

**Child Support Referrals for Out-of-Home Placements:
A Review of Policy and Practice**

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I. INTRODUCTION

The child support enforcement system is generally designed to ensure that children receive the financial support of noncustodial parents, and also to hold parents responsible for costs that would otherwise be borne by public agencies, and, ultimately, taxpayers. When child support increases the resources available to the household in which the child lives, those resources are expected to directly benefit the child. Increasingly, even when a child in Wisconsin lives with a parent receiving public benefits (e.g., Temporary Assistance for Needy Families cash benefits through Wisconsin Works, or W-2), child support is passed through to the family and disregarded in the calculation of benefits.¹ In that sense, child support is increasingly designed to complement, rather than substitute for or offset the costs of, public expenditures. Notwithstanding this trend, current policy calls for child support collected on behalf of children in an out-of-home foster care placement to generally be used exclusively to offset government costs. In this report we review current policy and practice, and present preliminary estimates of the benefits and costs of the current approach.

The current approach has been in place since October 1, 1984, when Federal law was modified to require each State to take steps to “...secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments” (42 U.S.C. § 471(a)(17) as amended by Public Law 98-378). This requirement is reflected in section 8.4C of the current Federal Child Welfare Policy Manual, which requires States “...to refer children receiving title IV-E foster care to title IV-D for child support enforcement” (U.S. Department of Health and Human Services, 2012a). States are given some flexibility in determining which cases are appropriate for referral, based on the best interests of the child and the circumstances of the family. *Wisconsin Statutes* § 48.645(3) incorporate the Federal requirement that child support paid on behalf of a dependent child in substitute care be assigned to the State.

¹For example, since October 2010, 75 percent of current child support paid to parents receiving W-2 cash assistance is passed through to the family and disregarded in the calculation of benefits.

Flexibility regarding referral is reflected in § 48.355(2)(b)4, *Wis. Stats.*, which gives the court some discretion in designating the amount of support, if any, to be paid.

Wisconsin statutes also provide the ability for recommendations regarding the amount of child support to be paid when a child is in substitute care to differ by parent. Specifically, § 48.33(4), *Wis. Stats.*, includes the requirement that a report to the court recommending an out-of-home placement (OHP) include a recommendation for the amount of child support to be paid by either or both parents or for a referral to the county child support agency for the establishment of child support. This ability to recommend whether child support should be pursued from either or both parents was enhanced with the implementation of a system change to the Wisconsin Statewide Automated Child Welfare System (eWiSACWIS) in February 2011. The change gave child welfare workers initiating an OHP the opportunity to designate separately whether the mother and/or the father should be referred for child support services.

The February 2011 change appeared to provide an opportunity to increase collaboration between the child welfare and child support enforcement systems in Wisconsin. The importance of establishing a collaborative relationship has been highlighted by the results of several studies completed by Institute for Research on Poverty researchers investigating the relationship between child welfare outcomes and child support. These studies have documented lower levels of child welfare involvement among families receiving more substantial child support amounts (Cancian and Seki, 2010) and have assessed the relationship between child support orders to cover the costs of OHP and time to and stability of reunification. The most recent report, completed in May 2012, found that cases in which child support orders have been enforced have a longer spell of out-of-home placement (longer time until reunification) when compared to cases that did not have a child support order enforced (Cancian et al., 2012). Given this, and building on experience gained from the “Enhancing the Child Support Knowledge of TANF-Eligible Families and TANF Caseworkers: A Collaborative Strategy for Improving Outcomes for Low-Income Children and Their Families” project (see Noyes and Selekmán, 2011, for the final project report), the Wisconsin Department of Children and Families Bureau of Child Support decided to work with the

Institute for Research on Poverty to develop a project designed to improve collaboration between the child support and child welfare systems.

However, in the initial phase of the project, which focused on gaining an understanding of county implementation of the change to eWiSACWIS, it became apparent that before a collaborative process could be established, it was essential to clarify existing policy and promote a shared understanding of it across counties and systems. Of particular concern was the lack of agreement on what constitutes an appropriate referral and the tension between needing to recover costs while also taking into account the best interests of the child, given that the assignment of child support to the State is seen as a potentially important source of revenue in a time of limited resources. Therefore, the decision was made jointly with the Department to first focus on the development of information about current Federal and State policy and practice related to referrals to child support, including the definition of “best interests” of the child, as well as information about the extent to which these referrals offset the costs of substitute care. This information would inform the determination of potential next steps.

This report provides information on current policy and practice with regard to child support referrals for child welfare cases, with a focus on information that can inform discussion of next steps. It is organized as follows. Section II provides additional detail regarding Federal requirements and guidance related to the assignment of child support to the State for children in substitute care. Section III provides information about current policy and practice within Wisconsin. Section IV discusses the policies and practices of other States, including the extent to which they provide criteria for determining the best interests of the child. This is followed in Section V with information about the extent to which costs associated with OHP are recovered through the assignment of child support payments to the State, within the context of a preliminary cost benefit analysis. The paper concludes with a discussion of potential next steps, including key issues that need to be addressed.

In completing this report, we drew on several sources of information, including interviews with child support and child welfare staff from within Wisconsin, other States, and Federal agencies; relevant policy documents from Wisconsin, other States, and Federal agencies; and financial reports and

information provided by the Department of Children and Families, including the Bureau of Milwaukee Child Welfare, regarding expenditures associated with OHPs and revenues associated with referrals to child support for these cases. We also drew extensively from administrative data included in eWiSACWIS and KIDS, the child support administrative data system, in completing our analysis of the extent to which child support is collected in relation to OHPs.

II. FEDERAL REQUIREMENTS

As previously noted, Federal law requires States to take steps to secure assignment of any rights to child support paid on behalf of a child for whom foster care maintenance payments are being made. According to Federal policy memoranda, it is the State child welfare agency's responsibility to determine which cases to refer based on a determination of the best interests of the child (U.S. Department of Health and Human Services, 2006; U.S. Department of Health and Human Services, 2012a). However, the Federal government has more recently been encouraging child welfare and child support agencies "to work together to develop criteria for appropriate referrals in the best interests of the child involved" (U.S. Department of Health and Human Services, 2012b).

