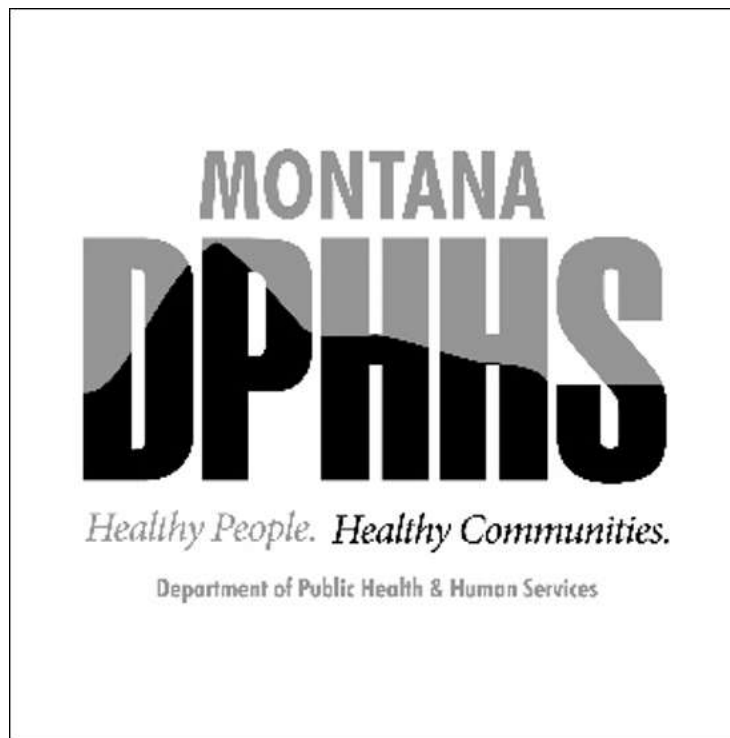

STATE OF MONTANA
Department of Public Health & Human Services
Child Support Services Division



2020 Quadrennial Report

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Purpose

The Child Support Services Division (CSSD) of the Department of Public Health and Human Services (DPHHS) for the State of Montana is required by both federal regulation (45 CFR § 302.56(e) (2016)) and state law (Montana Code Annotated, MCA § 40-5-209 (2019)) to review its uniform child support guidelines at least every four years. The guidelines are used by the courts of this state to determine how to set and modify child support obligations. Periodically the state will review the guidelines and, where appropriate, propose changes to the administrative rules governing them to ensure that the resulting support obligations adequately reflect our changing economy.

Most proposed changes to the administrative rules are based on requirements from the Office of Child Support Enforcement (OCSE). Many changes are relatively minor and will not significantly affect support obligations. Other changes are needed to address clarity, misunderstandings, or new circumstances.

Reviewing Committee

The Guidelines Review and Oversight Committee, hereinafter referred to as “the Committee,” convened multiple times over the previous four years to review and update the guidelines.

As of January 2020, the list of committee participants included:

Temple McLean, Billings
Guidelines Coordinator and Committee Chair

Lori Strandell, Helena
CSSD Bureau Chief

Patrick Quinn, Missoula
Staff Attorney with Office of Legal Affairs

Micheale Wigen, Great Falls
Regional Manager

Vaughn Rohrdanz, Billings
Team Supervisor

Casse Chaffey, Missoula
Compliance Specialist

Kimberly Watne, Helena
Compliance Specialist

Dena Helman, Butte
Compliance Specialist

Terressa McDaniel, Helena
Bureau Chief of Office of Legal Affairs
Liaison

Peggy Probasco, Butte
Member at Large

Nick Bourdeau, Great Falls
Consultant

Between meetings, the Guidelines Coordinator collects and answers inquiries from the public regarding the guidelines and their application. In the most recent fiscal year, the Guidelines Coordinator received and answered approximately seventy telephone and email inquiries. When an inquiry requires the full Committee's attention, it is placed on

an agenda for the next regularly scheduled meeting. At that meeting, the inquiry's corresponding rule is reviewed and clarified if necessary. The meeting minutes are approved, emailed to all CSSD staff, and saved electronically for future access.

Philosophy

The guidelines are based on the principal that it is the first priority of parents to, according to their financial ability, meet the needs of their children. When the guidelines are followed, a rebuttable presumption of the adequacy and reasonableness of child support orders is created.

The guidelines utilize a mathematical formula, incorporating each parent's income and deductions and providing a predetermined number of allowances for the parents and children. The formula calculates an obligation for each parent, which is presumed to be adequate and reasonable. Obligations are payable monthly to help ensure that child support payments are consistent and timely.

The guidelines are not intended to exactly determine specific obligations of the parents or their children, nor are they intended to apply to every case without consideration of the unique circumstances that exist in each family. Each presumption within the guidelines, as well as the overall determination, may be rebutted when extraordinary circumstances exist. Extraordinary circumstances may exist where it can be shown that strict adherence to the guidelines would be inequitable. The most important issue, and one the court is required to consider, is the best interest of the children.

The guidelines address a variety of situations, including co-parenting, sole parenting, third-party parenting, and other less common situations. The guidelines are meant to apply to almost all cases in Montana, and to create a rebuttable presumption of the adequacy and reasonableness of the child support amount.

Regulatory Factors

See Addendum A – Montana Code Annotated, pertinent sections of Title 40.

See Addendum B – Administrative Rules of Montana (ARM 37.62.101-37.62.148).

MCA § 40-4-204 requires the court to consider eight factors when determining child support, and to obligate one or both parents to pay child support. These factors include:

1. The financial resources of the child;
2. The financial resources of the parents;
3. The standard of living that the child would have enjoyed had the marriage (or union) not been dissolved;
4. The physical and emotional condition of the child and the child's educational and medical needs;
5. The age of the child;
6. The cost of day care for the child;
7. Any parenting plan that is ordered or decided upon; and

8. The needs of any person, other than the child, whom either parent is legally obligated to support.

The guidelines must be applied in all cases, as required by MCA § 40-4-204(3)(a). If a court finds an equitable basis to determine the calculated amount is inappropriate or unjust, the court must state the reasons and may order a different amount. MCA § 40-4-204(3)(b). Court-ordered modifications of child support are controlled by MCA § 40-4-208.

MCA §§ 40-5-201 through 40-5-291 provide the framework for the CSSD to establish paternity and to establish, modify, and enforce child support, including health insurance. The CSSD provides these services to applicants receiving cash assistance from the State of Montana Office of Public Assistance. Applicants who do not qualify for public assistance may also apply directly to CSSD for services. The CSSD procedures are found at ARM 37.62.101 through 37.62.148.

During the last four-year review period, the CSSD implemented the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs (FEMCSEP), a change required by 45 C.F.R. §§ 301, 302, 303, 304, 305, 307, 308, and 309. The Administrative Rules of Montana were amended to address these changes, and by December of 2017, the new regulations were implemented. Major changes also came after the United States Supreme Court ruling in *Turner v. Rogers*, 564 U.S. 431 (2011), where the Court held that a parent’s “ability to pay” is a critical element in any child

support enforcement proceeding. Logically, the OCSE extended this “ability to pay” concept to child support establishment and modification proceedings. This was especially important involving low-income or incarcerated parents.

Economic Considerations

As mandated by the OCSE the Committee looked to the Montana Department of Labor & Industries (DL&I) for information about Montana’s present economy. The CSSD reviewed data regarding the service industry and noted that many workers in that field are no longer able to attain a 40-hour workweek. The hospitality sector of the service industry comprises nearly 67% of Montana’s non-agriculture and non-government economy. Based on this review the Committee decided that the income would no longer be imputed to a 40-hour workweek, if a 40-hour workweek was generally unavailable. Instead, income is determined using the hours typically available to the industry. CSSD examines all factors to determine hours, including the availability of work within the parent’s geographical region, recent work history, and occupational and professional qualifications. The CSSD imputes a 32-hour workweek to those working 20 hours or less as appropriate.

The Committee audited child support guidelines that were calculated by both the CSSD and Montana courts between years 2016-2019. The focus of the audit was to ensure that both the CSSD and the public, attorneys, and courts of Montana understood the guidelines and the 2017 changes to the Administrative Rules of Montana (ARM)

regarding imputed income for child support, and to assess what other facets of training might be necessary. The CSSD provided additional training highlighting the new approach. Training occurred across the five regional offices in the last quarter of 2019.

Under CFR 302.56(h)(1), the Committee Chair examined calculations performed in 2019, identifying obligor case participants with income at or below 200% of poverty.

