



RIKSREVISIONEN

Summary:

Maintenance support

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Maintenance support

– *in the children's best interests?*

Summary

The Swedish National Audit Office (SNAO) has audited whether maintenance support is an appropriate instrument of family policy and whether the system is being managed efficiently. Maintenance support has existed since 1997 for the purpose of guaranteeing the children of separated parents some measure of financial support through the social security system if the parent who should be paying child support is not doing so.

Maintenance support is administered by the Swedish Social Insurance Agency and was provided in 2009 to around 226 000 children, affecting about 297 000 parents. The state's costs for maintenance support are just over SEK 2 billion a year. In addition to this there are costs for administering maintenance support, totalling about SEK 366 million.

Background to the audit

Grounds: Maintenance support is an important part of family policy. It is intended to safeguard the child's needs and to demand of both parents that they take financial responsibility. It is therefore important that the support is framed in such a way as to achieve the desired effects. At the same time it is important that it is managed efficiently, given its structure.

Purpose: The audit investigated whether maintenance support is a suitable instrument for achieving the objectives of economic family policy and whether the government and the Social Insurance Agency have achieved an efficient management of maintenance support.

Efficiency here refers to low overhead costs and a high benefit level for the users, i.e. the children and their parents. The government's handling of maintenance support was also audited.

Implementation: The audit is based on an analysis of the regulations in the Parental Code on maintenance obligations in the case of separated parents, the Maintenance Support Act, and a poll of parents within the maintenance system. Additionally, representatives from the Social Insurance Agency, the Enforcement Authority, the National Board of Health and Welfare, the Stockholm Social Services and the Government Offices were interviewed. The audit also includes a comparison of the Swedish system for maintenance support with how the other Nordic countries have solved the issue of unpaid maintenance.

Results of the audit

Maintenance support is intended for children who would otherwise not have received any maintenance at all, or a very small maintenance, from the parent the child is not living with. The audit shows, however, that the Swedish system for maintenance support has considerable problems and deficiencies and that a comprehensive review of the system is needed in order to resolve these problems. SNAO's conclusions are as follows:

a. Children miss out on maintenance

With the current format of the maintenance system, many children receive less maintenance than they would if parents who have the capacity to pay a higher maintenance than the system provides instead applied the regulations of the Parental Code.

SNAO's poll of parents who pay maintenance for their children via maintenance support shows that the Social Insurance Agency's efforts to achieve the government's objectives are insufficient. Among other things, one in four parents is not aware that they can reach a child maintenance settlement themselves. The poll further shows that achieving the objective of having more parents take care of maintenance themselves will require other types of action than the purely informational measures applied by the Social Insurance Agency.

In summary, SNAO's assessment is that it is not a satisfactory state of affairs for children to risk missing out on higher maintenance because parents are not familiar with the regulatory framework, do not know how it is done, or cannot agree.

b. Parents who want to reach a child maintenance settlement themselves are left without support

Parents who would like to calculate their children's maintenance according to the regulations in the Parental Code have nowhere to turn for help unless they are prepared to pay a high fee. There is currently no government agency or other entity charged with helping parents calculate, free of charge or for a low fee, maintenance costs or draw up maintenance agreements under the Parental Code. If parents cannot agree on the size of the maintenance, they have no option but to turn to a court of law and begin a civil law action.

c. The legal framework for maintenance support has negative consequences

The legal framework for maintenance support has other negative consequences than children missing out on maintenance. Parents with a maintenance obligation who choose to regulate child maintenance through maintenance support from the Social Insurance Agency risk serious consequences if they should become subject to enforcement (execution) by the Enforcement Authority. The reason for this is that the Enforcement Authority may not include the sum that the maintenance-paying parent is meant to pay to the Social Insurance Agency in the sum the Enforcement Authority is not entitled to collect, which is also known as the reserve amount. Maintenance allowances administered according to the regulations in the Parental Code, however, are included in the reserve amount. Further, the Social Insurance Agency has difficulties recovering maintenance payments from certain non-Nordic countries when maintenance agreements have not been registered with a competent authority or have not been drawn up and formalised by such an authority.

d. The state is used as a payment intermediary

The Social Insurance Agency has estimated that it could save SEK 78 million annually if those parents who pay child maintenance via the Social Insurance Agency despite having the financial capacity to take care of it themselves did so, without any involvement from the Social Insurance Agency.

e. Maintenance support for children with alternating residences creates unnecessary additional work for both parents and the Social Insurance Agency

The third type of maintenance support, support for children with alternating residences, differs from the other parts of maintenance support. It is not a compensation for unpaid maintenance from the other parent, but instead is a form of financial support for children with parents

living separately, where the applicant is in a weak financial situation. Many parents who receive maintenance support in the case of alternating residences also receive a housing allowance. The applicant has to write two applications and the Social Insurance Agency has to make two decisions, based on different income information. The conclusion is that this creates unnecessary additional work.

