

DO DEVIATIONS FROM CHILD SUPPORT GUIDELINES IMPROVE PAYMENT COMPLIANCE?

Natalie Demyan & Letitia Logan Passarella

The public child support program is one of the nation's largest efforts to provide income support for children. It bolsters household income for families, particularly those at risk of poverty, by preventing one million people from falling below the poverty level (Office of Child Support Enforcement, 2016a). Child support payments not only provide a monetary benefit, but they also foster nonresident parents' visitation and emotional involvement in their children's lives (Huang, 2006).

However, these outcomes are dependent on regular, consistent payments by those parents, also called obligors, which requires a balance between the needs of families and the ability of obligors to pay. Common barriers to obligors' compliance with child support include low income, young age, a history of incarceration, and substance abuse issues (Plotnick & Moore, 2015; Miller & Mincy, 2012; Child and Family Research Partnership, 2015). Also, obligors may be discouraged from paying support when they know the money is recouped by the state instead of going to their children who are receiving public assistance (Roff, 2008; Cancian, Meyer, & Caspar, 2008). Alternatively, fairness during the order establishment process can be a powerful motivator for compliance. Hence, it is important for obligors to perceive that they are treated with respect, neutrality, and understanding (Gold & Bradley, 2013).

This idea of fairness is inherent in the child support program through its pursuit of consistent and equitable obligations. Federal legislation requires states to develop and employ a set of numeric guidelines based on parental income to

determine child support amounts (Child Support Enforcement Act of 1984; Family Support Act of 1988). Although practices such as imputed income may limit the equity of guidelines, the law does account for circumstances in which the application of guidelines would be "unjust or inappropriate". In these instances, courts may deviate from the guidelines and establish a different support amount that serves the child's best interest (Md. Family Law Code §12-202(a)(2)(ii)).

Ideally, deviations are applied because they balance the needs of families and the ability of obligors to pay, resulting in regular payments. Prior research, nationally and in Maryland, has not assessed this relationship. This brief, then, is the first to address whether deviations from guidelines improve payment compliance.

BRIEF HIGHLIGHTS

Obligors with deviations had slightly higher payment compliance outcomes than those who did not have deviations.

Obligors with deviation reasons that addressed ability to pay and procedural justice had slightly higher payment compliance outcomes than those with deviations for other reasons.

As obligor income increased, the percentage of orders with deviations and the percentage of obligors with a child support payment also increased.

Deviations had a positive impact on payment compliance for obligors with monthly incomes below \$2,000, but no measurable impact for obligors with monthly incomes above \$2,000.

Using the sample of orders from Maryland's 2011 to 2014 guidelines review,¹ this brief analyzes data regarding payments made during the first year after order establishment or modification. We answer the following research questions:

1. Did orders that deviated from the guidelines experience higher payment compliance than orders that did not deviate?
2. Did the reasons for deviations have an effect on payment compliance?

We also explore obligor income as it relates to both deviations and payment compliance. Families with higher incomes were more likely to receive a deviation from the guidelines, and obligors with higher incomes also had a higher level of payment compliance (Hall, Demyan, & Passarella, 2016; Saunders, Passarella, & Born, 2014). Therefore, we also investigate whether obligors who received a deviation had different payment compliance outcomes compared to obligors who did not receive a deviation, even if both groups of obligors had similar incomes.

The main goal of the child support program is to establish orders and collect support to maximize benefits to children and families, but it relies on the participation of obligors who may not possess the ability to pay their obligations. Deviations may address inconsistencies with ability to pay, but more information is needed to know about their actual impact on payment compliance. By doing so, Maryland policymakers are better informed regarding the circumstances in which deviations work best and ensure the most support for families.

