



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 17, 2020

Title

Child Support: Midyear Funding
Reallocation Process for the Child Support
Commissioner and Family Law Facilitator
Programs

Agenda Item Type

Action Required

Effective Date

January 17, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

December 20, 2019

Recommended by

Family and Juvenile Law Advisory
Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

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Executive Summary

The Family and Juvenile Law Advisory Committee reports to the Judicial Council the results of the AB 1058 administrative midyear reallocation for fiscal years 2015–16, 2016–17, and 2017–18 and recommends that the Judicial Council combine the two AB 1058 midyear funding reallocation processes into one administrative process, to maximize program efficiencies.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2020, combine the two AB 1058 midyear funding reallocation processes into one administrative process delegating authority, on an on-going annual basis, to the Administrative Director to ensure program efficiencies and maximize the use of program funding by moving funds from courts who voluntarily return funds to courts who will exhaust their annually allocated funds before the end of the fiscal year.

Relevant Previous Council Action

The Judicial Council is required annually to allocate non-Trial Court Trust Fund funds to the Child Support Commissioner (CSC) and Family Law Facilitator (FLF) programs and has done so since 1997. Funds for this program are provided through a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the CSCs and FLFs. Two-thirds of the funds are provided from the U.S. Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement, through the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and one-third of the funds come from the state General Fund (non-Trial Court Trust Fund court funding). Any funds unspent during the fiscal year (FY) revert to the state General Fund and cannot be used in subsequent years. In addition to allocating funds for each fiscal year to maximize use of program resources—under an established procedure described in the standard agreement with each superior court—the Judicial Council at midyear redistributes both base funding and federal drawdown funds to courts that indicate a need for additional funds from any unallocated funds and any available funds from courts that are projected not to spend their full grants. As recommended by the AB 1058 Funding Allocation Joint Subcommittee, the council, on February 26, 2016, authorized a second reallocation of AB 1058 funds in April of each year in which the Administrative Director would administratively reallocate AB 1058 funds based on a financial analysis of courts' spending patterns for that fiscal year as well as input from the courts through questionnaires regarding projected expenditures and/or savings.

Analysis/Rationale

Background

The AB 1058 Child Support program manages the federal title IV-D grant program, which provides funding, training, and technical assistance to each court's CSC and FLF programs. These programs serve to expedite the processing of governmental child support cases—cases in which the local child support agency has intervened—and to provide information and assistance to self-represented parties to these cases. Funding for the courts' programs are provided through a contract with the DCSS, which receives the funding directly from the federal government. The funding is received as matching funds, in that the state receives two dollars for every one dollar it expends on the program. Courts can receive base funds, for which the Judicial Council provides the one-third federal match, as well as federal drawdown funds, for which the individual courts must provide the one-third federal match from their trial court funding.

Funding is provided separately to the CSC program and to the FLF program, prohibiting the movement of funds from one program to the other. All unspent funds at the end of the fiscal year are returned to the federal government. Each year, some courts are unable to spend all their AB 1058 funds, for instance as a result of an unexpected staffing vacancy. To maximize the use of funds, the Family and Juvenile Law Advisory Committee makes recommendations to the council at midyear on the reallocation of funds from courts that do not anticipate using all their funds to courts requesting additional funds.

Noting that, despite the midyear reallocation of funds, not all program funds are expended each year, the AB 1058 Funding Allocation Joint Subcommittee recommended that a second reallocation process be established to further maximize AB 1058 funds. Because the joint subcommittee concluded that adding a second process that required the approvals of an advisory committee and eventually the council would not allow enough time to move the funds for last-minute expenditures, the joint subcommittee recommended that the reallocation be handled administratively. This second administrative reallocation process, approved at the February 2016 council meeting, directed the Administrative Director to reallocate funds under the following procedure:

- The Administrative Director monitors spending patterns of each of the courts during the fiscal year. In April, Judicial Council staff sends each court a survey for courts to identify any expected savings or expenditures for any remaining funding. Included in this survey, each court is provided with a financial analysis that shows spending projections for the remainder of the fiscal year based on invoices received to date. Courts are required to certify their budgets to show that they will spend all the remaining funds allocated to them and have sufficient trial court budget funds to provide the match necessary to receive federal drawdown funds.
- The Administrative Director adjusts the midyear reallocations based on the information provided by the courts in order to redistribute funds to those courts that have already provided valid unreimbursed claims and then to courts that are projected to have unreimbursed expenditures during the remainder of the current fiscal year (May and June). Courts are given notice of the change in the Judicial Council's reallocation of funds based on the additional funds available as a result of the courts' spending projections for the remainder of the fiscal year.
- Once the Administrative Director has calculated the redistribution based on the information provided by the courts, revised contracts are given to the impacted courts and a report is given to the Judicial Council regarding the revision to the allocation. After each fiscal year has closed, staff provide the Judicial Council and all trial courts with an annual report that displays the final adjusted allocations, each court's actual expenditures, and any unspent funds—both base funds and federal drawdown funds—by court.

Results of the AB 1058 administrative midyear reallocation process

An analysis of the administrative midyear reallocation process since its inception in FY 2015–16 suggests that its benefits to the AB 1058 program are modest at best. Although a few individual courts have benefited from the receipt of additional funds, statewide the administrative reallocation process has led to only a small increase in the expenditure of AB 1058 funds—less than 1 percent of the total program budget in additional spending on average per fiscal year—and required a substantial increase in the workload of court staff.

During FY 2015–16, for the CSC program, 18 courts returned \$331,929 in base funds¹ and \$670,130 in federal drawdown funds. Of these funds, the \$670,130 in federal drawdown funds were redistributed to 13 courts. At the conclusion of the fiscal year, \$114,631 remained unspent from the redistributed funds. As a percentage of the total CSC program budget, 1.4 percent of the budget was successfully redistributed and spent. For the FLF program, 11 courts returned \$5,856 in base funds and \$212,595 in federal drawdown funds. All \$212,595 in federal drawdown funds were redistributed to 11 courts. At the conclusion of the fiscal year, \$203 remained unspent from the redistributed funds. As a percentage of the total FLF program budget, 1.5 percent of the budget was successfully redistributed and spent.

During FY 2016–17, for the CSC program, 14 courts returned \$76,164 in base funds and \$705,949 in federal drawdown funds. Of these funds, \$76,164 in base funds and \$492,416 in federal drawdown funds were redistributed to 15 courts. At the conclusion of the fiscal year, all the redistributed funds remained unspent, meaning 0 percent of total CSC program budget was successfully redistributed and spent. For the Family Law Facilitator program, 5 courts returned \$51,605 in federal drawdown funds, all of which was redistributed to 5 courts. At the conclusion of the fiscal year, all redistributed funds were spent. As a percentage of the total FLF program budget, 0.4 percent of the budget was successfully redistributed and spent.

During FY 2017–18, 19 courts returned \$266,614 in base funds and \$1,800,169 in federal drawdown funds. Of these funds, all \$266,614 in base funds and \$505,846 in federal drawdown funds were redistributed to 21 courts. At the conclusion of the fiscal year, all the redistributed funds remained unspent, meaning 0 percent of the total CSC program budget was successfully redistributed and spent. For the Family Law Facilitator program, 10 courts returned \$163,170 in base funds and \$273,532 in federal drawdown funds, all of which were redistributed to 26 courts. At the conclusion of the fiscal year, \$291,173 remained unspent from the redistributed funds. As a percentage of the total FLF program budget, 1.1 percent of the budget was successfully redistributed and spent.

The greatest percentage of program expenditures to be successfully redistributed and spent in any one fiscal year was 1.5 percent for the FLF program in FY 2015–16. For two of the three years in which the administrative reallocation process occurred, no funds were successfully redistributed for the CSC program. Based on this analysis, the administrative reallocation process appears to have yielded minimal benefits for the AB 1058 program, prompting the committee to recommend changes to the process.