Although the Federal government has not issued explicit guidance regarding the criteria to be used in determining when to make a referral, some direction is given in both the Federal Child Welfare Policy Manual and the August 2012 Informational Memoranda. The Federal Child Welfare Policy Manual emphasizes the need to evaluate the appropriateness of a referral on an individual basis focusing on such questions as whether the parent is working towards reunification with the child, consistent with the case plan, and whether the referral would impede the parent's ability to reunify with the child. The Informational Memorandum provides examples of appropriate and inappropriate referral circumstances, as summarized in Table 1.

It is important that the criteria employed in making a referral to child support be appropriate and well-understood because, once a referral is made, the State child support agency is required to open a case for child support services and attempt to locate the parents or other relatives of the child; establish

paternity; and establish and enforce an order (U.S. Department of Health and Human Services, 2012b). However, some latitude does exist in establishing and enforcing the order, given that—although each State must establish presumptive child support guidelines under Federal law (45 CFR 302.56)—deviations from the guidelines are allowed. Because the criteria for deviations must be established by the State (45 CFR 302.56 (g)), the U.S. Department of Health and Human Services has recommended, in its Child Welfare Policy Manual, that State agencies responsible for child welfare and for child support enforcement work collaboratively to review and recommend criteria for deviations that would support the best interests of a child for whom foster care maintenance payments are being made.

Table 1. Examples: Referral Circumstances^a

Appropriate Referral	Inappropriate Referral
The child is expected to remain in foster care for a sufficient period of time ^b that justifies establishing a child support case.	The child is expected to be in foster care for a short time.
Establishing a child support case will aid in permanency planning.	Establishing a child support order will make it difficult to comply with a permanency plan of reunification due to the financial hardships caused.
Child support collected will support relatives who want to care for a child.	The nonresident parent is a potential placement resource. Adoption proceedings are pending in court.

^aSummarized from U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement IM-12-02.

^bNo minimum amount of time is suggested.

Overall, although the Federal requirements reflect the fact that the decision to require the payment of support rests with the child welfare system and that the child support system bears the responsibility to enforce the decision, it is evident that the two systems are being encouraged to work together to develop a collaborative approach to the decision-making process. A more collaborative approach could inform decisions not only about what constitutes an appropriate referral but also about what constitutes an appropriate rationale for deviation from established child support guidelines, once a referral is made. This is the type of collaborative approach of interest to Wisconsin, but it will be difficult to pursue unless the two systems reach a shared understanding of not only what is in the best interests of

the child but also how to balance the best interests of the child against the need to recover costs associated with OHPs.

III. WISCONSIN POLICY AND PRACTICE

Wisconsin's policy regarding the assignment of child support to the State clearly directs the child welfare program to take into account the best interests of the child prior to making a determination. Once a referral is made, the child support system is required to treat these cases like any other case, with no alterations in practice due to the referral originating in the child welfare system. This includes use of deviation in order setting when applicable as well as taking the next appropriate action in determining enforcement activities. We found, however, that a lack of knowledge about how to assess a child's best interests in relation to a referral to child support, coupled with a strong tradition of seeking to recover the costs of substitute care, appears to result in routinized referrals of parents to the child support enforcement system. Further, collaborations between the two systems have been somewhat limited to date.

Referral and Enforcement Policies

While § 48.645(3), *Wis. Stats.*, requires that child support paid on behalf of a dependent child in substitute care be assigned to the State, other sections of Chapter 48—which is the Children's Code—contain several other provisions relevant to the decision to refer to child support the parents of a child in an OHP. Each of these sections reflects that the decision to make a referral, and recommend an amount of support to be pursued, resides with the child welfare system. In particular, as previously noted, § 48.33(4)(b), *Wis. Stats.*, requires that, prior to disposition by the court, the child welfare agency complete a report that makes a recommendation for an amount of child support to be paid by either or both of the child's parents or for referral to the county child support agency.

Further, § 48.33(4m), *Wis. Stats.*, requires that the child welfare agency, in making a recommendation regarding the amount of child support to be paid, consider the factors established in State statute under § 49.345(14)(c) for modifying child support orders as determined using Wisconsin's

Percentage of Income standard. These factors do not completely mirror the factors the court is to consider once a referral is actually made; they are listed in the section of the statutes related to liability and the collection and enforcement of such liability for substitute care. One of these factors is the best interests of the child, which includes, but is not limited to, “the impact on the child of expenditures by the family for improvement of any conditions in the home that would facilitate the reunification of the child with the child’s family, if appropriate, and the importance of a placement that is the least restrictive of the rights of the child and the parents and the most appropriate for meeting the needs of the child and the family” (§ 49.345(14)(c)10, *Wis. Stats.*). The child welfare agency is further required to provide to the child’s parents prior to the dispositional hearing a copy of its recommendations regarding child support in addition to information about how modifications to any child support order can be pursued.

Finally, under § 48.355(2)(b)(4), *Wis. Stats.*, the content of the court’s dispositional order is to include the amount of support, if any, to be paid by the child’s parent, guardian, or trustee, or a referral to the county child support agency for establishment of child support. In practice, the Children’s Court often defers the determination of an order amount; the amount is subsequently set in Family Court, based on the recommendations of the child support agency. However, the reports and recommendations developed by the child welfare agency may not be communicated to the child support agency due to confidentiality restrictions.

The decision-making process regarding the referral for child support services of parents of children placed in substitute care is currently facilitated by a series of three questions in eWiSACWIS as follows:

- 1) Is this referral in the best interests of the child?
- 2) Is the placement expected to be long-term?
- 3) Is the worker aware of a court order for child support OR is this otherwise an appropriate case to refer for child support services?

These questions must be answered as part of any placement in substitute care. A referral occurs if the answer to the first two questions is yes, *or* if the answer to the third question is yes. As previously

noted, beginning in February 2011, an additional step in the process was added: if a referral is to occur, a decision has to be made as to whether the referral applies to “mother only,” “father only,” or both. Because of this change, it is possible to differentiate between whether child support initially ordered from a nonresident parent to a resident parent is to be redirected to the State; whether a new order should be established for a pre-placement nonresident parent; and whether a new order should be established for the pre-placement resident parent.

