Center for Social Development

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Excluding 529 College Savings Plan Accounts from Oklahoma Public Assistance Asset Limit Tests

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Introduction

Public benefits such as Temporary Assistance for Needy Families, Medicaid, and food stamps are an important resource for many low-income families. However, because these programs often limit the asset-building potential of their recipients, they may prevent families from attaining economic stability and hinder their long-term social and economic development (Nam, 2007). Low accumulation of assets in poor households is likely due in part to the use of asset tests in public assistance programs, which set low thresholds for eligibility. Individuals or households are required to “spend down” or keep their assets to a minimum in order to qualify for public assistance. This creates a disincentive for regular and tax-preferred savings, and limits the net worth of individuals and families who are eligible for public assistance (Rand, 2007).

Income and resource eligibility guidelines vary widely by state, within states, and by program; however, federal law allows states and their public benefit program administrations some freedom in determining eligibility parameters (Rand, 2007). With regards to asset tests, the Farm Bill of 2002 allows states to conform their resource-counting rules for assistance programs such as food stamps to those rules for other programs such as Medicaid or TANF (Parrott & Dean, 2004). The food stamp statute requires states to count cash and accounts in financial institutions that are readily available to households when determining whether a household meets the resource limit for the program. However, targeted use accounts, such as IRAs and 529 college savings plans, have a penalty for unqualified withdrawals. States can define those resources as "not readily available," and thus they can be excluded from consideration.

Like many states, Oklahoma uses asset limit tests when determining eligibility for various state-administered public benefit programs. These asset limits vary by program and range from $1,000 to $3,000. In late 2007, the Center for Social Development (CSD) initiated work with the Oklahoma Treasury to pursue an exclusion of 529 college savings plan assets from Oklahoma asset limit tests[1]. Nearly every state administers a 529,

[1] CSD and the Oklahoma Treasury are partners in SEED for Oklahoma Kids (SEED OK), a large experimental test of Child Development Accounts in Oklahoma. In 2007, newborns from across the state were randomly selected to participate in the SEED OK research. Half of the newborns received $1,000 in a SEED OK OCSP account. Through SEED OK, these newborns’ families can save for their children’s future and may receive matching funds for their savings. For more information about SEED OK, visit http://gwbweb.wustl.edu/csd/SEED/OK/about.htm.

which is a tax-preferred investment plan to help families save for postsecondary education. Oklahoma's 529 is known as the Oklahoma College Savings Plan (OCSP).

To assist the Oklahoma Treasury, CSD summarized the two options for pursuing asset limit reform: 1) state legislation or 2) administrative rule change at the Oklahoma Department of Human Services. CSD compiled sample language from select states that have pursued similar exclusions through legislation (see Appendix), and also provided the Treasury with information from the Sargent Shriver National Center on Poverty Law's State Asset Limit Toolkit (S.A.L.T.; available online) about pursuing administrative rule change. The Oklahoma Treasury decided to pursue asset limit reform through state legislation, and worked with Senate legal staff to draft legislative language.

Progression of Senate Bill 1390

In February 2008, Senate Bill (SB) 1390, authored by Senator Tom Adelson, D-Tulsa, and Representative Jabar Shumate, D-Tulsa, was introduced in the Oklahoma Senate, stating that "an Oklahoma College Savings Plan account shall be exempt for purposes of determining eligibility for Temporary Assistance for Needy Families, Medicaid, and food stamps" where permissible by federal law. In March and April 2008, respectively, SB 1390 was unanimously approved by the Oklahoma Senate and House of Representatives. In early May 2008, SB 1390 was signed into law by Governor Henry (click here for full bill text). The bill states that "an Oklahoma College Savings Plan account shall be exempt for purposes of determining eligibility for public assistance, provided that the federal rules for these programs permit such an exemption."

A summary of milestones follows:

November 2007

CSD provided Oklahoma Treasury with options for pursuing 529 plan exclusion from Oklahoma asset limit tests. Treasury decided to pursue legislative change and identified potential bill author.

December 2007

Bill request submitted for 2008 legislative session.

February 2008

SB 1390 introduced in the Oklahoma Senate and assigned to Senate Appropriations Committee; bill reference to "Temporary Assistance for Needy Families, Medicaid, and food stamps" replaced with the broader term "public assistance." SB 1390 passed out of committee by a 15-0 vote.

March 2008

SB 1390 passed out of the Senate with a 64-0 vote. Bill referred to the House of Representatives and assigned to the House Appropriations and Budget Committee.

April 2008

SB 1390 approved on unanimous vote by the House Appropriations and Budget Committee; bill "title" stricken in the Senate and enacting clause removed by House committee. Bill proceeded to the floor of the Oklahoma House of Representatives. SB 1390 approved by House of Representatives on a vote of 97-0, with title and enacting clause restored. SB 1390 received final, unanimous approval by State Senate on acceptance of the House amendments; bill sent to the governor for signature.

May 5, 2008

SB 1390 signed into law by Governor Henry, with an effective date of November 1, 2008.

Public Benefits Excluded

Effective November 1, 2008, money in OCSP accounts will no longer be considered as an available resource in determining eligibility for TANF, food stamps, and Low Income Home Energy Assistance Program (LIHEAP). OCSP account resources are already not considered in determining eligibility for the Child Care and certain SoonerCare (Medicaid) Programs.