The data analysis is explained in the accompanying addenda—namely, in Addendum E (the guidelines calculation tables, worksheets, and policy) and Addendum H (the resulting case analyses).

Data Selection and Extraction

The Committee determined to select cases where the gross income was at or less than 200% of poverty (or \$34,680 in 2019). That figure represents 200% of \$17,240 for a two-member household (one adult and one child).

We chose to analyze data from 2019 calculations for two reasons. First, 2019 was the first year that calculations using 2018 tax laws were performed; and second, year 2019 calculations allowed for at least eighteen months from the order's entry to evaluate the arrears data into and through the COVID-19 pandemic.

Of the 361 calculations performed in 2019, we sorted the data by gross income (smallest to largest) and retained 188 calculations that fell below the \$34,680 value for continued analysis.

Additional calculations involving modifications for incarcerated individuals, as well as those that did not result in entry of an order, were removed. The most common reason an order was not entered was dismissal of the action for failure to obtain service on a case participant. The removal of those calculations narrowed the selection down to a final 103 calculations.

Our continued analysis studied those calculations that had no data at Line 17 of the calculation worksheet, to focus especially on low-income case participants. If there is no data at Line 17, this means the income level of that parent required usage of the minimum support obligation table. This guidelines worksheet table is shown in Addendum E. Data entries at guidelines worksheet line 17 indicate income sufficient to use the standard of living adjustment (SOLA) table, also shown in Addendum E.

The data was sorted additionally to first indicate those calculations using the minimum support obligation table discussed above, followed by those resulting in *default* orders (case analysis 1).

The final sorting criteria considered the arrears balance (or delinquency) from smallest to largest.

The use of “C” in the arrears balance column indicates cases that have since closed and contained a zero balance at the time of closure (case analyses 2 and 3).

The remaining case analyses (4 and 5) provide a snapshot of default status cases where father obligors are distinguished from mother obligors.

Addendum H has additional information contained within the worksheet to assist the Committee with further consideration and analysis of the minimum support obligation and standard of living allowance percentages as we enter the reporting period for our 2024 quadrennial report.

Overall Analysis

Of the 103 calculations, forty (38.9%) represent use of the minimum support obligation table for no data at Line 17. Conversely, sixty-three (61.2%) represent sufficient income to use the standard of living adjustment (SOLA) table.

Minimum support obligations. We focused initially on those calculations that utilized the minimum support obligation, relative to the default order rate. Of the forty calculations identified, thirty-two (80%) were entered as default orders. A closer examination showed that within the 80% of default orders using the minimum support obligation table, twenty-seven calculations (84%) held an arrears balance.

Default orders (Addendum H). Additional focus on the relationship between default orders and arrears balance gave additional insight for our future review. We considered especially those with delinquencies equal to or more than six months of the support obligation (case analyses 2 and 3).

Default Orders with Minimum Support Obligation Table with Arrearages

Sorting for default orders that did not have data at Line 17 (the minimum support obligation table), thirty-four of forty calculations represent the cases that were not closed at the time of the data selection. Of the thirty-four calculations that used the minimum support obligation table, twenty (60%) had arrearage balances equal to or more than six months' worth of the monthly obligation. Of those twenty calculations, thirteen (65%) had arrearage balances equal to or more than twelve months.

Conversely, the remaining seven calculations (35%) that were not default orders had arrearage balances; three (42%) had arrearage balances equal to or more than six months' worth of the monthly obligation. Of those three, two (66%) had arrearage balances equal to or more than twelve months.

Default Orders with Standard of Living Allowance Table with Arrearages

Sorting for default orders that did have data at Line 17 (SOLA), fifty-nine of sixty-three calculations represent the cases that were not closed at the time of the data selection. Of the fifty-nine calculations that used the SOLA table, twenty-seven resulted in default orders, of which thirteen (48%) had arrearage balances equal to or more than six months' worth of the monthly obligation. Of those thirteen, eight (61%) had arrearage balances equal to or more than twelve months.

Conversely, seven (21%) of the remaining thirty-two calculations that were not default orders had arrearage balances equal to or more than six months' worth of the monthly obligation. Of those seven, only four (57%) had arrearage balances equal to or more than twelve months.

Recommendations

Based on the overall analysis of the data in Addendum H, the Committee recommends the following:

1. Addition of the term "Residence" to our rule for imputing income.
2. Addition of case events to our system. These case events will allow future extraction of calculations containing imputed income. The calculations can be examined relative to default orders and correlating arrears balances. (The new case events were added June 2021. The Committee will conduct its first extraction in January 2022 for the first six months of use.)
3. Hire an economist to study Montana's use of federal Poverty Index Guidelines compared with the cost of raising a child for primary support allowance values.

General Extraction of Case Data for Analysis

In early 2019, the Committee adopted a simple random sampling (SRS) method to select cases for analysis. In the past, cases were only selected from the year the report was due. The current review period contains a review of cases from each fiscal

year of the quadrennial review period. The Guidelines Review and Oversight Committee determined that:

1. From the 2015-2016 fiscal year there were an average of 1,910 administrative orders. Under the SRS method, CSSD collects and audits a total of 200 sample cases—about fifty from each of CSSD’s four geographic regions in Montana—for the year.
2. The Central Case Registry¹ (CCR) is used to review district court orders, which are also reviewed using the SRS method.
3. The CSSD measured the effects of the tax law changes on child support orders by entering tiered incomes in guideline calculations. This allowed the CSSD to analyze the effect of the tax law changes on those various incomes, and also allowed CSSD to focus on the standard of living adjustment (SOLA) factor in the calculations. The Committee recommends the SOLA factor receive further testing during the 2021 biennium, in conjunction with review of the self-support reserve component known as the “personal allowance.”

Flexibility, Efficiency, and Modernization

Before FEMCSEP and in response to the Affordable Care Act (ACA), Montana produced separate guidance from the Committee concerning medical support, directing

¹. Each State is mandated by federal law to maintain a Central Case Registry. It contains a registry of all child support cases and orders in the state

caseworkers how to allocate the household insurance premium among the parents for the respective children (either as children of the calculation, or as “other” children). The guidance was an extension of the statutory authority for medical needs in MCA § 40-4-204 and took into account ACA. The same direction set forth examples within the instructions outlined for completion of the worksheets. Under the Tax Cuts and Jobs Act (TCJA), the earlier guidance was reviewed and reinforced despite eliminating the penalty under ACA. Addendum C is the guidance issued and the annual medical review policy.

The 2017 changes to the Administrative Rules of Montana were amended to implement FEMCSEP. CSSD changed its internal policy regarding incarcerated parents to comply with the 2015 changes observed at the federal level. In accordance with the Supreme Court’s ruling in *Mooney v. Brennan*, 257 Mont. 197, 848 P.2d 1020 (Mont. 1993), Montana had continued to charge the child support obligation to the incarcerated parent and to not allow for modification of child support orders based solely on incarceration. A CSSD committee was formed to institute changes in accordance with OCSE, later adopted with the 2017 change, specifically at ARM 37.62.106(6)(b). The policy instituted before 2017 remains in effect and is shown in Addendum D. Chad Dexter (CSSD director) conferred with Diane Degenhart (OCSE regional program manager) regarding our policy and such modifications approved by the courts.

Another major focus of the 2017 rule changes was the matter of how a parent's income is imputed. The CSSD reconsidered its earlier presumption of a 40-hour week, as discussed above under Economic Considerations.

Guidelines History in Montana

In 1987 the first Montana child support guidelines were adopted by the Montana Supreme Court. The first such guidelines were based on the income-shares model. In the 1991-1992 review, Montana changed from an income-shares model to a modified Melson model. Using this model, Montana has continually updated the guidelines for simplification and fairness. A comprehensive history of Montana's guideline history can be found at <https://dphhs.mt.gov/cssd/services/guidelines>.