Once the decision is made for an OHP and foster care aid is made on behalf of a dependent child, any right to the amount of child support established under a new order or any existing order already in place is assigned to the State, except as otherwise ordered by the court on the motion of a party (§ 48.645(3), *Wis. Stats.*). As required by Federal law, once a referral is made to the child support system, the case must be pursued. According to Chapter 150 of the Wisconsin Administrative Code, which enumerates Wisconsin’s Percentage of Income Standard, deviations are allowed for the specified reasons under § 767.511 (1m), *Wis. Stats.* One of these reasons is the best interests of the child, although no specific reference is made to children in substitute care. This is in contrast to the potential deviations listed under § 49.345(14)(c)10 to be considered by the court during the disposition process, which include a detailed description of “best interests” as it relates to substitute care (discussed above). Further, although Wisconsin does enumerate several special circumstances related to the application of the Percentage of Income standard, the application of or deviation from the standard to child support orders for the parents of children in OHP cases is not specifically addressed in the guidelines.

Local Agency Practice

In order to ascertain local practices, particularly in relation to the February 2011 addition of the option to refer one or both parents for child support services, we conducted site visits to nine child support and nine county child welfare agencies. A cross-section of counties was selected based on their population, poverty levels, and the frequency of out-of-home placement cases referred to child support in relation to the percentage of referred cases with orders established. We interviewed a total of 44

individuals, including child protective supervisors and staff; human services support and fiscal staff; a juvenile court commissioner; and child support directors, supervisors, and specialists. During the visits, we discussed practices regarding the referral of parents in substitute to care to child support agencies, whether and how “the best interests of the child” were taken into account, and the extent to which child welfare and child support agencies collaborate in relation to common cases.

In relation to referral practices, child welfare staff in most counties reported that the general practice is to refer both parents for child support services in almost all cases. Although they understood that they were to take into account the best interests of the child, they also generally believed that each parent’s participation in the payment of child support was deemed not only to be in the best interests of the child but also necessary to help offset the costs of an OHP. Further, some county staff thought the “best interests of the child” referred to the decision to recommend an out-of-home placement, not the decision to make a referral to child support. County staff also said that, despite the change that was made in February 2011, they generally continue to refer both parents for child support services. The majority of the staff interviewed said they did not receive any training in relation to the change and did not understand the motivation behind it. Further, it was noted that, in many instances, entries were made into the referral screen in eWiSACWIS by someone other than the worker directly managing the case.

It should be noted that there were some instances in which local staff said a referral would not be made. These included cases in which the parents were deceased, incarcerated, or receiving SSI; if a case involved a short-term placement; and if the placement did not involve foster care maintenance payments, such as court-ordered relative placements with no request for assistance or foster care status. However, in only two of the counties we visited were staff provided with written guidance regarding referrals to child support; staff in the remaining counties were not provided any formal guidance regarding how to make general assessments of the appropriateness of a referral from child welfare to child support. Also, all staff reported a lack of understanding of the implications of making a referral, as they had only a limited understanding of what happens once a referral is made to child support.

In relation to child support establishment and enforcement, the majority of county child support agency staff reported that they generally set and enforce orders for child welfare cases referred to them as if they were any other case. This also meant that they have available to them the same options for considering the individual circumstances of a case in relation to establishing and enforcing orders. Some had, for example, recommended deviations from the guidelines due to additional cost incurred by the parent as part of the case plan, that orders be set as held-open contingent on participation in reunification tasks, and that the shared placement formula be used if parents were involved in trial visits. Further, one agency reported that it did not enforce these types of cases as vigorously as others. In this instance, agency staff reasoned that the cost of extending or causing an out-of-home placement due to vigorous enforcement was far greater than the cost recovery collections that could be obtained.

While child welfare staff reported that they did not fully understand the consequences of a referral, child support staff did not know the criteria used by child welfare staff in deciding to make a referral, although staff were aware that the best interests of the child were to be taken into account. Further, few child support staff were aware of the changes made in February 2011. According to staff with whom we spoke, they assumed that the referrals being made by the child welfare agency were appropriate and did not consider it to be appropriate for them to second-guess the decisions made. While they generally agreed that the cases needed to be pursued in order to recover the costs associated with substitute care, child support staff did note that there are likely tensions created when balancing the best interests of the child against the need to generate revenue to cover these costs.

Collaboration between the Systems

Of the counties we visited, four reported good to excellent communication and collaboration between the child support and child welfare agencies. Two of these counties—Dane and Milwaukee—are striving to bring together their efforts in relation to families interacting with both programs through the Court System. In Milwaukee, a pilot unification court effort is underway, although the number of cases participating in the pilot has been limited. The pilot is designed to allow for all matters related to a child

to be considered concurrently, rather than separately, by the Children's Court and Family Court. A similar concept is being implemented in Dane County, whereby a single court commissioner determines the placement order and the child support order, thereby allowing all factors related to the case to be considered in setting the child support order.

In contrast, the other five counties reported little to no communication or collaboration across the systems, noting barriers such as rigid interpretations of confidentiality requirements and, in particular, perceived differences in terms of program goals. Some child welfare staff expressed concern that advocacy on behalf of clients in relation to child support enforcement activities would put their agency "at odds" with the child support agency.

IV. STATE POLICIES AND PRACTICES

In order to gain a better understanding of how Wisconsin's policy and practices compare to those of other States, we conducted a systematic review of information regarding referrals from the child welfare system to the child support system accessible from online sources in all other states. Included in this review were child welfare and child support manuals, brochures, and public web information as well as State-specific information compiled on the Federal Child Welfare Gateway (<http://www.childwelfare.gov/>). In those instances where it appeared additional information regarding a given State's policies would be useful, an effort was made to contact child welfare and/or child support officials within the State. Overall, it is apparent that few States substantially differ in their approach from Wisconsin, although Wisconsin is unique in its ability to differentiate between who should be referred: mother only, father only, or both parents.

Referrals to the Child Support Enforcement System

Although referral to child support in cases where payments are being made on behalf of a child is a Federal requirement, we were unable to determine that this requirement had been established in 19 States. This does not mean that the requirement does not exist; it means it was not reflected in any of the

information we were able to review. In the remaining 30 States (excluding Wisconsin, which is discussed above), we found that available information usually included only one or two sentences, generally stating that a referral would be made without noting any exceptions. Further, the referral was often described as “automated.” In general, we did not ascertain any criteria for assessing the best interests of the child and the family.

Three States did, however, have policies that went beyond a statement that a referral was to be made, describing potential reasons for non-referrals.

Florida—Florida’s Child Welfare Manual allows for exceptions “when a child was conceived as a result of rape or incest, parental rights are terminated, parent is deceased, or the child’s parent receives Supplemental Security Income (SSI)” (State of Florida Department of Children and Families, 2010).