Conclusion

House author of SB 1390, Representative Shumate, said, “We shouldn't punish poor parents who save for their children's future education. A child that goes to college is less likely to need public assistance in the future, so this legislation could save state money in the long run. The current state policy is penny wise and pound foolish” ("Shumate Bill Eliminates Penalty,” 2008). Others seeking to reform asset limits might consider these long-term benefits when contemplating similar measures in their own states.

References

Nam, Y. (2007). *Welfare reform and asset accumulation: Asset limit changes, financial assets, and vehicle ownership* (Working Paper No. 07-04). St. Louis, MO: Washington University, Center for Social Development.

Parrott, S., & Dean, S. (2004). *Aligning policies and procedures in benefit programs: an overview of the opportunities and challenges under current federal laws and regulation.* Washington, D.C., Center on Budget and Policy Priorities.

Rand, D. (2007). Reforming state rules on asset limits: How to remove barriers to saving and asset accumulation in public benefit programs. *Clearinghouse Review Journal of Poverty Law and Policy*, March–April 2007: 625-635.

Shumate Bill Eliminates Penalty for Poor Families Saving for College. (2008, April 9). *The Oklahoman*.

Internet Resources

Sargent Shriver National Center on Poverty Law’s State Asset Limit Toolkit
http://www.povertylaw.org/advocacy/community-investment/asset-limit-tool-kit/asset-limit-tool-kit-homepage.html

Senate Bill 1390
http://webserver1.lsb.state.ok.us/2007-08bills/HB/sb1390_hflr.rtf

Appendix

Sample Legislative Language: Prepared for the Oklahoma Treasury in November 2007[2]

State Legislation	Excerpts from Legislative Language	Additional Notes
Arkansas Act 597, 2007	A Tax-Deferred Tuition Savings Program account shall be exempt for purposes of determining eligibility for Transitional Employment Assistance, Medicaid, and Food Stamps, provided that the federal rules for these programs permit such an exemption.	Act 597 of 2007 authorized the Aspiring Scholars Matching Grant Program, and included a provision to exclude accounts in Arkansas' 529 plan from counting toward asset determination for certain public assistance programs. Transitional Employment Assistance is Arkansas' Temporary Assistance for Needy Families (TANF) program.
California A.B. 2466, 2006 California A.B. 1078, 2007	SECTION 1. Section 11155.6 is added to the Welfare and Institutions Code, to read: 11155.6. (a) (1) The principal and interest in a 401(k) plan, 403 (b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits. Under existing law, principal and interest in designated federally created retirement or college savings plans held by existing CalWORKs recipients, but not new applicants, are excluded as property for purposes of redetermining eligibility and the amount of assistance. This bill would delete the maximum amount of savings and interest that a CalWORKs recipient would be permitted to retain. The bill would extend the provisions excluding from income the principal and interest in the designated federal savings plans to CalWORKs applicants.	CalWORKs is California's TANF program.

[2] CSD utilized Rand (2007) to help determine which states' legislative language should be compiled for the Oklahoma Treasury.

State Legislation	Excerpts from Legislative Language	Additional Notes
California A.B. 1078, 2007 (continued)	SEC. 3. Section 11155.6 of the Welfare and Institutions Code is amended to read: 11155.6. (a) […] (2) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from consideration as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits. (b) For purposes of this section, the following terms have the following meanings: (5) "529 college savings plan" means a qualified tuition program that satisfies the requirements of Section 529 of the Internal Revenue Code. […] (D) That a CalWORKs recipient who receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, Coverdell ESA, or restricted account, and that investments in these accounts will not make the recipient ineligible for CalWORKs benefits or reduce the recipient's CalWORKs benefits.	
Colorado S.B. 134, 2006	[…] (6) The following resources and assets designated to promote self-sufficiency shall be exempt from the fifteen thousand dollar resource limitation specified in paragraph (b) of subsection (2) of this section: (a) Retirement savings accounts; (b) Health care savings accounts; (c) Individual development accounts; (d) Education savings accounts, scholarships, and educational stipends; (e) Earned income tax credit refunds received by the assistance unit; (f) Any real estate asset that does not produce or provide income for the participant and is not a secondary residence of the participant; (g) Burial plots and burial insurance plans; (h) Life or disability insurance policies that may have a cash value; and (i) Any additional resource or asset that the state board exempts by rule.	This bill raised TANF asset limits from $2,000 to $15,000 and exempted retirement, education, and health savings accounts and one vehicle per household from consideration as assets under TANF. “Education savings account” typically means a Coverdell Education Savings Account. Although the bill does not explicitly define 529 college savings plans as a type of education savings account, legislation in other states could include this specification.

References

Rand, D. (2007). Reforming state rules on asset limits: How to remove barriers to saving and asset accumulation in public benefit programs. *Clearinghouse Review Journal of Poverty Law and Policy*, March–April 2007: 625-635.

Internet Resources

Arkansas – Act 597, 2007
ftp://www.arkleg.state.ar.us/acts/2007/public/Act597.pdf

California – A.B. 2466, 2006
http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_2451-2500/ab_2466_bill_20060929_chaptered.pdf

California – A.B. 1078, 2007
http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1051-1100/ab_1078_bill_20071013_chaptered.pdf

Colorado – S.B. 134, 2006
http://www.leg.state.co.us/clics2006a/csl.nsf/fsbillcont3/65311596E9F4CD51872570E40080DC6A?open&file=134_enr.pdf