Public Outreach

The Committee focused its public outreach efforts on educating the public about the 2017 law changes, 2018 tax changes, and CSSD's new online application. Pursuant to the Montana Administrative Procedures Act, the public was given notice to the changes to the guidelines in the Montana Administrative Registry. Additionally, CSSD sent the proposed guidelines to over 150 interested parties, including attorneys for low income parents and all of Montana's district courts. The public and interested parties were given an opportunity to comment. The Montana Administrative Procedures Act created under MCA 2-4-302 is available at these links:

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- https://leg.mt.gov/bills/mca/title_0020/chapter_0040/parts_index.html
 - https://leg.mt.gov/bills/mca/title_0020/chapter_0040/part_0030/sections_index.html

The Guidelines Coordinator works with the Department of Justice / Access to Justice Self Help Law Clinics (SHLC) to help educate their staff and parents who use the SHLC's services. The icon for the CSSD's online application is now available on the desktops of many publicly available computers of SHLC. Parents can easily apply for child support services with CSSD when receiving assistance from SHLC. The partnership between CSSD and SHLC creates a convenient process for the parties. This is important because a child support order must be established before a dissolution with children is finalized by the district court. Additionally, this leads to support orders being established early, thus providing support for children as soon as possible while also reducing child support arrearages. Ultimately the icon will appear on every computer at every clinic/kiosk across the State.

The CSSD, with the Yellowstone Area Bar Association, Family Law Section, jointly hosted a continuing legal education seminar covering the imputation of income rule and tax changes affecting child support calculations. The seminar was especially helpful for practitioners who use the private sector version of the calculator, the Montana Child Support (MTCS) software.

The Committee recommends additional activities via the CSSD website to foster more input from the public with respect to the next quadrennial review, including low-income self-represented litigants and representatives of low-income litigants.

Addenda

This document is accompanied by the following set of addenda (A–H):

A: Montana Code Annotated (MCA) – statutes governing CSSD.

B: Administrative Rules of Montana (ARM) – rules governing CSSD.

C: CSSD policy on health care premium considerations in child support calculation.

D: CSSD policy on review of orders for incarcerated parents.

E: CSSD guidelines worksheets, tables, forms, and instructions, publicly available at <https://dphhs.mt.gov/cssd/AboutCSSD> / <https://dphhs.mt.gov/cssd/PolicyManual>.

F: Guideline rules under the ARM (with ARM references), as the focus of the 2017-2020 quadrennial review for this report.

G: Frequently asked questions from 2002, related to the proposal for changes to Montana’s child support guidelines around that time.

H: Case analyses of calculations with incomes at or under 200% of poverty.

ADDENDA

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ADDENDUM A.
Montana Code Annotated Statutes (2019)
MCA 40-4-204 to 40-5-807:
CSSD Statutory Authority

NOTES

This material—reformatted here for ADA compliance—is posted at <https://leg.mt.gov/statute/> > View the 2019 MCA (<https://leg.mt.gov/bills/mca/index.html>); select Title 40, then the desired chapter (4 or 5), part (2 or 8), and rule (by number).

Chapter 4. Termination of Marriage, Child Custody, Support:

Part 2. Support, Custody, Visitation, and Related Provisions

40-4-204. Child Support – Orders to Address Health Insurance – Withholding of Child Support

40-4-204. Child support – orders to address health insurance – withholding of child support. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

(2) The court shall consider all relevant factors, including:

- (a) the financial resources of the child;
- (b) the financial resources of the parents;
- (c) the standard of living that the child would have enjoyed had the marriage not been dissolved;
- (d) the physical and emotional condition of the child and the child's educational and medical needs;
- (e) the age of the child;
- (f) the cost of day care for the child;
- (g) any parenting plan that is ordered or decided upon; and
- (h) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of public health and human services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of the defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or that it is inappropriate in that particular case.

(b) If the court finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for that finding. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(d) Child support obligations established under this section are subject to the registration and processing provisions of Title 40, chapter 5, part 9.

(4) Each temporary or final district court judgment, decree, or order establishing a child support obligation under this title and each modification of a final order for child support must include a medical support order as provided for in Title 40, chapter 5, part 8.

(5) (a) Unless the court makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, a support obligation established by judgment, decree, or order under this section, whether temporary or final, and each modification of an existing support obligation under 40-4-208 must be enforced by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 3 or 4. A support order that omits the written exceptions provided in 40-5-315 or 40-5-411 or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(b) If an obligor is exempt from immediate income withholding, the district court judgment or order must include a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income-withholding procedures under Title 40, chapter 5, part 3 or 4. Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures.

(c) If a support order subject to income withholding is expressed in terms of a monthly obligation, the order may be annualized and withheld on a weekly or biweekly basis, corresponding to the obligor's regular pay period. When an order is annualized and withheld on a weekly or biweekly basis under this section, the support withheld from the obligor may be retained by the obligee when it exceeds the obligor's monthly support obligation if the excess support is a result of annualized withholding.

(d) If an obligor is exempted from paying support through income withholding, the support order must include a requirement that whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the department of public health and human services as provided in 40-5-909.

(6) (a) Each district court judgment, decree, or order that establishes paternity or establishes or modifies a child support obligation must include a provision requiring the parties to promptly file with the court and to update, as necessary, information on:

- (i) the party's identity, residential and mailing addresses, telephone number, [social security number,] and driver's license number;
- (ii) the name, address, and telephone number of the party's employer; and
- (iii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the party's employer.

(b) The court shall keep the information provided under subsection (6)(a) confidential except that the information may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act, to the parties, and to each party's counsel of record. The information provided under subsection (6)(a) may be included on the case registry and vital statistics reporting form filed with the court pursuant to 40-5-908(1).

(c) The order must also require that in any subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the district court or the department of public health and human services, if the department is providing services under Title IV-D of the Social Security Act, may consider due process requirements for notice and service of process met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the court.

(7) A judgment, decree, or order establishing a child support obligation under this part may be modified or adjusted as provided in 40-4-208 or, if the department of public health and human services is providing services under Title IV-D of the Social Security Act, may be modified or adjusted by the department as provided for in 40-5-271 through 40-5-273, 40-5-277, and 40-5-278.

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- (8) (a) A district court judgment, decree, or order that establishes or modifies a child support obligation must include a provision requiring the child support obligation to be paid, without need for further court order:
- (i) to the person with whom the child resides by legal order;
 - (ii) if the person with whom the child legally resides voluntarily or involuntarily relinquishes physical care and control of the child to another person, organization, or agency, to the person, organization, or agency to whom physical custody has been relinquished;
 - (iii) if any other person, organization, or agency is entitled by law, assignment, or similar reason to receive or collect the child support obligation, to the person, organization, or agency having the right to receive or collect the payment; or
 - (iv) to the court for the benefit of the minor child.
- (b) When the department of public health and human services is providing services under Title IV-D of the Social Security Act, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment.
- (c) A judgment, decree, or order that omits the provision required by subsection (8)(a) is subject to the requirements of subsection (8)(a) without need for an amendment to the judgment, decree, or order or for any further action by the court.
- (9) A judgment, decree, or order that establishes or modifies a child support obligation must include a provision that if a parent or guardian is the obligee under a child support order and is obligated to pay a contribution for the same child under 41-3-438, 41-5-1304, or 41-5-1512, the parent or guardian assigns and transfers to the department of public health and human services all rights that the parent or guardian may have to child support that are not otherwise assigned under 53-2-613.
- (10) The court shall seal any qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p), that is issued under this part except for access by the pension plan administrator of the plan for which benefits are being distributed by the order, the child support enforcement division, the parties, and each party's counsel of record. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)
- History: En. 48-323 by Sec. 23, Ch. 536, L. 1975; R.C.M. 1947, 48-323; amd. Sec. 1, Ch. 590, L. 1983; amd. Sec. 1, Ch. 727, L. 1985; (3)En. Sec. 1, Ch. 434, L. 1985; (4)En. Sec. 1, Ch. 651, L. 1985; amd. Sec. 1, Ch. 702, L. 1989; amd. Sec. 4, Ch. 266, L. 1991; amd. Sec. 1, Ch. 635, L. 1991; amd. Sec. 1, Ch. 294, L. 1993; amd. Sec. 7, Ch. 631, L. 1993; amd. Sec. 7, Ch. 60, L. 1995; amd. Sec. 27, Ch. 504, L. 1995; amd. Sec. 118, Ch. 546, L. 1995; amd. Sec. 12, Ch. 343, L. 1997; amd. Sec. 25, Ch. 552, L. 1997; amd. Sec. 1, Ch. 542, L. 2001; amd. Sec. 1, Ch. 564, L. 2005; amd. Sec. 6, Ch. 88, L. 2013.