Methods

This brief utilized a stratified, random sample of 5,283² orders for current child support from Maryland's 2011 to 2014 child support guidelines review. Some orders were excluded from this analysis, resulting in a final sample size of 4,694 orders. Orders that cannot deviate from the guidelines were excluded; this includes orders in which the combined monthly parental income was below \$1,250 or above \$15,000 (n=323). We also excluded cases in which the support order amounts (SOA) listed on the order did not match what was charged to the obligor during the following year (n=266). We did this to ensure that we knew whether or not a deviation was used to determine the SOA. Analyses include the months in which the specific SOA was charged during the following year. The majority (87.6%) were charged the SOA listed on the order for 10 to 12 months.

Information on parental income and SOAs was extracted from court order documents sampled from jurisdictions. Information on this process can be reviewed in the methods section of the 2011 to 2014 guidelines report (Hall et al., 2016). Data on payments made during the year after order establishment or modification were extracted from the Child Support Enforcement System (CSES). Analyses using bivariate statistics examined payments made toward current support in the year after order establishment or modification. Chi-square analysis tested for differences between groups. Analysis of variance (ANOVA) tested for differences in mean values. Weights were used to account for under- and over-sampling among jurisdictions to obtain a stratified, random sample.

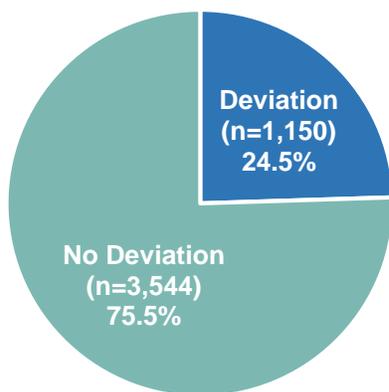
¹ Maryland's quadrennial review of the child support guidelines can be read [here](#).

² The original sample was 5,287, but four orders were duplicates and removed from this analysis.

Findings

The purpose of child support guidelines is to create fair and consistent support obligations for parents who do not reside with their children. A potential outcome of deviations is regular payments, and this report aims to examine whether deviations result in better payment compliance among obligors. We define a deviation from the guidelines as an amount that was above or below the guidelines-recommended amount by \$10 or more (Hall et al., 2016). Figure 1 shows that one quarter (24.5%) of child support orders deviated from the guidelines, while three quarters (75.5%) of orders followed the guidelines. Nearly nine in 10 deviations were downward deviations, meaning that the support order amount (SOA) was lower than the guidelines-recommended amount. These two findings have been consistent in each of the quadrennial reviews since the late 1990s.

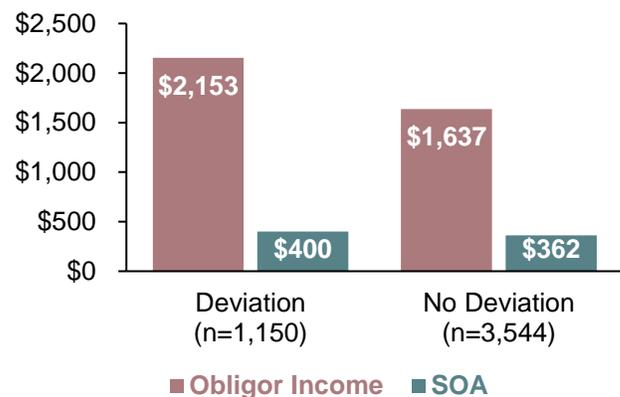
Figure 1. Deviation Type



The most recent guidelines review noted that parents with combined monthly incomes above \$4,000 received deviations more often than those with lower incomes (Hall et al., 2016). While Figure 2 examines obligor income rather than the combined income of both parents, it still shows deviations were more common among

higher incomes. The median monthly income for obligors with deviations (\$2,153) was over \$500 higher than that of obligors without deviations (\$1,637). Even with a deviation, the median SOA for obligors (\$400) was higher than it was for obligors without a deviation (\$362). This is expected since SOAs are based on parental income and generally increase with income.

Figure 2. Obligor Income and SOA
by Deviation Type



Note: Obligor income and SOA are monthly median amounts.

