

§ 305.40 Penalty performance measures and levels.

(a) There are three performance measures for which States must achieve certain levels of performance in order to avoid being penalized for poor performance. These measures are the paternity establishment, support order establishment, and current collections measures set forth in § 305.2 of this part. The levels the State must meet are:

(1) *The paternity establishment percentage* which is required under section 452(g) of the Act for penalty purposes. States have the option of using either the IV-D paternity establishment percentage or the statewide paternity establishment percentage defined in § 305.2 of this part. Table 4 shows the level of performance at which a State will be subject to a penalty under the paternity establishment measure.

Table 4—Statutory Penalty Performance Standards for Paternity Establishment

(Use this table to determine the level of performance for the paternity establishment measure that will incur a penalty.)

PEP	Increase required over previous year's PEP	Penalty FOR FIRST FAILURE if increase not met
90% or more	None	No Penalty.
75% to 89%	2%	1-2% TANF Funds.
50% to 74%	3%	1-2% TANF Funds.
45% to 49%	4%	1-2% TANF Funds.
40% to 44%	5%	1-2% TANF Funds.
39% or less	6%	1-2% TANF Funds.

(2) The support order establishment performance measure is set forth in § 305.2 of this part. For purposes of the penalty with respect to this measure, there is a threshold of 40 percent, below which a State will be penalized unless an increase of 5 percent over the previous year is achieved—which will qualify it for an incentive. Performance in the 40 percent to 49 percent range with no significant increase will not be penalized but neither will it qualify for an incentive payment. Table 5 shows at which level of performance a State will incur a penalty under the child support order establishment measure.

Table 5—Performance Standards for Order Establishment

(Use this table to determine the level of performance for the order establishment measure that will incur a penalty.)

Performance level	Increase over previous year	Incentive/Penalty
50% or more	no increase over previous year required	Incentive.
40% to 49%	w/5% increase over previous year	Incentive.
	w/out 5% increase	No Incentive/No Penalty.
Less than 40%	w/5% increase over previous year	Incentive.
	w/out 5% increase	Penalty equal to 1-2% of TANF funds for the first failure, 2-3% for second failure, and so forth, up to a maximum of 5% of TANF funds.

(3) The *current collections* performance measure is set forth in § 305.2 of this part. There is a threshold of 35 percent below which a State will be penalized unless an increase of 5 percent over the previous year is achieved (that qualifies it for an incentive). Performance in the 35 percent to 40 percent range with no significant increase will not be penalized but neither will it qualify for an incentive payment. Table 6 shows at which level of performance the State will incur a penalty under the current collections measure.

Table 6—Performance Standards for Current Collections

(Use this table to determine the level of performance for the current collections measure that will incur a penalty.)

Performance level	Increase over previous year	Incentive/Penalty
40% or more	no increase over previous year required	Incentive.
35% to 39%	w/5% increase over previous year	Incentive.
	w/out 5% increase	No Incentive/No Penalty.
less than 35%	w/5% increase over previous year	Incentive.
	w/out 5% increase	Penalty equal to 1-2% of TANF funds for the first failure, 2-3% for second failure, and so forth, up to a maximum of 5% of TANF funds.

(b) The provisions listed under § 305.32 of this part also apply to the penalty performance measures.