40-4-208. Modification And Termination Of Provisions For Maintenance, Support, And Property Disposition

- 40-4-208. Modification and termination of provisions for maintenance, support, and property disposition. (1) Except as otherwise provided in 40-4-201(6), a decree may be modified by a court as to maintenance or support only as to installments accruing subsequent to actual notice to the parties of the motion for modification.
- (2) (a) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification does not contain provisions relating to maintenance or support, modification under subsection (1) may only be made within 2 years of the date of the decree.
- (b) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification contains provisions relating to maintenance or support, modification under subsection (1) may only be made:
- (i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable;
 - (ii) upon written consent of the parties; or
 - (iii) upon application by the department of public health and human services, whenever the department of public health and human services is providing services under Title IV-D of the federal Social Security Act. The support obligation must be modified, as appropriate, in accordance with the guidelines promulgated under 40-5-209. Except as provided in 40-4-251 through 40-4-258, a modification under this subsection may not be made within 12 months after the establishment of the order or the most recent modification.
- (c) The nonexistence of a medical support order, as defined in 40-5-804, or a violation of a medical support order justifies an immediate modification of child support in order to:
- (i) provide for the actual or anticipated costs of the child's medical care;
 - (ii) provide or maintain a health benefit plan or individual health insurance coverage for the child; or
 - (iii) eliminate any credit for a medical support obligation when it has been permitted or used as a credit in the determination of the child support obligation.
- (3) The provisions as to property disposition may not be revoked or modified by a court except:
- (a) upon written consent of the parties; or
 - (b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.
- (4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.
- (5) Except as provided in subsection (6), provisions for the support of a child are terminated by emancipation of the child or the child's graduation from high school if the child is enrolled in high school, whichever occurs later, but in no event later than the child's 19th birthday, unless the termination date is extended or knowingly waived by written agreement or by an express provision of the decree.
- (6) (a) Provisions for the support of a child who has not been emancipated by the court are not terminated solely on the basis of the child's age if the child has a disability that causes the child to be financially dependent on the custodial parent and the custodial parent is the child's primary caregiver.
- (b) The obligation to pay child support for the individual with a disability continues until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent if:
- (i) the decree ordering provisions for the support of a child is issued on or after July 1, 2019; or
 - (ii) the decree ordering provisions for the support of a child is already in effect on July 1, 2019, and has not been terminated.
- (c) If a decree ordering provisions for the support of a child has been terminated prior to July 1, 2019, on the basis that the individual with a disability has turned 19 years of age but the individual remains financially dependent on the custodial parent and the custodial parent continues to serve as the individual's primary caregiver, the custodial parent may petition the court to issue a new child support order or reinstate the terminated child support order until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent.
- (d) In assessing the amount of the continuing financial obligation of the noncustodial parent under this subsection (6), the court shall consider the child's eligibility for public benefits and services and other factors enumerated in this section.
- (7) Provisions for the support of a child do not terminate upon the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.
- (8) The decree may be modified, as provided in 40-4-251 through 40-4-258, for failure to disclose assets and liabilities.

Chapter 5. Enforcement Of Support: Part 2. Administrative Enforcement Of Support

40-5-202. Department Of Public Health And Human Services – Powers And Duties Regarding Collection Of Support Debt

40-5-202. Department of public health and human services – powers and duties regarding collection of support debt. (1) The department may take action under the provisions of this chapter, the abandonment or nonsupport statutes, the Uniform Parentage Act established in Title 40, chapter 6, part 1, and other appropriate state and federal statutes to provide IV-D services if the department:

- (a) receives a referral on behalf of the child from an agency providing services to the child under the provisions of Title 41, Title 52, or Title 53;
 - (b) is providing services under 40-5-203; or
 - (c) receives a referral, whether under the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or an action by a Title IV-D agency.
- (2) A verified statement, filed by the department, that it is providing services is prima facie evidence of its authority to act. Upon filing, the department may, on behalf of itself or on behalf of the obligee, obligor, or child, initiate, participate in, intervene in, or exercise any remedy available in a judicial or an administrative action on the same basis as any other party.
- (3) Whether acting on its own behalf or on behalf of the obligee, obligor, or child, the department and its attorneys serve the public interest in ensuring that children are supported by their parents, rather than maintained by public assistance. The department does not represent the interests of any individual person, and its attorneys represent only the department. An attorney-client relationship is not created between department attorneys and any person or entity other than the department. The obligee, obligor, and child may obtain the services of a private attorney to represent their interests. The existence or appearance of a private attorney as counsel of record for the obligee, obligor, or child does not affect the department's right to act or provide services under this chapter. This chapter does not require the department to provide a private attorney for, or to pay for a private attorney for, an obligee, obligor, or child.
- (4) The department has the power of attorney to act in the name of any obligee to endorse and cash any drafts, checks, money orders, or other negotiable instruments received by the department on behalf of a child.
- (5) (a) If the department is providing IV-D services, the department must be afforded notice and an opportunity to participate as an independent party in any proceeding relating to paternity, to termination of parental rights, or to the establishment, enforcement, or modification of a support obligation, whether initiated by the obligee, the obligor, or the child.
- (b) The notice must reasonably inform the department of the issues to be determined in the proceeding, the names of the parties and the child, and the identity and location of the tribunal in which the issues will be determined. The notice is for informational purposes only and is not intended as a substitute for procedures necessary under the Montana Rules of Civil Procedure to establish personal jurisdiction over the department. Whether or not the department is given notice, an agreement, judgment, decree, or order is void as to any interest of the department that is or may be affected by the agreement, judgment, decree, or order if the department was not joined as a party in the manner provided in the Montana Rules of Civil Procedure.
- (c) The notice must be personally served on the department. Within 20 days after service of the notice, the department may:
- (i) decline to enter the proceeding as a party, in which case the proceeding may continue without the department's participation;
 - (ii) inform the tribunal that a substantial interest of the department could be adversely affected by the proceeding, in which case the proceeding may not continue without joining the department as a necessary party in the manner provided in the Montana Rules of Civil Procedure; or
 - (iii) inform the tribunal that prior to the filing of the proceeding, the department initiated an administrative proceeding under this chapter in which the parties and some or all of the issues are the same as those in the proceeding before the tribunal. The tribunal shall then discontinue the proceeding as to the common issues until administrative remedies have been exhausted.
- (6) (a) When the department is providing services, a recipient or former recipient of public assistance who assigned support rights under 42 U.S.C. 602(a)(26) or 42 U.S.C. 608(a)(3) or a collection agency acting on behalf of the recipient or former recipient may collect only that part of a delinquent support amount that accrued after termination of public assistance. The recipient, former recipient, or collection agency may not commence or maintain an action against or make an agreement with the obligor to recover an assigned delinquent support amount unless the department, in writing:
- (i) releases or relinquishes its assigned interest;
 - (ii) declares the support debt owed the department to be satisfied, in which case the balance of the delinquent amount is released; or
 - (iii) consents to the action or agreement.
- (b) If a recipient, former recipient, or collection agency collects or receives value for any part of an assigned delinquent support amount and the department has not given its consent or released or relinquished its assigned interest, the recipient, former recipient, or collection agency shall make prompt and full restitution to the department. If prompt and full restitution is not made, the department may send a written demand to the recipient, former recipient, or collection agency, and if prompt and full restitution is not made within 20 days of the date of the written demand, the recipient, former recipient, or collection agency is liable for damages equal to double the amount collected or value received. The amount of damages may be determined and assessed by the department under the contested case provisions of the Montana Administrative Procedure Act. The damages may be collected by the department by any method or remedy available for the enforcement of child support owed by an obligor parent.
- (c) This subsection (6) does not limit the right of a person to recover money not assigned. If there are competing proceedings against an obligor for collection of delinquent support, the collection of support assigned to the department takes priority over the obligor's income and assets.
- (7) An applicant for or recipient of services may not act to the prejudice of the department's rights while the services are being provided.
- (8) Unless the department has consented to the agreement in writing, if public assistance is being or has been paid for a child, an agreement between an obligee and an obligor or a judgment, decree, or order adopting the agreement does not act to reduce or terminate any rights of the department to establish a support order or to recover a support debt from the obligor, even if the agreement, judgment, decree, or order purports to:
- (a) relieve or terminate the obligor's support duty;
 - (b) waive, modify, compromise, or discharge the support debt;
 - (c) prepay future support obligations or settle past, present, or future support obligations; or

(d) permit the obligor to pay past, present, or future support obligations:

(i) with noncash contributions;

(ii) by the payment of other debts or obligations, such as vehicle, rent, and mortgage payments; or

(iii) by making contributions to a trust or other account or payments toward an asset if the contributed amounts are unavailable to the department.

(9) The department may petition a court or an administrative agency for modification of any order on the same basis as a party to that action is entitled to do.