In any discussion of income, however, it is important to note that income imputation may have a consequential, negative impact on findings. Income imputation is the practice of attributing an income to parents that they could potentially earn when the court finds parents to be voluntarily impoverished. During the 2011-2014 quadrennial review period, income was most often imputed at the full-time minimum wage rate of \$1,257 per month.³ In this sample, one quarter (24.6%) of obligors' monthly incomes were imputed to this amount, which may have created unrealistic obligations that were less likely to be met by obligors, as documented by other studies (Saunders et al., 2014; Eldred & Takayesu, 2011).

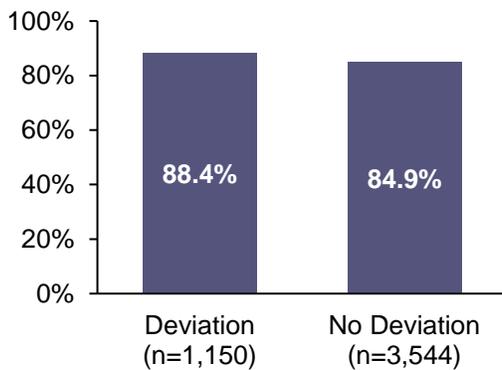
³ This figure is based on Maryland's minimum wage rate during the 2011-2014 quadrennial review period of \$7.25 per hour.

Payment Compliance by Deviation Type

The first indicator of payment compliance is the percentage of obligors who made at least one payment toward current child support in the year after order establishment or modification. More than four in five obligors made a payment in that year. However, a slightly higher percentage of obligors with a deviation (88.4%) made a payment than obligors with no deviation (84.9%), as shown in Figure 3. This difference of less than four percentage points is statistically significant. Notably, the median monthly income among all obligors without a payment, regardless of deviation status, was \$1,257, suggesting that the practice of income imputation may have had more impact on payment compliance than the use of deviations for these obligors.

Payment Compliance Indicators	
1. Percentage with a payment	The percentage of all obligors who made a payment in the following year.
2. Amount paid	The median amount of support obligors paid in the following year among those with a payment.
3. Percent of support paid	The average percentage obligors paid of support owed in the following year among those with a payment.

Figure 3. Percentage with a Payment by Deviation Type**



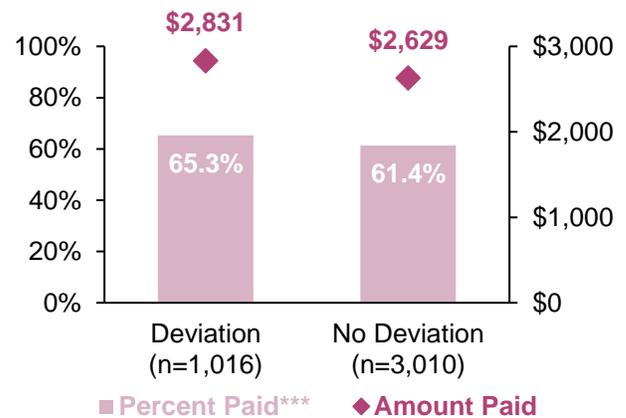
Note: *p<.05, **p<.01, ***p<.001.

The median amount paid by obligors provides concrete information about the contributions obligors made toward the support they owed, making it a particularly important measure when examining how much families may have received. Figure 4 shows that those with a

deviation (\$2,831) paid slightly more than those without a deviation (\$2,629) during the year after order establishment or modification. Given that the SOA was higher among obligors with a deviation, it is not surprising that the amount paid was also higher. Nonetheless, it is difficult to directly compare these two amounts. For instance, these amounts could represent the annual amount owed by two obligors who were fully compliant with their obligations, but due to different SOAs, it may appear that one obligor had lower compliance.

Hence, a comparable measure is the percentage that obligors paid of their total current support due during the following year. Those with a deviation paid 65% of support owed, and obligors without a deviation paid 61%. While statistically significant, the percentage paid by obligors with a deviation was only four percentage points higher than that of obligors without a deviation.

Figure 4. Percent and Amount Paid by Deviation Type



Note: Cases with at least one current support payment in the year after order establishment are included in this analysis; the average percentage paid and median amount paid are displayed. *p<.05, **p<.01, ***p<.001.

