

## New Americans and Undocumented Immigrants

*This session will be a group discussion in which the panel will pose and discuss a number of the questions listed below. The audience will be invited to participate. Since there is no state-wide uniformity on how these issues are addressed in child support hearings, it is believed that discussion of a variety of viewpoints will be useful to all participants.*

### WORK STATUS AND DOCUMENTATION REQUIREMENTS

1. What are possible immigration status levels and how do they impact a person's ability to work legally?
  
  
  
  
  
  
  
  
  
  
2. Can a person have a valid ID number without being a citizen (TIN vs. SSN)?
  
  
  
  
  
  
  
  
  
  
3. Why does immigration status matter in child support hearings? (Do AKAs matter in paternity hearings, for collection purposes, etc.)

### DETERMINING INCOME FOR UNDOCUMENTED OBLIGORS

1. If either party is working for cash
  - A. How should income be determined: minimum wage, actual wages, past history, household expenses, and what are the proof problems?

- B. What should be ordered regarding collection from someone who is working for cash and is undocumented? Should people who express a desire to pay voluntarily be allowed to do so, even though the preference is for wage withholding? If we allow voluntary payment here, are we required to let others (meaning citizens or documented workers) bypass the wage withholding requirement?
  - C. Can a child support worker agree to that as part of a stipulation, or ask for that in pleadings (so that we could get it as part of a default order) or is that something that a magistrate has to rule on specifically?
- 2. When someone is not working, but has worked (Maura Shuttleworth's case now on appeal) how should we set support: based on past income, based on theoretical ability to work, or based on our ability to legally compel people to work? Should there at least be a minimum order set?
- 3. Discuss the issue on appeal in that appellate case and what people think, specifically: if a person is living in this country and has worked in the past, quit and agrees to a specific dollar amount obligation, is there a basis for an order setting support?
- 4. What if they have no history of prior work? What if they worked, but lost the job through no fault of their own? Or they were fired? What if they don't agree to an amount? How might these changes in the scenario affect the equation?
- 5. Discuss what other information should be sought in such cases to help make a decision, and provide a factual basis to help withstand appeal. There are questions Maura wishes she would have asked to help determine ability to earn:
  - a. What are their sources of income, all sources, and do they have income other than employment?
  - b. What are their living expenses and their circumstances?

- c. How are they meeting living expenses if they are not working?
  - d. How long have they been in the U.S.A.?
  - e. Are they sending money home? What documentation do they have of that?
  - f. Why did they come here (work, study, etc) ?
  - g. Other questions?
6. Does it hurt the process that there is no state uniformity on this issue? What could be done to make the approach more uniform?

#### ENFORCEMENT ISSUES FOR UNDOCUMENTED OBLIGORS

1. What is the proper response if someone says that putting their “working name” on the order will make them lose their job?
2. What if the person is working under a different name and therefore cannot put the child’s name on insurance? (and even though it is a little off topic, what if a person signed their work name onto a ROP, where does that put us?)
3. If someone has two names and dates of birth, do people have policies for trying to determine which is valid? Do people have a policy to determine whether people using working names are using a valid SSN? If so what is the policy and what are the dangers of having such a policy?
4. Isn’t the bottom line here to get parents to pay for the raising of their own children?

5. How do you collect on arrears if there is an order? Even if we get an order, are counties pursuing contempt proceedings if undocumented obligors are delinquent? Are judges enforcing orders that have been issued?

## SPECIAL ISSUES FOR NEW AMERICANS

1. Are people seeing issues when members of families have varied status with regard to citizenship or residency?
2. Do work permits pose special problems?
3. How are language issues and interpreter availability impacting the process both in court and out of court? What could be done to improve things?
4. How are cultural issues impacting the process? What is being done and what could be done to help?
5. Because of language issues and cultural issues, should attorneys be appointed for parties even if they don't ask for them? Are there cases where even appointing an attorney isn't enough? (Are there cases in which cultural disparity regarding parental roles and responsibilities, lack of familiarity not just with ours but with any court system, and lack of any education, impact on our ability to process the cases?)
6. What have people in the audience had to deal with in terms of culture clash and different views of what a family is and what family responsibility is? Or the relative roles of men and women (which can impact on a male obligor's attitude toward female social workers, attorneys and magistrates as well as his attitude toward the obligee)?