(10) The department is subrogated to the right of the child or obligee to maintain any civil action or execute any administrative remedy available under the laws of this or any other state to collect a support debt. This right of subrogation is in addition to and independent of the assignment under 42 U.S.C. 602(a)(26) and the support debt created by 40-5-221.

(11) If public assistance is being or has been paid, the department is subrogated to the debt created by a support order and any money judgment is considered to be in favor of the department. This subrogation is an addition to any assignment made under 42 U.S.C. 602(a)(26) and applies to the lesser of:

(a) the amount of public assistance paid; or

(b) the amount due under the support order.

(12) The department may adopt and enforce the rules necessary to carry out the provisions of this part.

(13) While providing services under this chapter and in order to carry out the purposes mentioned in this chapter, the department, through its director or the director's authorized representatives, may:

(a) administer oaths;

(b) certify official acts and records;

(c) issue investigative and hearing subpoenas;

(d) order discovery before and after a hearing;

(e) hold prehearing and settlement conferences;

(f) compel the attendance of witnesses and the production of books, accounts, documents, and evidence;

(g) conduct proceedings supplementary to and in aid of a writ of execution or warrant for distraint, including a hearing on a claim that property is exempt from execution and the examination of an obligor or other person in the manner provided for the taking of a deposition in a civil action; and

(h) perfect service of investigative and hearing subpoenas by certified mail or in the manner prescribed for service of a summons in a civil action in accordance with the Montana Rules of Civil Procedure.

(14) In addition to any other requirement for service provided by the Montana Rules of Civil Procedure, if a person is required to give notice to, serve, or provide a written response to the department under this chapter, the notice, service, or response must be made to the department's child support enforcement division.

(15) The department may collect any funds received under this chapter, and wrongfully retained, by the obligor through any remedy available for collection of child support.

(16) A hearing on a claim that property is exempt from execution must initially be conducted by teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that a party's case is substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

History: En. Sec. 2, Ch. 612, L. 1979; amd. Sec. 1, Ch. 188, L. 1981; amd. Sec. 2, Ch. 561, L. 1985; amd. Sec. 30, Ch. 609, L. 1987; amd. Sec. 2, Ch. 549, L. 1989; amd. Sec. 22, Ch. 702, L. 1989; amd. Sec. 53, Ch. 328, L. 1993; amd. Sec. 9, Ch. 631, L. 1993; amd. Sec. 1, Ch. 264, L. 1995; amd. Sec. 135, Ch. 546, L. 1995; amd. Sec. 4, Ch. 482, L. 1997; amd. Sec. 3, Ch. 579, L. 1999; amd. Sec. 2, Ch. 21, L. 2005.

40-5-209. Child Support Guidelines – Periodic Review

40-5-209. Child support guidelines – periodic review. (1) The department shall adopt uniform child support guidelines to be used to determine minimum child support amounts. In addition to giving notice and publicizing the rules as provided in the Montana Administrative Procedure Act, the department shall give notice to the supreme court, the district courts, and the state bar of Montana prior to adopting the guidelines.

(2) The guidelines must consider the factors set forth in 40-4-204(2) and 40-6-116(5).

(3) At least once every 4 years, the department shall:

(a) review the uniform child support guidelines employed to determine child support obligations to ensure that their application results in the determination of appropriate child support award amounts; and

(b) propose any appropriate modification to the legislature.

History: En. Sec. 3, Ch. 702, L. 1989.

40-5-213. Financial Statements By Obligor – Penalty

40-5-213. Financial statements by obligor – penalty. (1) If the department is providing child support enforcement services under this part and has reasonable cause to believe that a support obligation is owed, an obligor, upon written request, shall complete a statement, under oath, stating the obligor's:

(a) current monthly income;

(b) total income over the past 36 months;

(c) the number of dependents for whom the obligor is providing support;

(d) the amount the obligor is contributing toward the support of a child for whom the department is providing services;

(e) current monthly living expenses; and

(f) all other information pertinent to the obligor's financial condition.

(2) The department may require additional financial statements from the obligor during the period the department is providing services to the child.

(3) Failure to comply with this section is a misdemeanor.

History: En. Sec. 8, Ch. 612, L. 1979; amd. Sec. 9, Ch. 549, L. 1989.

40-5-214. Scale Of Suggested Minimum Contributions

40-5-214. Scale of suggested minimum contributions. (1) The department shall establish a scale of suggested minimum contributions to assist counties and courts in determining the amount that a parent should be expected to contribute toward the support of a child under this part. The scale must be based on the uniform child support guidelines adopted by the department under 40-5-209.

(2) Copies of the scale must be made available to courts, county offices, and county attorneys and, upon request, to any other state or county officer or agency engaged in the administration or enforcement of this part. Attorneys admitted to practice in Montana may have access to the scale.

40-5-225. Notice Of Financial Responsibility – Temporary And Final Support Obligations – Administrative Procedure

40-5-225. Notice of financial responsibility – temporary and final support obligations – administrative procedure. (1) In the absence of an existing support order, when the requirements of this section are met, the department may enter an order requiring a child's parent or parents to pay an amount each month for the support of the child. An order issued under this section must include a medical support order as required by 40-5-208.

(2) The department shall begin an action to establish a support order by serving a notice of financial responsibility on the parent or parents. The notice must include a statement:

- (a) of the names of the child, the obligee, and, if different than the obligee, the child's guardian or caretaker relative;
- (b) of the dollar amount of the support obligation to be paid each month for the child, if any;
- (c) that the monthly support obligation, if any, is effective on the date of service of the notice, unless an objection is made and a hearing is requested, and may be collected during the proceeding that establishes the support obligation by any remedy available to the department for the enforcement of child support obligations;
- (d) that in addition to or independent of child support, the parent or parents may be ordered to provide for the child's medical support needs;
- (e) that any party may request a hearing to contest the amount of child support shown in the notice or to contest the establishment of a medical support order;
- (f) that if a party does not file a request for a hearing in a timely manner, support, including medical support, will be ordered as declared in the notice or in accordance with the child support guidelines adopted under 40-5-209;
- (g) that if a party does request a hearing, the other parties may refuse to participate in the proceedings and that the child support and medical support order will be determined using the information available to the department or provided at the hearing;
- (h) that a party's refusal to participate is equivalent to consenting to entry of a child support and medical support order consistent with the department's determination; and
- (i) that the parties are entitled to a fair hearing under 40-5-226.

(3) (a) The department may enter an order requiring a child's parent or parents to pay an amount each month for the temporary support of the child pending entry of a support order by the district court if:

- (i) a support action is pending in district court and a temporary or permanent support obligation has not been ordered; or
- (ii) a paternity action is pending and there is clear and convincing evidence of paternity based on paternity genetic tests or other evidence.

(b) The temporary support order must include a medical support order as required by 40-5-208.

(c) A temporary support order may be modified by the department as provided in 40-5-272, 40-5-273, 40-5-277, and 40-5-278 but remains a temporary support order subject to the provisions of this section.

(4) The department shall begin an action to establish a temporary support order by serving a notice of temporary support obligation on the parent or parents. In addition to the statements required in subsection (2), the notice must include a statement that:

- (a) a party may request a hearing to show that a temporary support obligation is inappropriate under the circumstances; and
- (b) the temporary support order will terminate upon the entry of a final support order or an order of nonpaternity. If the final order is retroactive, any amount paid for a particular period under the temporary support order must be credited against the amounts due under the final order for the same period, but excess amounts may not be refunded. If an order of nonpaternity is issued or if the final support order states that periodic support obligation is not proper, the obligee shall refund to the obligor any improper amounts paid under the temporary support order, plus any costs that the obligor incurs in recovering the amount to be refunded.

(5) (a) If a temporary support order is entered or if proceedings are commenced under this section for a married obligor, the department shall vacate any support order or dismiss any proceeding under this part if it finds that the parties to the marriage have:

- (i) reconciled without the marriage having been dissolved;
- (ii) made joint application to the department to vacate the order or dismiss the proceeding; and
- (iii) provided proof that the marriage has been resumed.

(b) The department may not vacate a support order or dismiss a proceeding under this subsection (5) if it determines that the rights of a third person or the child are affected. The department may issue a new notice of temporary support obligation under this section if the parties subsequently separate.

(6) A notice of financial responsibility and the notice of temporary support obligation may be served either by certified mail or in the manner prescribed for the service of a summons in a civil action in accordance with the Montana Rules of Civil Procedure.