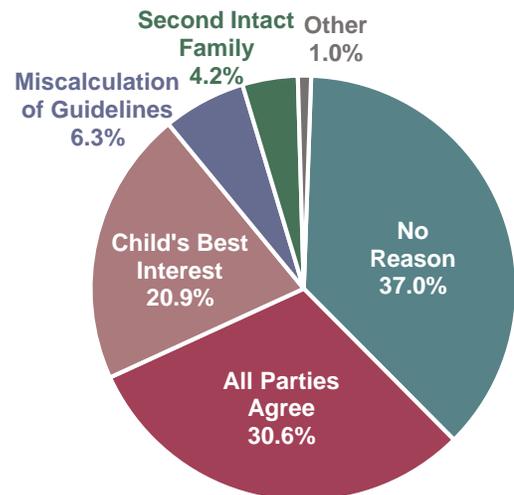
Payment Compliance by Deviation Reason

When courts deviate from the guidelines, they must document at least one reason why a deviation is in the child's best interest (Md. Family Law Code §12-202(a)(2)(ii)). Therefore, another important question is whether the reason identified for the deviation had an impact on payment compliance. Figure 5 shows the six most common categories of reasons cited for a deviation and the frequency each reason was used.⁴ Nearly two in five (37.0%) deviations did not identify a reason, and this lack of information may obscure this investigation. The second category of deviation reasons, used for 31% of deviations, was that all parties agreed to an amount that differed from the guidelines-recommended amount. The third category, child's best interest, was cited in one in five (20.9%) deviations and included deviations given for both in-kind contributions to the custodial family and to encourage regular, consistent payments. About 6% of deviations were due to miscalculations of the guidelines, including rounding combined gross incomes down rather than up when determining basic support amounts, using outdated worksheets, or using outdated child support guidelines. One in 25 (4.2%) deviations were made because the obligor had custody of other children to whom he or she had a duty to support, and only 1% of deviation reasons were categorized as *other*.

It should be noted that three categories of deviation reasons—child's best interest, all parties agree, and second intact family—are similar in that they may address the obligor's ability to pay, which research shows is a pivotal concern for low-income parents (Cancian & Meyer, 2005; Meyer, Ha, & Hu, 2008). These

types of deviation reasons are also relevant to the concept of procedural justice. Procedural justice refers to a set of values and practices meant to foster low-income individuals' perception that the justice system is fair. Deviations that involve both parents during the establishment process, acknowledge in-kind support, and recognize additional children in the obligor's custody help obligors perceive the child support system as fair and encourage them to make consistent payments (Lin, 2000; Waller & Plotnick, 2001), which is always in the best interest of the child.

Figure 5. Deviation Reasons



Reasons addressing ability to pay or procedural justice appear to have better payment compliance outcomes. Figure 6 shows the percentage of obligors with a payment by the deviation reason. Among the three categories focused on ability to pay, the percentage of obligors with a payment is virtually the same, at 91%. Of obligors who received a deviation due to a miscalculation, 85% made a payment. These are distinct from other deviation reasons in that the deviation, being unintentional, was

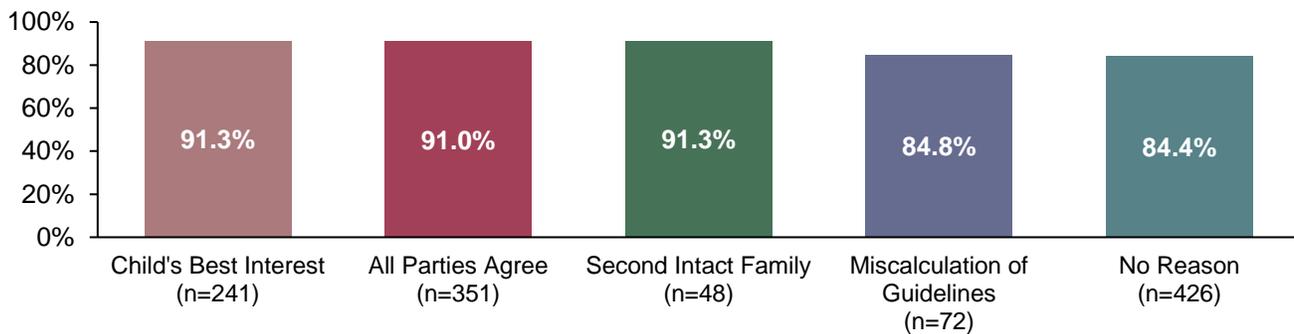
⁴ Percentages in Figure 5 may differ from the guidelines review (Hall et al., 2016) because some reasons were combined into categories.