Montana—Montana’s Child Welfare Policy Manual notes that parents are expected to contribute toward the costs of care to the “fullest extent possible without undue hardship on the family” (Montana Department of Public Health and Human Services, 2009). Although “undue hardship” is not defined in the manual, a State policy staff member with whom we spoke said that it is defined in practice as the belief that referring and collecting child support could jeopardize the goal of returning the child home in 90 days or less by causing financial hardship on the family and, potentially, could prevent reunification of children and families as planned. In addition to citing “undue hardship,” the Montana Child Welfare Policy Manual also states that it is not in the best interests of the child to pursue or collect child support if:

- it could reasonably be anticipated to result in physical or emotional harm to the child;
- the child was conceived as a result of incest or forcible rape;
- the case plan is to return the child home within 90 days from removal;
- parental rights have been terminated;
- legal proceedings for adoption of the child are pending or a parent is being assisted in resolving the issue of whether to keep the child or relinquish him or her for adoption and such discussions have not continued for more than three months; and
- if the parent is deceased.

California—Of those States we identified as having policies that went beyond a statement that a referral was to be made, California’s had the most extensive criteria for assessing the best interests of the child and the circumstances of the family. Child welfare services workers are required to “...evaluate each case on an individual basis considering the best interests of the child and the circumstances of the family, which may include but are not necessarily limited to, the parent(s)’ employment status, housing status, the impact on other children who may be at risk of removal, availability of community-based services, efforts to reunify, whether parental rights have been terminated, connection with CalWORKs or other public assistance programs” (California Department of Social Services, 2009).

Further, if the child’s case plan goal is family reunification, consideration is to be given to whether the payment of support will pose a barrier to the proposed reunification and specifically, whether it will compromise the parent’s ability to meet the requirements of the reunification plan, the child’s current or future financial needs, or the ability of the parent to meet the needs of other children in the household. Even if the child’s case plan goal is not reunification, the same criteria apply in relation to the parent’s ability to meet the case plan requirements, the parent’s ability to meet the child’s current or future financial needs, and the parent’s ability to meet the needs of other children in the household.

Deviations from the Child Support Guidelines

As previously noted, once a referral is made to child support, the child support agency is required to open a case for child support services and attempt to locate the parents or other relatives of the child; establish paternity; and establish and enforce an order. Any latitude that exists is in the establishment of the child support order, as deviations from the presumptive guidelines that would support the best interests of a child for whom foster care maintenance payments are being made are allowed if a State so chooses. Our review of child support guidelines of the States identified only six—Georgia, Minnesota, Nebraska, New Jersey, Oklahoma, and Tennessee—that had established reasons for deviations from the guidelines that specifically addressed children placed in foster care settings.

Two of the States—Nebraska² and New Jersey³—have non-specific deviation reasons that allow for a deviation when a child is in foster care. In a telephone interview with the Nebraska State Child Support Office, a policy staff person stated that this deviation reason was used in about one-half of OHP cases and generally applied when the parents had limited resources. The policy staff person also stated that the deviation, although based on ability to pay, resulted in a lower amount of support and generally applied to the resident parent. If the nonresident parent already had an order, it was not generally considered for modification. In contrast, staff in New Jersey reported that they used the deviation reason “extremely infrequently.” A scan of their automated system identified that the deviation reason was used 0.8 percent of the time during a one-year period.

Three States—Georgia, Oklahoma, and Tennessee—each have similar deviation language that addresses permanency plans and the goal of reunification. Oklahoma’s guidelines state, for example, “...the court may consider a deviation from the presumptive child support order if the deviation will assist in accomplishing a permanency plan or foster care plan for the child that has a goal of returning the child to the parent, and the parents need to establish an adequate household or to otherwise adequately prepare herself or himself for the return of the child clearly justifies a deviation for this purpose” (Title 43, Sec. 118H, F, *Oklahoma Statutes*). It appears, however, that this deviation reason is used infrequently. According to an Oklahoma child support official, deviations occur in only about 1 percent of the cases that are referred. Tennessee staff also reported that this reason for a deviation was rarely used in children’s court, where child support orders for these cases are set.

The final State that has established reasons for deviations from the guidelines that specifically addressed children placed in foster care settings—Minnesota—stands in contrast to the five other States identified in that guidelines prohibit a downward deviation from the guideline amount when the support is

²Chapter 4, Article 2, Sec.4-203, Nebraska Administrative Code, allows a deviation for “juveniles placed in foster care.”

³New Jersey Adm. Rule 5:6A, Appx.IX-A, Sec. 21, h allows for deviations “in cases involving the voluntary placement of children in foster care.”

assigned, “unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor” (Sec. 518A.43, Subd. 2(a) (1), *Minnesota Stats.*).

Collaboration between the Systems

In the course of researching State policies and practices related to the referral of child welfare cases to the child welfare system, we identified two examples of mechanisms for collaboration.

The first was in Texas, which has written procedures for child support agencies when managing cases referred to it by the child welfare system. These procedures would appear to promote collaboration because, although Section 5370 of the Texas Child Welfare Manual states that child protection services workers “must always request the court to order the parents to provide child support and health insurance” (Texas Department of Family and Protective Services, 2003), if the child support agency determines that they want to enforce a delinquent order, they must inform the child welfare agency 10 days prior to taking the action. If the foster care worker and the worker’s supervisor think deferment of enforcement is in the child’s best interests, they may request a six-month delay in taking action. If child support doesn’t agree to the delay, the State makes the determination.

We contacted the Texas Attorney General’s Office, which has responsibility for administration of child support in the State, in order to develop additional information about the policy. According to staff, coordination does not occur as systematically as outlined in the manual. Further, when it does occur, it is often focused on “obtaining documents and other information rather than strategic discussions.” However, although coordination may be somewhat limited, local Texas child support agencies generally use “less invasive administrative actions” when taking enforcement actions against the resident parent in foster care cases. If legal action is being considered, that is the time when coordination might occur so as not to “interfere with the child welfare legal proceedings.” Legal action that requires more intensive coordination with child welfare occurs in about 1 percent of foster care cases according to a brief survey taken by the Assistant Texas Attorney General.