Rationale for Recommendation

A combined reallocation process will significantly reduce workload.

The reallocation of AB 1058 funds is a labor-intensive process. For each reallocation, court accounting staff must conduct a financial analysis of program expenditures and coordinate with court executive officers and, particularly in larger courts, with AB 1058 program managers to

¹ Base funds returned in FY 2015-16 by courts were not available for redistribution to courts, to ensure that allocations were not made in excess of the amount available for allocation.

determine whether to return or request funds. This process often involves working with Judicial Council staff to verify the accuracy of the information submitted, including determining whether prior and/or anticipated expenses are reimbursable under federal regulations, to ensure that spending projections for the fiscal year are reliable.

For Judicial Council staff, the workload is labor intensive as well. Judicial Council staff must survey court staff regarding their projected expenditures or savings, conduct their own financial analysis of each court's projected expenditures based on invoices received to date, and coordinate with courts to confirm the return or acceptance of funds.

Two reallocation processes double this workload for both the courts and Judicial Council staff. If the benefit to the program of having a second administrative reallocation were greater, then the additional workload might be justified. However, as noted above, although the second administrative process has led to an increase in the movement of funds to courts projected to exhaust their budgets, the amount of additional funds resulting from the administrative reallocation process spent as a percentage of total program funds has never exceeded 1.5 percent in any one year, which is not significant enough to warrant the additional workload. Further, any added benefit from the second process appears to result not from having an additional reallocation of funds, but by having an opportunity for reallocation later in the fiscal year when courts have more complete information regarding that fiscal year's expenditures.

Having two reallocation processes leads to confusion in the reimbursement process.

Courts spend money for their AB 1058 programs on a reimbursement basis. Each month, court accounting staff submit invoices to Judicial Council accounting staff, who review the invoices, confirm they comply with state and federal regulations, and ensure that sufficient funds remain in that court's account for reimbursement.

In an effort not to increase court workload, rather than amending court contracts after the first reallocation and then amending the contracts again after the second reallocation, the court contracts are amended after the second reallocation, which incorporates the movement of funds from both processes. While reducing workload, this procedure has the unintended consequence of creating confusion among court and Judicial Council staff regarding court allocation amounts and authorized spending limits. Until contract amendments are signed, the court contract and the authorized spending amounts differ. Courts that have been allocated additional funds cannot be reimbursed for these additional amounts until their contract amendments have been signed. This requirement results in rejection of submitted invoices and increased work for the courts in resubmitting the invoices for reimbursement once the contract amendments have been fully executed. In addition, courts that have returned funds cannot be reimbursed consistent with the contract amount because these funds have been reallocated to other courts. Because Judicial Council accounting staff must track both what was approved to be reallocated and the contract amounts, court figures may differ from those of the Judicial Council accounting staff, depending on which ledger they are reviewing at that time. This can lead to confusion and frustration, which would be alleviated by having one midyear reallocation process.

A revised reallocation process timeline will better maximize the use of AB 1058 funds.

The current timeline for the reallocation process as well presents difficulties in maximizing the use of AB 1058 funds. When the second administrative reallocation was approved by the council in February 2016, the council held its first meeting of the calendar year in February. This schedule allowed courts time to receive sufficient notice of additional funding so that they could make operational changes to use the funding and be in a better position to assess the possible need for additional funding when the courts were surveyed again as part of the second reallocation process, in April.

However, starting in 2017 the council adjusted its meeting schedule so that the first two meetings of the calendar year occur in January and March. Considering reallocations at the January meeting would be unworkable, because the timeline to get an item on the January agenda would require courts to be surveyed regarding their spending projections in October. This timing would fail to give courts enough months of spending data to make accurate projections for the rest of the fiscal year. Instead, the Family and Juvenile Law Advisory Committee must make its recommendation regarding the first reallocation in March. To comply with the timeline to get an item on the March agenda, staff must survey courts no later than early January. Even though this is six months into the fiscal year, invoices for prior months are still being processed by Judicial Council accounting staff, meaning an evaluation of spending patterns may be based on only three to four months of program expenditures. A reallocation process later in the fiscal year would allow courts and Judicial Council staff to conduct a more useful financial analysis.