not made with the explicit purpose to encourage regular payment or address fairness. It is thus not surprising that the percentage of obligors with a payment in this category was lower than those of categories that did address those issues. Obligor with no reason for a deviation fared slightly worse, with about 84% making a payment. It is difficult to make any conclusions

about this deviation reason, since information about why these orders deviated is incomplete.

Regardless of the reason for the deviation, the majority of these obligors made at least one child support payment. While there is variation in the percentage with a payment by deviation reason, the differences are small, and they do not exceed seven percentage points.

Figure 6. Percentage with a Payment by Deviation Reason*



Note: The *Other* category was excluded from the analysis due to its small count (n=12). *p<.05, **p<.01, ***p<.001.

Obligor with deviation reasons relevant to addressing their ability to pay and advancing procedural justice paid higher amounts toward their current support obligations. Specifically, obligor with deviations in the child's best interest paid the highest median amount of support (\$3,377) and obligor who agreed to deviations paid a similar but smaller amount (\$3,315), while those with second intact families paid about \$700 less (\$2,596), as shown in Figure 7. Obligor without documented reasons paid just under \$2,300, and obligor with deviations caused by miscalculations paid the lowest amount (\$1,733).

obligor with deviations for reasons in the child's best interest, which had the highest amount paid in the year after establishment, had the highest median income of \$2,744 per month. This serves as a reminder that SOAs, and subsequent payments, are usually based on income and cannot be easily compared among groups with varying incomes.

The amounts paid likely reflect the income used to determine the SOA. For example, obligor with miscalculations had the lowest median income at \$1,487 per month, which was almost \$700 less than the median income for all categories (\$2,173 per month). Alternately,

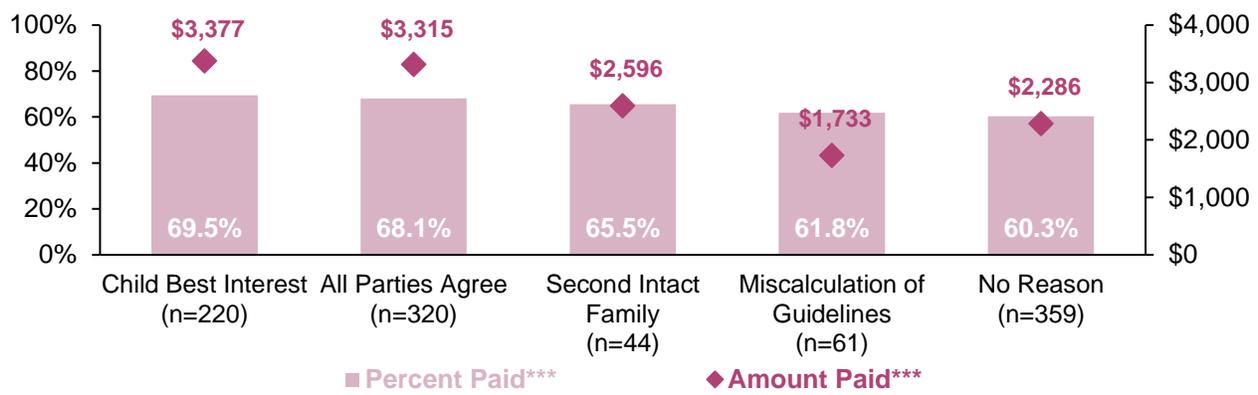
Examining the average percentage paid of total support due provides a more concrete comparison for measuring compliance by deviation reason. Figure 7 shows that among obligor who made any payments in the year after order establishment, they paid between 60% and 70% of their obligations, on average. Again, the highest percentage paid was among deviations for reasons in the child's best interest (69.5%), all parties agree (68.1%), and a second intact family (65.5%). Obligor with miscalculations (61.8%) paid a slightly higher

percentage than obligors with no documented reason (60.3%).