The second mechanism for collaboration was identified in Oklahoma City, Oklahoma. According to staff, many different strategies have been adopted to ensure that child support does not impede a parent's ability to work their case plan. They said, for instance, that orders in juvenile cases are entered quickly, but the start dates for new orders are set to begin several months out, allowing previously resident parents to focus on reunification and the financial tasks associated with maintaining and preparing the household for the return of the child. The delay also acts as a motivator for the parent to work towards reunification before the financial obligation kicks in. Other strategies include the attendance of all juvenile court hearings by a child support attorney.

In summary, while most States appear to follow policies similar to those in Wisconsin in referring child welfare cases for child support enforcement, there were a few notable exceptions. Florida, Montana, and, especially, California, had explicit provisions that allowed for exceptions to referral. We found six States with established reasons for deviations from the guidelines when applied to children placed in foster care settings; these often called for attention to the potential effect of child support obligations on the parents' ability to comply with the case plan.

V. PRELIMINARY ANALYSIS OF COSTS AND BENEFITS

One of the primary reasons for referring the parents of children placed in substitute care to child support is to recover the costs associated with that care. However, the extent to which collections from the parents offset costs is often not known for two reasons. First, given the various funding structures of, and the complex multitude of services provided by, child welfare agencies, obtaining an estimate of costs associated with OHP placements is challenging. Most counties do not record the costs in such a way as to be able to ascertain the proportion of expenditures devoted to these placements, including the amount associated with ongoing case management services, provider reimbursement, and efforts to find a permanent placement for the child. Further, this accounting of costs does not take into account other, indirect costs of requiring parents in substitute care to pay child support. Finally, systematic efforts are not usually made to tie child support collections back to these cases.

In this section, we outline what information is needed to conduct a detailed cost/benefit analysis of child support referrals for OHP, what information is currently available for the entire State, and provide a test case of a rough cost/benefit analysis for Milwaukee County. This information is intended to provide background to what is anticipated to be ongoing discussion of the costs and benefits of making referrals to child support for these cases.

Cost Information

A number of steps are involved in placing a child in an OHP. In a general case of abuse and neglect, an allegation is made. Caseworkers then investigate the allegation and decide if it is substantiated or if the case can be closed. If the case is substantiated or if the child is determined to be at risk and it is determined that a child cannot stay in the home, caseworkers will remove the child from the home. In these cases, a court hearing must be held within 48 hours of removal in order to determine the appropriate placement for the child. Such OHPs include Kinship Care, Foster Care, Group Homes, and Residential Care Centers. When a child is removed from the home the caseworker must also develop a permanency plan that is filed with the courts within 60 days of the removal. After a placement has been decided, payments are provided to caretakers for each child in their care. Additionally, most placements require regular visits of caseworkers with the child and the provision of services in order to reunify the child with the family. In most cases, the OHP ends when a child is reunified with the family or the child is adopted. All of these steps in the process have associated costs.

In order to determine the direct cost to the child welfare agency to place a child in out-of-home care, it would be necessary to know the costs associated with each step enumerated above. Some of these costs are easier to measure than others. For example, we know the reimbursement rates for care providers. Other costs, however, are more difficult to calculate, such as the percentage of time a caseworker spends on OHP cases, the cost of each caseworker, and other supplies and services.

Additionally, there are many indirect costs of OHP. In a 2011 longitudinal study of Midwestern adults at age 18 who had been in Foster Care, there was a great deal of housing instability, with

45 percent of the sample reporting living with three or more other people, 37 percent of the sample living in their current residence for less than one year, and reported episodes of homelessness common. Further, among this sample, only one-fifth had a high school degree and only 8 percent had a postsecondary degree from a two- or four-year college (Courtney et al., 2011). Additionally, children who have spent time in foster care experience higher rates of mental illness compared to the general population (Pecora et al., 2003).

While these figures point to some of the potential costs of care, the potential to draw causal conclusions, and estimate the associated costs, is limited because many factors that increase the risk that a child will be placed in out-of-home care, also relate to poor outcomes in the future. However, a study by Joseph Doyle Jr. (2007) used an instrumental variable approach to examine long-term outcomes of children who were in an out-of-home placement. His study found evidence that children who had higher rates of foster care placements also had higher rates of delinquency, teen pregnancy, and lower earnings (Doyle Jr., 2007). Such long-term costs, while not accrued by child welfare agencies directly, are important to keep in mind when estimating the cost of OHP. Estimates that do not take these costs into consideration will be an underestimate of the true cost of OHP to children, families, and society as a whole. However, given the difficulty in developing such estimates, we focus on only the direct costs to Wisconsin to place a child in out-of-home care.

Developing Direct Cost Estimates

Parents of children who are removed from the home are often required to pay child support to offset the costs associated with out-of-home placements (outlined above). As a first step in assessing to what extent child support collections offset the costs of out-of-home placements, we need to know how much counties spend on these cases. This involves calculating the direct costs of service provision and the costs of payments to substitute care providers.

To calculate the direct costs of service provision within a given county, we would need to take the following steps to determine Total Direct Agency Costs (Loritz, 2012).

- 1) Calculate the average annual cost of a full-time equivalent employee (FTE) within a child welfare agency who spends any time on OHP cases. The average cost of a full-time FTE includes the salary, fringe benefit, and supplies and services costs (including the costs of general administration, information technology operations, and infrastructure, rent, and other miscellaneous expenses).
- 2) Determine the average amount of time, on an annual basis, spent on OHP cases per FTE, as a percentage of total time.
- 3) Multiply the average annual cost of an FTE by the percentage of total time spent on OHP cases to determine the cost per FTE associated with these cases.
- 4) Multiply the amount calculated in Step 3) by the total number of FTEs in the child welfare agency who spend any time on OHP cases in the child welfare agency.

