

It's all connected: taxes, benefits, and family law

Understanding how family court decisions can impact taxes and public benefits

By Darci Jay, staff attorney

At Community Legal Aid, and in the broader social service arena, we understand now more than ever the importance of holistic services for clients. The multiple challenges of every household are a complicated and interrelated web. Sometimes one problem must be solved before another can even be addressed. Or even more challenging - what resolves one issue may exacerbate another. Thinking about this connectedness helps us best serve clients, support other critical partner missions in the community, and advocate effectively.

A prime example of the importance of holistic advocacy commonly happens at the intersection of family law and income. Often, a decision on a family law matter like divorce or child support can dramatically impact a client's taxes or public assistance benefits. For many low-income households, these income sources make up all or the bulk of their monthly income. Decreases can be devastating, resulting in a loss of housing, food instability, stress and health issues, and even bankruptcy. Advocates must be careful to examine all the details and broadly consider the impacts of all decisions in all directions.

Some examples using fictional clients illustrate this delicate balance well:

Consider Wendy, a recently divorced client who has custody of her eight year old daughter and supports her household with income from her daughter's Supplemental Security Income (SSI) payment. Wendy's daughter is legally blind and receives SSI as a result of this disability. Wendy wants to fight for the maximum child support from her ex-husband, as her daughter has many special expenses as a result of her vision. When examining the child support matter in a vacuum, more definitely seems better. However, it's important that Wendy understands her daughter's SSI payment is at risk of being decreased if the child support payment is too high. Essentially, SSI is considered a payment of last resort - so if too much of some other funding stream is available, it won't be paid out. And it's not just apples to apples, as an established social security payment is likely to be significantly more consistent than child support. For example, if the father loses his job, he may suddenly not be required to pay. Situations like this call for careful education of clients and creativity. The payment amount should be carefully negotiated. Rather than a higher child support payment, perhaps the father could be court-ordered to buy all the daughter's school supplies and special equipment for her impairment. Further, whatever payment amount is negotiated should be low enough to minimize the risk of impacting SSI. Even one month where payments are too high could tangle the benefits flow and the fight to get them back is often a long battle.

Consider Jaden, a client who receives Social Security Disability Income (SSDI) benefits and may be about to receive a lump sum payment in his divorce. As a result of a major injury sustained in the workplace years ago, Jaden is unable to sustain gainful employment. During their marriage, his wife worked for several years and accrued a valuable retirement account. As part of their divorce settlement, she is offering a lump sum \$30,000 cash payment representing his share in the account. Jaden is elated with this, but it's important for him to understand the negative impact this lump sum is likely to have on his income-driven benefits. One large cash payment spent haphazardly or without reporting could cause issues with his benefits for years. Again, the situation calls for creativity - for example, negotiating a payment amount that Jaden can spend immediately on exempt items like rent, buying or fixing a car, clothes, furniture, or travel. In Jaden's case, he could only be

certain he could spend \$15,000 on these exempt items without triggering issues with his benefits, so this lower amount was negotiated - an example of how less can result in much much more in these complicated situations.

Finally, consider Kyra, a young client who recently left an abusive partner and receives SSI benefits because one of her children is disabled. Kyra is rebuilding her life and earning money from a new job. She has children and she will be filing her own tax return for the first time this year. Further, upon filing her first tax return, she will be receiving the Earned Income Tax Credit (EITC) - a payment designed to help low to moderate income workers get a tax break. These extra funding streams are all tax exempt, but can cause major hitches with income-driven benefits. Kyra and individuals like her should be proactive in their communications and keep records of all of their income with both the IRS and the social security office to ensure everyone understands the source of lump sums, whether they are exempt resources, and whether they could impact benefits.

Let's also consider Kyra's possible struggle with claiming all of her children. Even if she has the legal right to claim them, and under the statute she meets all of the criteria, Kyra's abusive ex may have filed first, claiming her children and therefore Kyra will have to "paper" file her return, which means mail it and not e-file it and this could delay her refund. VITA sites are able to assist with drafting and mailing a return, but if there is an underlying domestic dispute, Kyra should speak to an attorney so that she may have the opportunity to clean up any outstanding court orders or even file with the domestic courts to have some put in place.

For our partners working with low-income families in the community, there are some easy ways to avoid these life-altering complications. When in doubt, counsel your client to carefully track and report new or changing income sources to the Social Security Administration. You can help them do so, and our office can also provide information. When amounts are improperly reported, it can be considered fraud which is scary for all and can have lasting ramifications on benefit streams. Local social security offices can be contacted by phone and always accept walk-ins. Going in person can be a good option as many sites are struggling with understaffing and communication about complicated matters can be easier face to face. The IRS's Volunteer Income Tax Assistance (VITA) sites are also a good resource. They can help users understand whether they need to file a tax return and learn more about the Earned Income Tax Credit. A list of VITA sites can be found at <https://irs.treasury.gov/freetaxprep/>.

Taking a step back, there are changes at a high level that can help ensure these tricky issues impact fewer low-income individuals and families. Higher poverty guidelines would mean households could live with more income without losing their critical public benefits. More resources routed toward understaffed Social Security offices would mean faster response times for recipients and less time without deserved payments. Finally, broad scale education would help the community understand the importance of examining and asking questions about amounts coming in and going out of their accounts. This simple step could help avoid unnecessary hardship for those whose quality of life and wellbeing revolve around critical benefit payments.

This article is part of Legal Aid's ["Big Ideas" series](#).

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[Print](#)

[Table of Contents](#)

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