Reasons related to advancing procedural justice and considering obligors' ability to pay appeared to result in higher payment compliance. However, more information is needed about orders with no deviation reason, particularly

because they comprise nearly two in five orders. It is important to remember that these deviations were made for at least one reason, but that information was not included on the support order documents. This illustrates the importance of listing a reason for any deviation, since poor outcomes seen in this category may suggest that the deviations were not warranted.

Figure 7. Percent and Amount of Support Paid by Deviation Reason



Note: Cases with at least one current support payment in the year after order establishment are included in this analysis; the average percentage paid and median amount paid are displayed. *p<.05, **p<.01, ***p<.001.

The Role of Income in Deviations and Payment Compliance

The purpose of this brief is to examine if deviating from the guidelines led to better payment compliance outcomes for families with orders established between 2011 and 2014. While deviations improved payment compliance outcomes, the differences were small. However, when examining characteristics of cases with a deviation, we found that obligors with higher incomes were more likely to have a deviation from the guidelines (Figure 2). At the same time, prior research has shown that obligors with higher incomes often experience better payment compliance than low-income obligors (Eldred & Takayesu, 2013; Sorensen & Zibman, 2001). Considering these two findings, it is important to further investigate the relationship between

obligor income, deviations, and payment compliance. Specifically, we want to examine whether higher payment compliance outcomes for obligors with a deviation are related to the deviation itself or to the fact that higher income obligors have a greater ability to pay their SOAs.

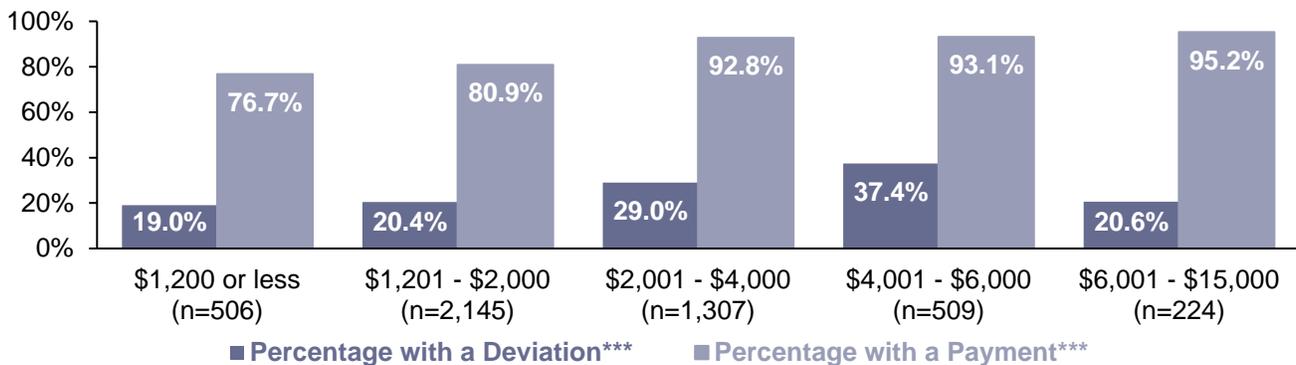
First, we explore how deviations and payments increased with income. Figure 8 separates all obligors by categories of monthly income and examines the percentage with a deviation as well as the percentage with a payment. Obligor with monthly incomes of \$1,200 or less had the lowest deviation rate, at less than one in five (19.0%). As categories of income rose, the deviation rate similarly increased, reaching a high of 37% for obligors with monthly incomes of \$4,001 to \$6,000. However, the deviation rate

fell sharply to one in five (20.6%) after income reached more than \$6,000, suggesting that courts may find deviations unnecessary past a certain level of income. The percentage of obligors with a payment also increased as income categories rose, affirming the notion that obligors' ability to pay child support increases alongside income. The sharp difference in the percentage of obligors with a payment between the lowest (76.7%) and highest (95.2%) income categories is noteworthy.