Once the costs associated with staff time are calculated, we would then need to add to these costs the payments made to providers of substitute care, as reflected in Equation (1) below.

$$(1) \quad \text{Total Costs of OHP} = (\text{Total Direct Agency Costs}) + (\text{Payments to Substitute Care Providers})$$

It should be noted that while this equation would estimate the total costs associated with OHP in a given county, there are some limitations that inhibit its application. In particular, the first variable—Total Direct Agency Costs—may be difficult to calculate on a county by county basis, given that the fluid movement of children from one placement to another and constantly changing needs make it difficult for workers to estimate the amount of time they spend on OHP cases. Also, a worker may be providing services to in-home siblings of children who have been removed from the home. Further, many counties do not have a system of recording and allocating costs outside of case management, such as administrative, information technology, or facility costs, to specific case types. The second part of the equation—Payments to Substitute Care Providers—is easier to calculate because we know, on a statewide basis, the costs associated with payments to providers for OHP cases, including payments to Kinship Care and Foster Care providers as well as the rates charged by Group Homes and Residential Care Centers. Further, while counties do not consistently or uniformly keep detailed information on administrative and other additional costs associated with OHP cases, they do report total payments and expenditures to care providers for each child, for each type of care provider, in each month. We can use this information to

identify how much child welfare agencies in each county are spending on the most basic cost of OHP—payments to care providers—in a given year, as reflected in Table 2 for 2011.

Recognizing that we cannot account for direct administrative, facility, and other such costs, and that we cannot estimate the long-term societal costs, we can use the direct payments to care providers to calculate a very conservative estimate of OHP costs. Table 2 shows that across all counties⁴ and all placement types, Wisconsin spent \$147,234,781 on OHP in CY 2011.

Table 2: Yearly Payments to Out-of-Home Care Providers (CY 2011)

	Milwaukee	Balance of State	Total
Detention	\$76,897	\$94,137	\$171,034
Foster Home	6,725,555	20,869,016	27,594,571
Group Home	12,426,102	11,605,922	24,032,024
Institution	10,742	103,424	114,166
Kinship Care	8,966,736	8,780,496	17,747,232
Missing from OHP ^a	131	0	131
Other	2,846,840	918,442	3,765,282
Residential Care Center	9,061,814	28,111,699	37,173,513
Shelter	154,187	171,451	325,638
Supervised Living	284,270	0	284,270
Treatment Foster Care	<u>18,602,095</u>	<u>17,424,825</u>	<u>36,026,920</u>
Total	\$59,155,368	\$88,079,412	\$147,234,781

Source: ADHOC047 eWiSACWIS Report.

^aAccording to the Wisconsin Department of Health and Family Services, Division of Children and Family Services Memo Series 2008-12 (June 30, 2008), a child is considered to be missing from out-of-home care when “[t]he child or juvenile is unaccounted for a period of time that cannot reasonably be justified by the child’s or juvenile’s age, maturity, or emotional capacity which shall not exceed eight hours (as required in s. HFS 56.05(1)(c)5., Adm. Code). When efforts to locate the child or juvenile have been unsuccessful. When it is known or suspected that a child or juvenile has been taken by force or coercion. When the child or juvenile is in the company of an unauthorized person or located in an unauthorized place.”

Developing Child Support Collection Estimates

The second step in assessing to what extent child support collections offset the costs of out-of-home placements is to calculate the amount of child support collected for these OHP cases. In order to do

⁴At the time the data were obtained, estimates for Adams County were not available. Results should be interpreted with this limitation.

this, we compiled data from KIDS and eWiSACWIS reflecting the monthly child support receipts (current and arrears) for cases where a child was in an OHP at any time during 2011. This data resulted in 93,589 observations of monthly accounts of children (child-months). Selecting for one observation per case ID, these observations represented 10,283 individual cases. We calculated: 1) the current child support paid on behalf of a child in an OHP and assigned to the State, breaking down the information by placement type and county; and 2) the arrears of child support paid on behalf of a child in OHP and assigned to the State, although we could not determine with which placement a given arrears payment was associated.

There were 53 different placement options extracted from our data. Children received placements in 23 different placement categories. We combined these placement categories to reflect the 11 categories used in the placement expenditures data provided by the Department of Children and Families. Our categorizations are reflected in Table 3.

Children may have changed placements within any given month; however, we do not have data on the child support payments made in relation to each individual placement within each month. Based on our correspondence with State child welfare staff, it is our understanding that reimbursements for OHP expenditures are based on the number of children in a given placement at the end of the month. Therefore, we attributed the child support payments made to the last recorded placement in the month, the most common of which were Foster Homes (45.2 percent of placements in 2011) and Kinship Care (20.2 percent of placements in 2011).

Table 3. Payment and Collection Categories

Substitute Care Payment Category	Child Support Collections Category
Detention	Detention
	Reception Center-Detention
Foster Home	Foster Family Home (Non-Relative)
	Foster Family Home (Relative)
Group Home	Group Home
Institutions	Hospital
	Adult Corrections
	Youth Correctional Facility
Kinship Care	Kinship Care - Court-Ordered
	Non-Relative-Unlicensed
	Relative - Unlicensed
Missing	Missing From Out-of-Home Care
Other	Pre-Adoptive Home
	Receiving Home
	Trial Reunification
	Reception Center
	Adoption
Residential Care Center	Residential Care Center
Shelter	Shelter
	Reception Center - Shelter
Supervised Living	Supervised Independent Living
Treatment Foster Care	Treatment Foster Home - Non-Relative
	Treatment Foster Home - Relative

Table 4 reflects the total of child support collections by county and placement for 2011.⁵ This table shows the breakdown of child support collected for each placement in Milwaukee County and in all other counties (Balance of State). In all, Milwaukee collected \$302,399.93 in current support and arrears for children in an OHP during 2011. In the remaining 71 counties, \$3,824,947.75 was collected in current support and arrears. In total, Wisconsin collected \$4,127,347.68 in current support and arrears for children in an OHP in 2011.

⁵We may be missing some child support payment information. It is possible that a placement that was made at the end of one month may not have had a payment made for that placement until the following month. As we only capture child support payments made in the month of placement, this means we may be missing some cases.

