families in states that do not take up the options or opportunities presented.

- Review and adjustment of orders
- Job Services
- Limited services option
- Federal financial participation in services and activities
- Case closure
- Exemption for state laws

Opportunities for state policy and practice change

The new regulations give states options and opportunities for progressive change in state and local child support policy and practice. Advocates and interested parties can share their experience, expertise, and perspective with state decision makers.

- State Guidelines Committees
- Child Support order review and adjustment processes
- Case closure processes – promote progressive agency practice
- State law exemptions from certain procedures and practices

A Practitioner's Guide to the Proposed Child Support Rule Changes

Ronald Mincy, PhD.
Columbia University

January, 2015



Center for Research on Fathers,
Children and Family Well-Being



Guidelines for Setting the Child Support Award

- **Actual Earnings and Income of Noncustodial Parent**
 - When orders are based upon imputed income, the resulting order may exceed the father’s current ability to pay, which
 - Does not provide children and custodial parents with the child support they need, and
 - Reduces the likelihood of full compliance,
 - Increases the likelihood of arrears,
 - Proposed amendment to regulations [section 302.56 (c) (4)] would require guidelines for setting child support awards to take into consideration “actual earnings and income, rather than “all” earnings and income, which includes imputed income.
 - This amendment will increase the likelihood that fathers will be able to pay their child support obligations in full.



Guidelines for Setting the Child Support Award (cont'd)

- Consideration of Noncustodial Parent's Subsistence Needs
 - Research shows that after paying their child support orders in full and meeting basic expenses, some nonresident fathers with incomes up to \$40,000 are left poor or near poor.
 - This suggests that they are unable to meet subsistence needs, defined as “the minimum (as of food and shelter) to support life.
 - Many states use a self support reserve to recognize subsistence needs by deducting the costs of such needs from the NCPs' income before setting the child support order or as a basis for adjusting the child Support order.
- Proposed new criterion (302.56 (c) (4) for setting child support awards would require that state child support guidelines take into consideration the NCP's subsistence needs and provide that child support orders be based upon available data related to actual earnings, income, assets, or other evidence of ability to pay.
 - This provision would
 - increases the likelihood that the noncustodial father will be able to pay child support orders consistently and in full, but result in inadequate amounts of child support to many custodial families
 - Many will need government subsidies such as the earned income tax credit, SNAP etc.
 - facilitate the development of noncustodial parent earned income tax credit for which many low- and moderate-income NCP's could qualify, including a full compliance criteria.
 - not preclude imputation where the NCP's lifestyle is inconsistent with earnings or income and there is evidence of income or assets beyond those identified.



Guidelines for Setting the Child Support Award (cont'd)

- Provide that incarceration may not be treated as voluntary unemployment
 - Some states set child support orders for incarcerated noncustodial parents by imputing income, because they treat incarceration as voluntary unemployment.
 - In addition, voluntary unemployment is not a "change of circumstance" that can be used to downward modify a child support order, so incarcerated noncustodial parents have difficulty modifying their child support orders.
 - Proposed new criterion (302.56 (c) (5) would preclude states from treating incarceration as voluntary unemployment,
 - Limiting the use of imputed income for incarcerated NCP's
 - Removing barriers to downward modification of child support orders for incarcerated NCP's.