There was an income at which a shift occurred in the use of deviations. The deviation rates for

obligors with monthly incomes of \$2,000 and below were lower than the statewide average of 25%. On the other hand, the deviation rates for obligors with incomes between \$2,001 and \$6,000 exceeded the statewide average. This shift was repeated in the percentage of obligors with a payment. The percentage with a payment did not exceed 81% for obligors with incomes of \$2,000 or below, and neither did it fall below 93% for obligors with incomes above \$2,000. Obligor with lower incomes did not reach the statewide percentage with a payment (85.8%), while those with higher incomes exceeded it.

Figure 8. Percentage with a Deviation and a Payment
by Monthly Obligor Income



Note: *p<.05, **p<.01, ***p<.001.

It is clear that obligors with monthly incomes of \$2,000 and below were less likely to obtain deviations and a smaller percentage made a payment than those with incomes above \$2,000. But did deviations positively affect payment compliance for both lower and higher income obligors? Figure 9 delves deeper into this question by examining payment compliance by income and deviation status. Specifically, Figure 9 separates obligors by incomes below and above \$2,000 and within those income categories distinguishes obligors who had a deviation from those who did not have a

deviation, creating four subgroups of obligors. It then measures the percentage of obligors with a payment and the average percentage paid among these four subgroups of obligors.

For obligors in the lower income category, deviations appeared to positively affect payment compliance. In fact, 85% of obligors with a deviation made a payment compared to 79% of those without a deviation, which is a six-percentage point difference. The percentage of obligors in the higher income category, however, was not as affected by deviations. Although 92% of those with a deviation made a payment and

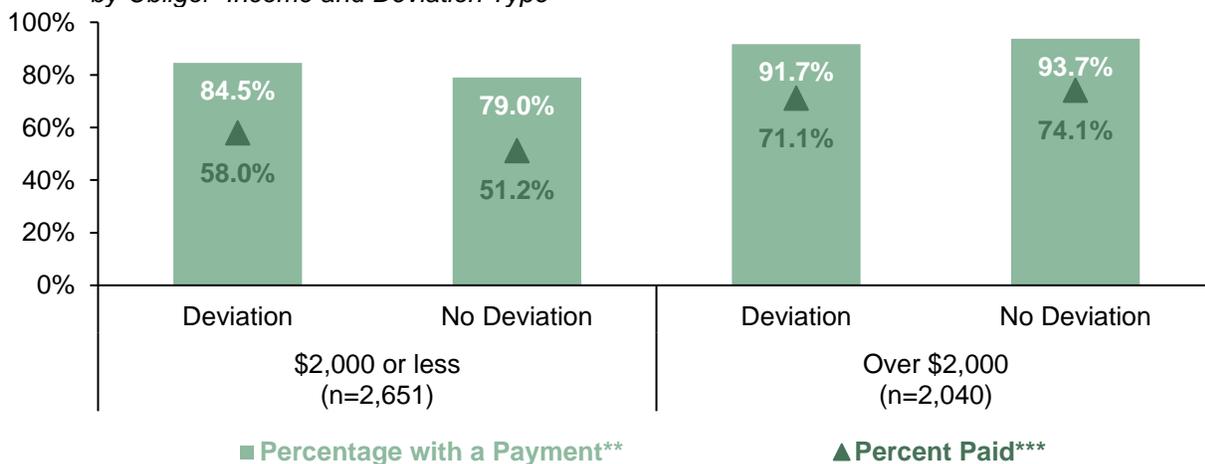
94% of those without a deviation made a payment, the difference was not statistically significant, as it was for the lower income category.