Table 4: Yearly Child Support Receipts (CY 2011)

Substitute Care Category	Milwaukee	Balance of State	Total
Unrecorded	\$0	\$376,535.16	\$376,535.16
Detention	1,577.29	11,648.99	13,226.28
Foster Home	67,040.78	991,518.89	1,058,559.67
Group Home	33,707.61	269,520.19	303,227.80
Institution	1,754.62	25,686.51	27,441.13
Kinship Care	31,358.91	223,642.89	255,001.80
Missing from OHP	3,945.05	16,581.2	20,526.25
Other	5,529.55	25,359.23	30,888.78
RCC	25,848.07	318,828.32	344,676.39
Shelter	5,389.06	23,010.18	28,399.24
Supervised Living	3,772.15	6,710.63	10,482.78
Treatment Foster Care	<u>59,509.75</u>	<u>497,588.41</u>	<u>557,098.16</u>
Total Support	\$239,432.84	\$2,786,630.60	\$3,026,063.44
Total Arrears	<u>62,967.09</u>	<u>1,038,317.15</u>	<u>1,101,284.24</u>
Grand Total	\$302,399.99	\$3,824,947.75	\$4,127,347.68

Estimates of Payments Compared to Collections

Table 5 compares child welfare expenditures for payments to providers for each placement type with the child support that was collected for children in those placements. It also reports the percentage of provider payments that was recovered through child support collections. In this table we see that only a small percentage of child welfare expenditures were recovered by current child support and arrears. For example, in Milwaukee County, only 0.5 percent of the measured child welfare expenditures were recovered, with a high of 16 percent for institutional placements and a low of 0.2 percent for other OHP. In the Balance of State, a total of 4 percent of the measured child welfare expenditures was recovered through child support collections, with a high of 25 percent, again, for Institutional placements and a low of 1.0 percent for Residential Child Care centers.⁶

⁶There were, however, some counties that collected a higher percentage of child support for certain placements: 14 percent of the cost of Detentions; 29 percent of Foster Homes; 27 percent of Group Homes; 16 percent of Institutions; 22 percent for Kinship Care; 3.8 percent of Residential Care Centers; 39 percent of Shelter; and 24 percent of Treatment Foster Care. However, in some instances, there were very few cases of a particular type within a given county, which would have an effect on the calculation of these percentages.

Table 5. Percent Of Provider Payments Recovered Through Assignment Of Child Support^a

	Milwaukee			Balance Of State			Total		
	Child Welfare Provider Payments	Child Support Collected	Percent Recovered	Child Welfare Provider Payments	Child Support Collected	Percent Recovered	Child Welfare Provide Payments	Child Support Collected	Percent Recovered
Detention	\$76,897	\$1,577.29	2%	\$94,137	\$11,648.99	12%	\$171,034	\$13,226.28	8%
Foster Home	6,725,555	67,040.78	1	20,869,016	991,518.89	0.5	275,945,571	1,058,559.67	4
Group Home	12,426,102	33,707.61	0.3	11,605,922	269,520.19	2	24,032,024	303,227.80	1
Institutions	10,742	1,754.62	16	103,424	25,686.51	25	114,166	27,441.13	24
Kinship Care	8,966,736	31,358.91	0.3	8,780,496	223,642.89	3	17,747,232	255,001.80	1
Missing From OHP ^b	131	3,945.05	n/a	0	16,581.2	n/a	131	20,526.25	n/a
Other	2,846,840	5,529.55	0.2	918,442	25,359.23	3	3,765,282	30,888.78	0.8
RCC	9,061,814	25,848.07	0.3	28,111,699	318,828.32	1	37,173,513	344,676.39	0.9
Shelter	154,187	5,389.06	3	171,451	23,010.18	13	325,638	28,399.24	9
Supervised Living	284,270	3,772.15	1	0	6,710.63		284,270	10,482.78	4
Treatment Foster Care	18,602,095	59,509.75	0.3	17,424,825	497,588.41	3	36,026,920	557,098.16	2
Unknown	<u>0</u>	<u>0</u>	<u>n/a</u>	<u>0</u>	<u>376,535.16</u>	<u>n/a</u>	<u>0</u>	<u>376,535.16</u>	<u>n/a</u>
Total	\$59,155,369	\$239,432.84	0.4%	\$88,079,412	\$2,786,630.60	3%	\$147,234,781	\$3,026,063.44	2%
Total Arrears		<u>62,967.09</u>	<u>0.1</u>		<u>1,038,317.15</u>	<u>1</u>		<u>1,101,284.24</u>	<u>0.7</u>
Grand Total		\$302,399.93	0.5%		\$3,824,947.75	4%		\$4,127,347.68	3%

^aIncludes current support as well as arrears.

^bGiven the small number of cases in this category, we do not calculate the percent recovered in this category, although we do include the amounts in the totals.

In addition to examining actual support collected, it can be useful to look at the child support orders that were set for these cases. Because a child welfare case can refer to multiple children, and these children can be placed in a number of placements within a given month, it is difficult to create a summary of orders for individual children. Instead, we can look at the total number of orders that were set in a given year for those children who were placed in out-of-home care sometime during the year. For 2011⁷, we find that 55 percent of children were associated with a child support order; these orders totaled \$11,752,023, which, if fully collected, would have recovered only 8 percent of the child welfare expenditures in 2011. However, of all the OHPs made in 2011, only 18.2 percent had some support paid to the State, totaling \$3,026,063.44⁸, which recovered only 2 percent of child welfare expenditures in 2011. Thus, although the State only recovered 2 percent of the total child welfare expenditures from current support payments, it is important to recognize that, at most, the State would have recovered only 8 percent (if all orders had been paid fully). Furthermore, it is noteworthy that our calculations exclude all child support enforcement costs.

Milwaukee County Bureau of Child Welfare

Our analysis has, so far, only focused on the relationship of payments to providers and the amount of child support received. We have not incorporated direct county expenses for staff, facility, and administrative costs as reflected in the discussion of costs, above. It is possible, however, to develop an estimate of these costs for the Bureau of Milwaukee Child Welfare (BMCW), because it contracts for these services. These contracts include a rate of care for each child in each month that encompasses these additional indirect costs of OHP. The current rate—\$1,330 per month of OHP per child—is based on a determination of desired program staffing and services levels and their average costs, plus an

⁷These figures are not directly comparable to those in prior reports, particularly Cancian et al., 2008, because of differences in sample definitions and time frames. While we do find the same proportion of children is associated with a child support order, we find a lower percentage of these orders had some support paid.

⁸We exclude arrears receipt from this analysis because arrears payments come from past orders. Our orders information is for current child support orders, so we focus on current payments only.

administrative percentage, divided by the projected number of children to be served. Because BMCW has estimated the additional costs of OHP, and because their actual payments to contractors are based on these estimates, we can estimate the total direct costs of OHP—agency costs as well as payment amounts—and how much of these costs is recovered by child support collections.