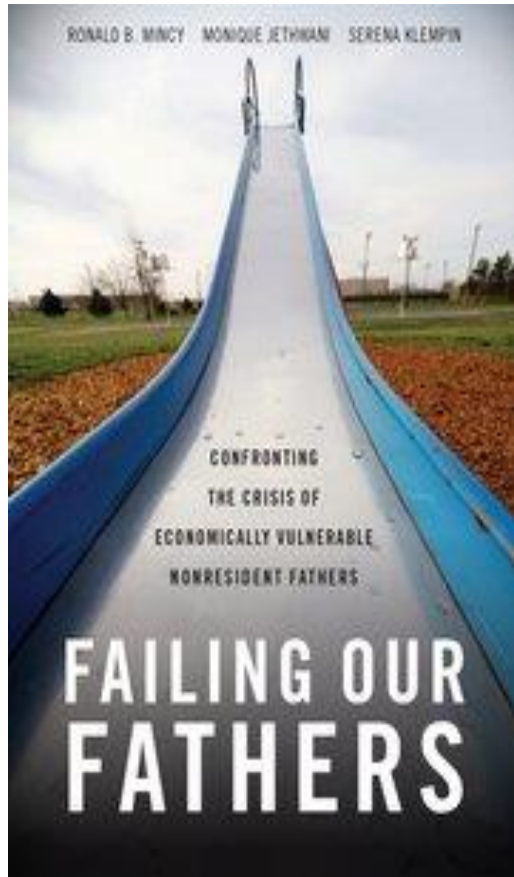


Availability and Rate of Federal Financial Participation

- Federal financial participation in the costs of job services activities
 - When fathers claim that unemployment or underemployed prevents them from paying their child support orders in full, courts often require them to participate in job services before imposing harsher sanctions for child-support noncompliance.
 - The federal government reimburses states for substantial portions of the cost of undertaking child support enforcement activities.
 - There is some uncertainty about whether the activities that can be subsidized using federal funds.
 - The proposed rule amendment (section (a) (1) 304.20 would make clear that federal financial participation is available for job services, including: job search, job readiness, job development and placement, skills assessment to facilitate placement, job retention, certificate programs and other skills training directly related to employment, which may also include GED and programs to complete high school as long as they are included in the same job services plan, and work supports (uniforms, transportation, tools)
 - Eligible noncustodial parent must have a IV-D child support order, currently unemployed or not making regular child-support payments, and not receiving TANF or TANF related benefits, SNAP, or other publically subsidize job services.
 - Provides an important incentive for courts to use such employment services to encourage compliance, and more accurately identify voluntary noncompliance, before imposing harsher sanctions.



**For a laymen's description
of child support reforms
see :**



- [At:](#)
- <https://global.oup.com/academic/product/failing-our-fathers-9780199371143?cc=us&lang=en&>
- Or http://www.amazon.com/s/ref=a9_sc_1?rh=i%3Aaps%2Ck%3Afailin+g+our+fathers&keywords=failing+our+fathers&ie=UTF8&qid=1420611184



***Type your questions in the chat box.
We will do our best to address all questions should time permit.***

Upcoming Webinars



Tuesday, January 13, 2015



2:00PM-3:30PM Eastern Time



<https://cfufpli.adobeconnect.com/childsupportsession>

ADOBE® CONNECT™

TimeZone (US/Pacific-New) ▼

Effectively Working with Child Support Agencies

Tuesday, January 13, 2015 11:00:00 AM PST - 12:30:00 PM PST

This webinar will serve as a focus group and information session designed to address impressions of the child support enforcement program and its relationship towards fatherhood programs. The objectives of the focus group/webinar are as follows:

- 1) To discuss the paradigm shift the Office of Child Support Enforcement is attempting as it relates to fathers; and
- 2) To solicit your feedback for the Department of Health and Human Services (HHS) on your organization's experience in engaging child support enforcement agencies, ways that child support can improve their relationships with fatherhood organizations, and ways in which child support enforcement agencies can improve on the effectiveness of the program.

The Preventing Sex Trafficking and Strengthening Families Act (Act) requires that the Department of Health and Human Services (HHS) submit a Report to Congress (Report) by June 30, 2015 in consultation with stakeholders including state, tribal, and county child support directors, judges who preside over family courts and organizations that represent them, custodial and noncustodial parents and organizations that represent parents, and fiduciaries such as financial institutions and employers. A key issue in this report will be the programmatic impact of child support. Your feedback in this webinar will be collected and may be used as part of the report.

Speakers

Gerald Ford and Rose Bynum

Gerald Ford, MS MBA, currently serves as the Business Development & Training Manager for the Center for Urban Families' Practitioners Leadership Institute.

Rose M. Bynum currently serves Region III Program Specialist for the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (OCSE).

[Know more](#)

Register at: https://events-na11.adobeconnect.com/content/connect/c1/1101202574/en/events/event/share/d/1210642358/event_landing.html?sco-id=1265281857&_charset=utf-8

Thank You

Please fill out the short pop-up survey that will appear on your screen once the webinar ends. Your feedback is appreciated!