The Social Insurance Agency is on the right track

With regard to the efficiency of the system, it is SNAO's view that the government has not achieved the efficiency gains which have been possible in the system. The Social Insurance Agency has had problems, but is on the right track in certain respects. The Social Insurance Agency has established a suitable basic structure for controlling maintenance support. In simple terms, such control consists of the agency having established operating ratios which it regularly tracks, and having introduced an administrative procedure.

An important operating ratio for administering maintenance support is the Social Insurance Agency's internal goal of handling 75 per cent of cases within 40 days. This goal is particularly important in maintenance support cases since they affect two parties, unlike other forms of support and allowances. Extended administration times mean that the applicant has to wait for funds, which undermines the intention of guaranteeing children continuous maintenance. Further, the allowance debtor's first repayment will be higher and thus perhaps more difficult to make. During 2009, the Social Insurance Agency only managed to expedite 54 per cent of maintenance support application within 40 days. However, administration times have been shortened during the first six months of 2010. For the other parts of maintenance support, the goal has been achieved.

In SNAO's view it is not the best outcome that the goal for administration times is achieved at the same time as many applications have to wait considerably longer than 40 days for a decision. Against this background, it is SNAO's assessment that the Social Insurance Agency might supplement its internal goal with a goal that no application must take longer than a specified number of days.

SNAO's recommendations

Recommendations to the government

Child maintenance should be based on the regulations in the Parental Code

The government should give the ongoing Commission on finances and parental cooperation in separate living¹ additional instructions to investigate the possibilities of allowing the regulations of the Parental Code to be the basis for child maintenance.

The additional instructions should include an investigation into how such an alteration may be organised. Among other things, the commission should explore the establishment of a national entity to which parents can turn, free of charge or for a low fee, for help in calculating the size of a maintenance allowance and in having a maintenance allowance fixed and registered. Such an entity should also be given the authority to fix a maintenance allowance in those cases where parents cannot come to an agreement. This requires the development of good decision-making support so that children's needs can be assessed. With a fixed amount of maintenance allowance, parents should also be able to turn to a national entity for help in recovering unpaid maintenance allowance, without burdening the courts.

A system of child maintenance based on a fixed level of maintenance allowance offers several advantages. The children's needs are taken into account, the financial capacity of both parents is considered in full, and the state is given greater possibilities for distraining unpaid maintenance allowances from non-Nordic countries.

However, maintenance support should continue to exist and to be paid up to certain basic level, as a guarantee for children when maintenance according to fixed child maintenance is not paid, or if there is no parent with a maintenance liability.

Maintenance support in the case of alternating residences should be administered via the housing allowance

The government should strive to have the administration of maintenance support for a child with alternating residences administered through the housing allowance.

Many of those who receive maintenance support in the case of alternating residences also receive a housing allowance. Applications for both these forms of support are weighed against the financial situation of the applicant and aim to provide support to financially vulnerable households, but decisions are based on two different applications and two different income concepts. The harmonisation of these two forms of support should lessen the work burden for both the applicant and the

¹ Directive 2009:56.

Social Insurance Agency. Applicants will also see decisions as fairer and as expressing greater legal certainty.

Recommendations to the Social Insurance Agency

Recommendations with respect to the Social Insurance Agency, based on SNAO's conclusions, are the following:

- *The Social Insurance Agency* should determine and decide on the resources needed for the administration of maintenance support cases.
- *The Social Insurance Agency* should consider supplementing the internal goal on administration times with a goal on a maximum administration time for each individual application.

THE PARENTAL CODE (1949:381)

The Parental Code governs parents' fundamental maintenance obligation towards their children. Between them, the parents should take on the costs for the child, each of them according to their ability. If the parents are not living together, the parent who does not permanently live with the child should pay a maintenance allowance to the child.

THE MAINTENANCE SUPPORT ACT (1996:1030)

The purpose of maintenance support is to guarantee that children of parents living separately receive a certain maintenance even when the parent with a maintenance obligation does not fulfil his or her obligation, and to make it clear that both parents have a responsibility for the maintenance of their children.