On the other hand, the process cannot occur too late in the fiscal year either. Contract amendments must be submitted to Judicial Council accounting staff by mid-April. If contract amendments were submitted at the deadline, then courts would receive additional funds through the reallocation process in May or June, making it difficult to spend those funds before the end of the fiscal year. Additionally, to submit contract amendments by mid-April, Judicial Council staff must survey courts regarding projected expenditures for the remainder of the fiscal year immediately after the council's approval of the first reallocation, when courts are just learning of the change to their initial allocation. This constrained timeline adds to staff workload and, as noted above, is not justifiable based on actual benefit of the second reallocation.

The recommendation to combine the reallocation processes into one administrative process that occurs later in the fiscal year once sufficient invoices have been received would allow a more accurate financial analysis while still occurring early enough to avoid the constrained timeline with the contract amendment process and early enough to provide sufficient notice to the courts of their amended allocations to allow them to maximize the use of the AB 1058 funds.

Policy implications

Because these recommendations will maximize the use of AB 1058 funds, which in turn will improve court operations and litigants' access to the AB 1058 child support courts, they support Goal I, Access, Fairness, and Diversity, of the council's *Strategic Plan for California's Judicial Branch*.

Comments

The recommendation to revise the AB 1058 midyear reallocation process was considered at the Family and Juvenile Law Advisory Committee's November 25, 2019, meeting. The meeting was open to the public, but no comments were received.

Alternatives considered

The committee considered the following options:

1. *Make no changes to the reallocation process:* The committee determined that maintaining the current process unduly burdened the courts and Judicial Council staff with minimal additional benefits to the program. The committee also considered that the timeline of the current process makes it difficult to have contract amendments executed in time for courts to expend the funds before the end of the fiscal year. Given these factors, the committee did not recommend this option.
2. *Maintain the first midyear reallocation process, but remove the second administrative process:* The committee discussed the benefits of this option, namely that requiring the proposed reallocations to be subjected to council approval promotes transparency. At the same time, removing the second administrative process reduces the additional workload and recognizes the limited benefit of the additional process. However, the committee ultimately determined that the timeline to get a proposal on the council's agenda requires the process to begin too early for courts to be able to fully assess their spending patterns and inhibits the council's ability to maximize the use of the AB 1058 funds. Additionally, the committee considered the fact that the administrative reallocation primarily is based on information provided by the courts, giving the courts valuable input into the reallocation process. Accordingly, the committee declined to recommend this option.
3. *Option 2, with an adjusted timeline for the reallocation process:* The committee considered maintaining only the first midyear reallocation process with a timeline pushed back a month or two to give courts more time to assess their spending patterns. However, the committee concluded that given the council's meeting schedule and the timeline to get items on the agenda, if the timeline of the reallocation process were to be pushed back, the council would have to consider the recommendation at its May meeting, too late in the year to execute contract amendments and to allow the courts time to expend the funds. As such, this option was rejected.

Fiscal and Operational Impacts

The committee anticipates that this proposal will not lead to any additional costs to the branch or requirements for implementation; rather, its approval is anticipated to lead to cost savings for both the Judicial Council and the courts. As noted above, having two reallocation processes nearly doubles the labor costs for Judicial Council staff and for court staff. The reduced workload should have a positive impact on the operations of the Judicial Council and the courts, freeing up staff to attend to other important priorities.

Additionally, moving the reallocation process to later in the fiscal year after sufficient invoices have been received would give courts more time to make an accurate assessment of the projected spending and/or cost savings for the rest of the fiscal year, while still giving courts adequate time to spend any additional funds received, thereby maximizing the use of Judicial Council and court funds.

Attachments and Links

None