(7) If prior to service of a notice under this section the department has sufficient financial information, the department's allegation of the obligor's monthly support responsibility, whether temporary or final, must be based on the child support guidelines established under 40-5-214. If the information is unknown to the department, the allegations of the parent's or parents' monthly support responsibility must be based on the greater of:

- (a) the maximum amount of public assistance that could be payable to the child under Title 53 if the child was otherwise eligible for assistance; or
- (b) the child's actual need as alleged by the custodial parent, guardian, or caretaker of the child.

(8) (a) A party who objects to a notice of financial responsibility or notice of temporary support obligation may file a written request for a hearing with the department:

- (i) within 20 days from the date of service of a notice of financial responsibility; and
- (ii) within 10 days from the date of service of a notice of temporary support obligation.

(b) If the department receives a timely request for a hearing, it shall conduct one under 40-5-226.

(c) If the department does not receive a timely request for a hearing, it shall order the parent or parents to pay child support, if any, and to provide for the child's medical needs as stated in the notice. The child support obligation must be the amount stated in the notice or determined in accordance with the child support guidelines adopted under 40-5-209.

(9) If the department is unable to enter an obligation in accordance with the child support guidelines because of default of a party, the department may, upon notice to the parties to the original order, substitute a support order made in accordance with the guidelines for the defaulted order.

(10) After establishment of an order under this section, the department may initiate a subsequent action on the original order to establish a child support or medical support obligation for another child of the same parents.

(11) A child support and medical support order under subsection (1) is effective as of the date of service of a notice of financial responsibility on the parent or parents and may be collected by any remedy available to the department for the enforcement of child support obligations. A final order is retroactive to the date of service of the notice of financial responsibility as provided in this subsection, except that the final order may also determine child support for a prior period as provided in 40-5-226(3).

(12) A child support and medical support order under subsection (1) continues until the child reaches 18 years of age or until the child's graduation from high school, whichever occurs later, but not later than the child's 19th birthday unless the child is emancipated by court order at an earlier time. A temporary support obligation

established under subsection (3) continues until terminated as provided in subsection (5) or until the temporary support order is superseded by a final order, judgment, or decree.

History: En. Sec. 15, Ch. 612, L. 1979; amd. Sec. 44, Ch. 439, L. 1981; amd. Sec. 14, Ch. 549, L. 1989; amd. Sec. 5, Ch. 482, L. 1997; amd. Sec. 44, Ch. 552, L. 1997; amd. Sec. 73, Ch. 51, L. 1999; amd. Sec. 7, Ch. 579, L. 1999; amd. Sec. 1, Ch. 573, L. 2003; amd. Sec. 3, Ch. 431, L. 2005; amd. Sec. 2, Ch. 184, L. 2009; amd. Sec. 3, Ch. 364, L. 2019.

40-5-226. Administrative Hearing – Nature – Place – Time – Determinations – Failure To Appear – Entry Of Final Decision And – Order

40-5-226. Administrative hearing – nature – place – time – determinations – failure to appear – entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) If a hearing is requested, it must initially be conducted by teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

(3) The hearings officer shall determine the liability and responsibility, if any, of the parent or parents under the notice and shall enter a final decision and order in accordance with the determination. The order may award support from the date of:

(a) the child's birth if paternity was established under 40-5-231 through 40-5-238 or under Title 40, chapter 6, part 1, subject to the limitation in 40-6-108(3)(b);

(b) the parties' separation if support is initially established under 40-5-225; or

(c) notice to the parties of a support modification request under 40-5-273.

(4) (a) Except as provided in subsection (4)(b), if the parent or parents fail to appear at the hearing or to timely file a request for a hearing, the hearings officer, upon a showing of valid service, shall enter a default decision and order declaring the amount stated in the notice to be final.

(b) In a multiple party proceeding under 40-5-225, if one party files a timely request for hearing, the matter must be set for hearing. Notice of the hearing must be served on the parties. If a party refuses to appear for the hearing or participate in the proceedings, the hearings officer shall determine child support and medical support orders based on the notice, information available to the department, and evidence provided at the hearing by the appearing parties. A party's refusal to appear is a consent to entry of child and medical support orders consistent with the hearings officer's determination. However, the default order may not be for more than the support requested in the notice unless the hearings officer finds that the evidence requires a larger amount.

(5) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-272, 40-5-273, 40-5-277, and 40-5-278, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the uniform child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application of the guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. The hearings officer may vary the application of the guidelines to limit the obligor's liability for past support to the proportion of expenses already incurred that the hearings officer considers just. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(6) In a hearing to enforce a support order or to establish paternity under this chapter, the department shall send a copy of the notice of hearing to the obligee by regular mail addressed to the obligee's last-known address. The obligee may attend and observe the hearing as a nonparty. This subsection does not limit participation of an obligee who is a party to the proceedings or who is called as a witness to testify.

(7) (a) Within 60 days after the hearing has been concluded, any posthearing briefs are received, and all the evidence submitted, except for good cause, the hearings officer shall enter a final decision and order. The determination of the hearings officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure Act. A copy of the final decision must be delivered or mailed to each party, each party's attorney, and the obligee if the obligee is not a party.

(b) A child support or medical support obligation established under this section is subject to the registration and processing provisions of part 9 of this chapter.

(8) A child support or medical support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-272, 40-5-273, 40-5-277, and 40-5-278 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearings officer.

(10) A child support or medical support obligation determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearings officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure. When issuing a support order, the department shall consider whether any of the exceptions to immediate income withholding found in 40-5-411 apply, and, if an exception is applicable, the department shall include the exception in the support order.

(11) (a) Unless the hearings officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, each order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearings officer.

(b) If an obligor is excepted from paying support through income withholding, the support order must include a requirement that whenever a party to the case is receiving IV-D services, support payments must be paid through the department as provided in 40-5-909.

(12) (a) If the department establishes paternity or establishes or modifies a child support obligation, the department's order must include a provision requiring each party other than the department to promptly file with the department and to update, as necessary, information on:

(i) identity of the party;

[(ii) social security number;]

(iii) residential and mailing addresses;

(iv) telephone number;

(v) driver's license number;

- (vi) name, address, and telephone number of employer; and
- (vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the obligor's and obligee's employer.
- (b) The order must further direct that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the department.
- (c) The department shall keep the information provided under subsection (12)(a) confidential except as necessary for purposes of Title IV-D of the Social Security Act.
- (13) The hearings officer may:
- (a) compel obedience to the hearings officer's orders, judgments, and process and to subpoenas and orders issued by the department, including income-withholding orders issued pursuant to 40-5-415;
 - (b) compel the attendance of witnesses at administrative hearings;
 - (c) compel obedience of subpoenas for paternity genetic tests;
 - (d) compel the production of accounts, books, documents, and other evidence;
 - (e) punish for civil contempt. Contempt authority does not prevent the department from proceeding in accordance with the provisions of 2-4-104.
 - (f) compel the production of information requested by the department or another IV-D agency under 40-5-443.
- (14) A contempt occurs whenever:
- (a) a person acts in disobedience of any lawful order, judgment, or process of the hearings officer or of the department;
 - (b) a person compelled by subpoena to appear and testify at an administrative hearing or to appear for genetic paternity tests fails to do so;
 - (c) a person compelled by subpoena duces tecum to produce evidence at an administrative hearing fails to do so;
 - (d) an obligor or obligee subject to a discovery order issued by the hearings officer fails to comply with discovery requests;
 - (e) a person or entity compelled by administrative subpoena from the department or another IV-D agency to produce financial information or other information needed to establish paternity or to establish, modify, or enforce a support order fails to do so;
 - (f) a payor under an order to withhold issued pursuant to 40-5-415 fails to comply with the provisions of the order. In the case of a payor under an income-withholding order, a separate contempt occurs each time that income is required to be withheld and paid to the department and the payor fails to take the required action.
 - (g) a payor or labor union fails to provide information to the department or another IV-D agency when requested under 40-5-443[; or]
 - [(h) a financial institution uses information provided by the department pursuant to 40-5-924 for any other purpose without the authorization of the department].
- (15) Before initiating a contempt proceeding, the department shall give the alleged contemnor notice by personal service or certified mail of the alleged infraction and a reasonable opportunity to comply with the law and to cure the alleged infraction. In order to initiate a contempt proceeding, an affidavit of the facts constituting a contempt must be submitted to the hearings officer, who shall review it to determine whether there is cause to believe that a contempt has been committed. If cause is found, the hearings officer shall issue a citation requiring the alleged contemnor to appear and show cause why the alleged contemnor should not be determined to be in contempt and required to pay a penalty of not more than \$500 for each count of contempt. The citation, along with a copy of the affidavit, must be served upon the alleged contemnor either by personal service or by certified mail. All other interested persons may be served a copy of the citation by first-class mail.
- (16) At the time and date set for hearing, the hearings officer shall proceed to hear witnesses and take evidence regarding the alleged contempt and any defenses to the contempt. If the alleged contemnor fails to appear for the hearing, the hearing may proceed in the alleged contemnor's absence. If the hearings officer finds the alleged contemnor in contempt, the hearings officer may impose a penalty of not more than \$500 for each count found. The hearings officer's decision constitutes a final agency decision, subject to judicial review under 40-5-253 and subject to the provisions of Title 2, chapter 4.
- (17) An amount imposed as a penalty may be collected by any remedy available to the department for the enforcement of child support obligations, including warrant for distraint pursuant to 40-5-247, income withholding pursuant to Title 40, chapter 5, part 4, and state debt offset, pursuant to Title 17, chapter 4, part 1. The department may retain any penalties collected under this section to offset the costs of administrative hearings conducted under this chapter.
- (18) The penalties charged and collected under this section must be paid into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)
- History: En. Sec. 16, Ch. 612, L. 1979; amd. Sec. 45, Ch. 439, L. 1981; amd. Sec. 15, Ch. 549, L. 1989; amd. Sec. 6, Ch. 266, L. 1991; amd. Sec. 3, Ch. 635, L. 1991; amd. Sec. 3, Ch. 294, L. 1993; amd. Sec. 54, Ch. 328, L. 1993; amd. Sec. 14, Ch. 631, L. 1993; amd. Sec. 5, Ch. 264, L. 1995; amd. Sec. 6, Ch. 482, L. 1997; amd. Secs. 45, 100, Ch. 552, L. 1997; amd. Sec. 2, Ch. 542, L. 2001; amd. Sec. 5, Ch. 21, L. 2005; amd. Sec. 4, Ch. 431, L. 2005; amd. Sec. 2, Ch. 564, L. 2005; amd. Sec. 4, Ch. 364, L. 2019.