Outcomes for the average percentage paid indicate a similar pattern. In the lower income category, those with deviations paid close to three fifths (58.0%) of support owed, while those without deviations paid just over half (51.2%). Obligor in the higher income category with a deviation (71.1%), though, paid a smaller percentage of support owed than those who did

not receive a deviation (74.1%), albeit only by three percentage points.

Among obligors with higher incomes, deviations appeared to have little effect on payment compliance, which supports the notion that these obligors have a greater ability to pay support regardless of deviations. Alternately, lower-income obligors with deviations had better payment compliance than their counterparts without deviations. Most likely, this is because deviations increased their ability to pay support to a more substantial degree than deviations did for higher-income obligors.

Figure 9. Percentage Paid of Support Owed
by Obligor Income and Deviation Type



Note: Percentage with a Payment includes all cases with income information (n=4,691) and is only significant for those with income of \$2,000 or less (n=2,651); Percent Paid includes all cases with a current support payment in the year after order establishment (n=4,023). *p<.05, **p<.01, ***p<.001.

Conclusion

The findings of this brief have consequential implications for obligors, families, and policymakers in Maryland. First of all, they indicate that deviations from the guidelines do improve the percentage of obligors who make a payment and the percentage of support they paid. However, the impact was limited.

Payment compliance was higher among cases with a deviation when the deviation was in the best interest of the child, addressed the ability of the obligor to pay support, or included the collaboration of both parents. On the other hand, miscalculations, which were unintentional and not designed to serve the child's best interest or address the obligor's ability to pay, led to lower payment compliance. Analyses of deviation

reasons were constrained by the fact that two in every five orders with a deviation did not identify a reason for the deviation, and compliance was lowest among these cases.

Most importantly, obligor income had a complicated effect on outcomes. Obligor with lower incomes were more likely to make payments and to pay higher percentages of their obligations when they had deviations from the guidelines. On the other hand, deviations appeared to have little to no effect on the payment compliance of higher income obligors, even though higher income obligors were more likely to obtain a deviation. This affirms research suggesting that relatively small differences in support amounts may have a greater effect on payment compliance for lower-income obligors than they do for those with higher earnings (Huang, Mincy, & Garfinkel, 2005; Eldred & Takayesu, 2011; Saunders et al., 2014). However, income is not the sole factor considered when granting a deviation.

The motivations for compliance encompass demographic, financial, and interpersonal dimensions of obligors' lives. These issues may not be easily addressed by policy. For instance, many low-income obligors prefer to provide in-kind or informal support rather than make payments through the formal system, suggesting some obligors are supporting their children but in ways that are not measurable to the program (Kane, Nelson, & Edin, 2015; Waller & Plotnik, 2001). Also, while difficult to measure, an obligor's relationship with a co-parent can substantially influence his or her willingness to comply with formal orders (Bloomer, Sipe & Ruedt, 2002, Cozzolino & Williams, 2017).

There are policy initiatives that encourage payment compliance, however. The Office of Child Support Enforcement (2016b) awarded grants for its Procedural Justice-Informed

Alternatives to Contempt (PJAC) demonstration project, which seeks to foster trust between parents and child support agencies. Obligor are also motivated to comply when they receive supportive services like employment assistance, arrears forgiveness, or an expanded Earned Income Tax Credit (Waller & Plotnick, 2001). On the other hand, the practice of imputing obligors' incomes when they are unemployed creates distrust. Even more, research has shown that imputation reduces compliance (Huang, et al., 2005; Eldred & Takayesu, 2011).

While some aspects of compliance are beyond the reach of the child support program, our findings show that deviations may be a tool to encourage compliance among low-income obligors. These obligors are less likely to obtain a deviation, so the practice may not be reaching its full potential. Maryland's guidelines are considered appropriate for most families, so deviations are often unnecessary. However, granting deviations to certain obligors to order to improve their ability to pay can maximize payments to families.

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For additional information, please contact Letitia Logan Passarella at the School of Social Work (410.706.2479; llogan@ssw.umaryland.edu).

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525 W. Redwood Street
Baltimore, MD 21201
410-706-2479
www.familywelfare.umaryland.edu