From our data, we determined that there were approximately 3,090 children placed in out-of-home care in Milwaukee County in 2011. These children accounted for approximately 24,242⁹ monthly episodes of out-of-home care in 2011, with an average of 7.8 months in an OHP. In order to estimate the total cost of OHP for these children, we would use the following equation:

$$(2) \quad \textit{Total Costs of OHP in Milwaukee County} = (\$1,330 \times \textit{number of monthly OHP episodes}) + (\textit{Payments to Substitute Care Providers})$$

Therefore, we calculate that the total cost of OHP in Milwaukee County was \$91,397,229 or \$59,155,369 + (\$1330 x 24,242) = \$91,397,229. In comparison, Milwaukee County collected a total of \$302,399.93 in current child support and arrears in 2011. Based on these estimations we calculate that Milwaukee County recovered 0.33 percent of the total child welfare expenditures on OHP in 2011.

VI. DISCUSSION AND NEXT STEPS

Child support is increasingly a complement to, rather than a substitute for or a means of offsetting the costs of, public expenditures. However, when children are placed in substitute care, both Federal and State policies suggest child support should generally be collected from one or both parents in order to offset the cost of this care. This perspective is informed not only by an interest in recovering the cost of care, but also by a belief, as reflected in the Wisconsin Children’s Code, that the “...duty of a parent to support and maintain his or her child continues during any period in which the child may be removed

⁹There were 24,491 placements in Milwaukee County in 2011. We excluded cases where payments were made to an account other than 30–33 and/or the payee was not missing. This gave us a total of 24,242. These numbers, which were drawn from administrative data in eWiSACWIS, differ slightly from those provided by the Bureau of Milwaukee Child Welfare.

from the custody of the parent” (§ 48(2)(gt), *Wis. Stats.*). However, recent research finds that cases in which child support orders have been enforced have a longer spell of out-of-home placement (longer time until reunification) when compared to cases that did not have a child support order enforced. This suggests that ordering parents whose children have been removed from their custody to pay child support to offset costs may be contrary to the child’s best interests, and may have unintended financial costs as well.

The original intent of this project was to leverage a February 2011 change in eWiSACWIS as well as the experience gained on a previous project focused on promoting collaboration between the child support and W-2 programs, in order to improve collaboration between the child support and child welfare systems. Given that both of the systems are housed within the Department of Children and Families, the opportunity exists for the two programs to work together to develop strategies for ensuring that referrals to child support in the case of substitute care protect the best interests of a child while also respecting the need to ensure funds are available to support these same services. However, as was made evident through our conversations with county staff from throughout the State, and reinforced in subsequent conversations with State and regional staff, such collaboration will not occur without a concerted effort to, at a minimum, clarify existing policy and promote shared understanding across counties and systems regarding it. Further, a clear determination of how to balance the best interests of the child with the need to recovery costs will have to occur if modification to Wisconsin’s current approach is desired.

This report was designed to provide background information fundamental to this effort. It illustrates how the Federal government, while requiring States to assign child support collected from parents of children placed in substitute care to the State, also allows States some flexibility in determining when a referral to child support is appropriate. Although Wisconsin policy incorporates this flexibility, it is seldom used. Based on our interviews with county staff, the default position is to make a referral to child support in all cases of substitute care; further, this recommendation does not differentiate as to which parent is referred despite the fact that Wisconsin appears to be unique in the nation in terms of

providing this option as reflected in eWiSACWIS. In general, however, Wisconsin's policies are similar to those of other States, with a few notable exceptions.

The first steps of any collaborative effort in Wisconsin will need to address two critical issues. The first is to come to a consensus about, and then more clearly define, criteria for assessing whether or not a referral is in the best interests of a child. The second is to develop a fuller understanding of the costs of substitute care, the costs associated with delays in reunification that may be associated with the payment of child support to the State, and savings associated with child support collected. This report provided some basic information related to those costs that can be directly measured, and highlights some of the remaining challenges.

In order to develop a more comprehensive assessment of the potential costs and benefits of policy alternatives, the Department may want to consider convening a Core Team, similar to that developed for the "Enhancing the Child Support Knowledge of TANF-Eligible Families and TANF Caseworkers: A Collaborative Strategy for Improving Outcomes for Low-Income Children and Their Families" project, with the addition of county representatives. The Core Team could be charged with reviewing policy and practice options associated with referrals to child support, developing recommendations regarding the identified options, developing and implementing strategies for dissemination of any new policies and practices, and developing a plan for sustained collaboration across the systems. Suggestions and questions regarding policy and practice based on county and other State staff interviews conducted for this project could serve as a starting point for the Core Team and, to that end, we have included them in Appendix A.

Wisconsin, in beginning to address the relationship between child welfare and child support, appears to be a national leader. This report is one in a series drawing from an ongoing research project designed to inform Department of Children and Families initiatives in this area. Given the information provided to date, as well its past experience in promoting collaborative efforts, the Department is well-positioned to act on the Federal government's encouragement that child welfare and child support agencies work together to develop criteria for appropriate referrals, taking into account the best interests

of the child. Such efforts could, ultimately, improve outcomes for children and families while also more effectively using scarce public resources.

APPENDIX A
Questions for Consideration: Referrals
Initial Suggestions Made By County Staff

- 1) What other reasons might be considered for non-referral of the formerly resident parent?
 - a. Reunification tasks would prevent formerly resident parent from working or completing a job search, thereby making it difficult to generate adequate income to meet child support obligations.
 - b. Payment of support would interfere with the formerly resident parent's ability to retain housing or adequately support other children in the household.
 - c. Payment of support would hamper resources available to the formerly resident parent to adequately provide for the child during periods of trial reunification or extended visits.
 - d. Formerly resident parent has no income and no ability to work.
 - e. Formerly resident parent is homeless.
 - f. TPR/adoption proceedings pending or planned.
 - g. Short-term placement.
- 2) What reasons might be considered for non-referral of nonresident parent with no existing order?
 - a. Intent is to place child with the nonresident parent.
 - b. TPR/adoption proceedings pending.
 - c. Short-term placement.
- 3) What reasons might be considered for non-referral of nonresident parent with an existing order (assignment is not effectuated)?
 - a. Family of formerly resident parent dependent on support for family income.
 - b. Intent is to place child with the nonresident parent.
 - c. TPR/adoption proceedings pending.
 - d. Short-term placement.
- 4) What reasons might be considered for referral even when other circumstances may not warrant referral?
 - a. Responsibility for payment of support acts as a motivator to cooperate with reunification tasks.
 - b. Former resident parent is not participating in reunification tasks.

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