40-5-272. Application For Review Of Child Support Orders

- 40-5-272. Application for review of child support orders. (1) Upon the application of the department, the obligor, or the obligee, a support order issued by a district court of this state or by a court or administrative agency of another state, tribe, or foreign country as defined in 40-5-1002 or a previously issued administrative support order of this state may be reviewed by the department to determine whether the support order should be modified in accordance with the guidelines.
- (2) Jurisdiction to conduct the review and to issue a modifying order under 40-5-273, 40-5-277, and 40-5-278 is authorized when:
- (a) this state has issued the order and the obligor and the obligee reside in this state; or
 - (b) this state has jurisdiction as provided under the Uniform Interstate Family Support Act.
- (3) Jurisdiction to review a child support order under this section does not confer jurisdiction for any other purpose, such as custody or visitation disputes.
- (4) Criteria constituting sufficient grounds for review of a child support order include:
- (a) a substantial change in circumstances as defined by administrative rules;
 - (b) the need to provide for the child's health care needs, regardless of the availability of health insurance coverage through employment or other group insurance;
 - (c) a lapse of 36 months from the date that:
 - (i) the order was entered;
 - (ii) an administrative hearing was granted under 40-5-277; or
 - (iii) an administrative order was issued denying a modification because of the applicant's failure to meet one of the criteria described in this subsection (4); or
 - (d) a change in custody of the child.
- (5) A party may withdraw the party's request for modification prior to the issuance of the notice described in 40-5-273. After the issuance of the notice, if a party withdraws a request for modification, the nonrequesting party may continue the modification action by filing with the department a written request to continue.
- (6) The department shall make available procedures and forms that allow the obligor or the obligee to complete the review process without legal counsel.

40-5-273. Notice Of Review Of Child Support Orders – Order For Production Of Information

40-5-273. Notice of review of child support orders – order for production of information. (1) Upon receipt of a review application setting forth facts meeting any of the criteria for review of a child support order established in 40-5-272, a notice of administrative review and an order for the production of financial information, if appropriate, must be served either personally or by certified mail on the obligor, the obligee, and any other party entitled to notice. If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. Service of the notice is considered to be effective if, in the absence of a return receipt, the person to whom the notice was mailed requests a hearing or appears at the administrative review hearing. The notice must include a statement:

- (a) of the purpose, objectives, and possible consequences of the review, including that a modified support order may require the obligee to pay a monthly transfer payment to another party;
- (b) of the right of the obligor and the obligee to request the department to issue subpoenas compelling the appearance of witnesses and the production of documents for a hearing;
- (c) of the dollar amount of the support obligation to be paid each month for the child;
- (d) of any change in the child's medical support needs, including changes to the original order to bring it into compliance with part 8 of this chapter;
- (e) of the effective date of the change in the child support or medical support obligation;
- (f) of the right of any party to request a hearing to contest the amount of child support alleged in the notice or to contest the imposition or modification of a medical support order;
- (g) that if a party does not timely file a request for a hearing, support, including medical support, will be ordered as declared in the notice or in accordance with the child support guidelines adopted under 40-5-209;
- (h) that if a party requests a hearing, the other parties may refuse to participate in the proceedings and that the child support and medical support order will be determined using the information available to the department or provided at the hearing;
- (i) that a party's refusal to participate is a consent to entry of a child support and medical support order consistent with the department's determination; and
- (j) that the parties are entitled to a fair hearing under 40-5-277.

(2) An order for the production of financial information may be incorporated into the review notice and must include a statement that:

- (a) the financial information must be returned no later than the 20th day after the date the order is served;
 - (b) if the requested information is not returned as required, the department may:
 - (i) proceed with the review using the information available to the department;
 - (ii) cease all proceedings for the review;
 - (iii) initiate contempt proceedings in accordance with 40-5-226; or
 - (iv) apply to the district court for an order to compel compliance with the order for production of financial information in accordance with 2-4-104; and
 - (c) any information required by the order must be provided to the department and other parties prior to the review hearing.
- (3) If, in the absence of a certified mail return receipt showing the date of service, a person requests a hearing, any financial information ordered produced pursuant to subsection (2) must be provided to the department no later than the 20th day after the person requests the hearing, unless the person requesting the hearing waives that date in writing. A person who waives that date in writing shall provide the financial information by the date provided in subsection (2) or by another date established by order of the department.
- (4) If additional discovery is requested by a party, the hearings officer may issue subpoenas ordering other parties to produce information in the party's possession about the obligor and the obligee that may be reasonably necessary for application of the guidelines.

History: En. Sec. 3, Ch. 266, L. 1991; amd. Sec. 10, Ch. 482, L. 1997; amd. Sec. 55, Ch. 552, L. 1997; amd. Sec. 74, Ch. 51, L. 1999; amd. Sec. 10, Ch. 579, L. 1999; amd. Sec. 12, Ch. 352, L. 2001; amd. Sec. 4, Ch. 542, L. 2001; amd. Sec. 7, Ch. 564, L. 2005.

40-5-277. Administrative Review Hearing – Final Order – Court Approval Of Order

40-5-277. Administrative review hearing – final order – court approval of order. (1) Upon receipt of a timely request for hearing from a party, the department shall schedule an administrative hearing. The hearing is a contested case as defined in 2-4-102 and must initially be conducted by teleconferencing methods. At the request of a party or upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the department shall grant a de novo in-person hearing. The hearing is subject to Title 2, chapter 4, and 40-5-253, except as otherwise provided in 40-5-272, 40-5-273, 40-5-277, and 40-5-278.

(2) In addition to the powers and duties provided by other law, to ensure the equitable determination of a support obligation, during a review hearing the department shall:

- (a) question witnesses in a nonadversarial manner to elicit full disclosure of all pertinent facts in dispute;
- (b) hear evidence submitted by the parties and rule on its admissibility; and
- (c) apply the guidelines to the facts agreed upon and to those determined at the hearing on disputed matters.

(3) The hearings officer shall determine the liability and responsibility, if any, of the parent or parents under the notice. The monthly support obligation must be determined with reference to the child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income and financial condition, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable award unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application is unjust or inappropriate. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(4) If the department determines that the difference between the existing support order and the amount determined under the guidelines is negligible under rules issued by the department, the modified support order may not change the amount of the support obligation. Regardless of the amount of the support order, the department may determine that an order for the provision of health insurance is appropriate.

(5) The department shall consider whether or not health insurance for the child is available and make an appropriate order in accordance with part 8 of this chapter for the provision of the child's health insurance.

(6) In addition to complying with other requirements of law, the modified support order must include the following notices and warnings:

(a) that the parties keep the department informed of the name and address of the obligor's current employer and information on health insurance available to the parties through employment or other group insurance; and

(b) that the modified order is subject to future administrative review and modification by the department upon the request of the department or a party under this part when the department is providing services under Title IV-D of the Social Security Act.

(7) Except as provided in subsection (8), an order entered under this section:

(a) is a final agency decision and is subject to judicial review pursuant to the Montana Administrative Procedure Act; and

(b) must notify the parties that the order is subject to judicial review under Title 2, chapter 4, part 7, and 40-5-253.

(8) (a) An administrative modified support order issued under this section that modifies a support order entered by a Montana court or a court of another jurisdiction is not effective as a final order until the modified order is filed with and approved by the court that entered the order if that order was entered by a Montana district court. If the order was entered by a court of another jurisdiction, the order must be filed with and approved by a Montana district court that is an appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings. The department shall file the proposed modified order with the appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings and shall serve the order on the parties and their counsel of record in the administrative and court proceedings by mail or personal service in accordance with Rule 5 of the Montana Rules of Civil Procedure. Service is complete upon mailing to the last-known address of the parties and counsel of record.

(b) A party may file a written objection to an administrative modified support order proposed by the department under this section with the court within 20 days after service of a copy of the order on the party. The court shall set a date for a hearing on the objection to the proposed order. If an objection is not filed, the court may without further notice enter its order.

(c) The court may adopt an administrative modified support order proposed under this section, modify it, reject it, or remand it to the department with instructions for further hearing. Service of the court order must be in accordance with Rule 5 of the Montana Rules of Civil Procedure. If the court modifies a proposed administrative modified support order proposed under this section without a hearing, a party may file an objection to the court's modification within 10 days of service of the court's order on the party. If an objection is filed, the court shall set a date for hearing the objection and shall enter its final order after the hearing.

History: En. Sec. 6, Ch. 542, L. 2001; amd. Sec. 8, Ch. 564, L. 2005.

40-5-278. Limited Review Of Support Order

40-5-278. Limited review of support order. A party may apply for a limited review to address a specific change that occurred after a support order was entered, that is not caused by an increase or decrease in a party's annual net income, and that may have other effects on the existing support order. It is presumed that all other facts relative to the existing support order, including income and deductions from income, remain unchanged. Information gathered is limited to that which is necessary to verify the change, the value of the change, and the expected duration of the change. The department's recommendation must be limited to whether the value of the change should be added to or subtracted from the amount of the existing support order. If a more detailed modification is required in a case presented for limited review, the case becomes subject to the requirements of 40-5-277. The circumstances in which a limited review process is available are confined to cases in which:

(1) there is a change in parenting time or residence of a child and a modified support order has not been entered as a result of the change;

(2) a child's need for day-care services has increased or decreased and the increase or decrease is expected to continue for at least 18 months;

(3) a child has developed special needs that did not exist when the existing support order was issued and the needs are expected to continue for at least 18 months or a special need considered in the support order no longer exists;

(4) the cost of health insurance coverage for a child provided by a parent has increased or decreased by 25% of the support order and the increase or decrease is expected to continue for at least 18 months;

(5) there has been the birth of another child to the parties and the child's needs are to be added to the existing support order; or

(6) a child has reached the age of majority, become emancipated, married, entered military service, or died.

History: En. Sec. 7, Ch. 542, L. 2001.

Chapter 5. Enforcement Of Support: Part 8. Medical Support Order Enforcement

40-5-801. Short Title

40-5-801. Short title. This part may be known and cited as the "Medical Support Reform Act".

History: En. Sec. 1, Ch. 504, L. 1995.

40-5-802. Purpose

40-5-802. Purpose. The purpose of this part is to promote the health and medical care of children and to conserve the expenditure of public assistance funds by ensuring that children have access to reasonable health insurance coverage or a health benefit plan provided by their parents, who are primarily responsible for their support.

History: En. Sec. 2, Ch. 504, L. 1995.

40-5-803. Scope

40-5-803. Scope. This part does not expand any coverage available to any individual under any health insurance coverage or a health benefit plan required under federal law or Title 33, chapter 22, though this part may expand the class of children who may be eligible for individual insurance or health benefit plan coverage due to a duty of support owed to them by their parents.

History: En. Sec. 3, Ch. 504, L. 1995.

40-5-804. Definitions

40-5-804. Definitions. For purposes of this part, the following definitions apply:

- (1) "Child" means an individual, whether over or under 18 years of age, to whom or on whose behalf a legal duty of support is owed by a parent. The term includes but is not limited to a child enrolled or eligible for enrollment under a health benefit plan or individual insurance policy.
- (2) "Child support guidelines" means guidelines adopted under the provisions of 40-5-209.
- (3) "COBRA" means the federal Consolidated Omnibus Budget Reconciliation Act of 1985, under which dependent children of employees may continue to receive, for a limited time under specific circumstances, health plan coverage after termination of employment.
- (4) "Department" means the department of public health and human services as provided for in 2-15-2201.
- (5) (a) "Health benefit plan" or "plan" means a group health benefit plan or combination of plans that provides medical care or benefits for a child. The term includes but is not limited to a health maintenance organization, self-funded group, state or local government group health plan, church group plan, medical or health service corporation, or similar plan.
(b) The term does not include public health coverage if other medical insurance is available to one or both of the parents at a reasonable cost and is accessible for the child.
- (6) "Individual insurance" means health or medical insurance coverage other than a group health benefit plan or public assistance that is or may be provided individually for a child.
- (7) "Medical care" means diagnosis, cure, mitigation, treatment, or prevention of disease, illness, or injury, including well baby checkups, periodic examinations, and any other undertaking for the purpose of affecting any structure or function of the body.
- (8) "Medical support order" means a judgment, decree, or order, including approval of a settlement agreement issued by a tribunal of competent jurisdiction, that provides for the medical care of a child and that complies with the requirements of this part.
- (9) "Obligated parent" means the parent who is required by a medical support order to provide for the medical care of a child. The obligated parent is not necessarily the same as an obligor for child support.
- (10) "Parent" means a father or mother and includes a child's guardian or other adult caretaker having lawful charge of the child.
- (11) "Payor" or "payor of income" means a person, firm, corporation, association, union, employer, trustee, political subdivision, state agency, or any agent thereof who pays income to a parent on a periodic basis, who has or provides individual insurance or a health benefit plan, and who is subject to the jurisdiction of this state under Rule 4(b) of the Montana Rules of Civil Procedure or any employer under the Uniform Interstate Family Support Act.
- (12) "Plan administrator" means the person or entity, including but not limited to a state or local government or church, that assesses and collects premiums, accepts and processes claims, and pays benefits.
- (13) "Primary parent" means the parent with whom the child resides for the most 24-hour periods in a plan year.
- (14) "Qualified medical child support order" means an order that meets the requirements of 29 U.S.C. 1169.
- (15) "Third-party custodian" means an agency or person other than a parent who:
 - (a) is authorized by legal process to have physical custody of a child;
 - (b) has actual physical custody of a child with the written consent of the parent or parents having legal custody of the child; or
 - (c) has actual physical custody of a child because of the parents' neglect, failure, or inability to provide for the child's support, medical care, and other needs.
- (16) "Tribunal" means a court of competent jurisdiction or the department.

History: En. Sec. 4, Ch. 504, L. 1995; amd. Sec. 1, Ch. 211, L. 2001; amd. Sec. 5, Ch. 131, L. 2019.

40-5-805. Establishing Medical Support Orders

40-5-805. Establishing medical support orders. (1) In an action or proceeding to establish a child support order, whether temporary or final, or to modify an existing child support order, the tribunal shall also establish a medical support order. In establishing a medical support order, a tribunal shall consider:

- (a) the best interests of the child;
 - (b) the child's present and anticipated needs for medical care;
 - (c) the financial ability of the parents to pay for individual insurance or a health benefit plan; and
 - (d) the extent to which an available health benefit plan or individual insurance coverage is subsidized or reduced in cost by an employer or by participation in a plan on a group basis.
- (2) Except as otherwise provided in this part, a tribunal may not consider a child's eligibility for a public assistance program as a factor in determining a parent's financial ability to afford individual insurance or a health benefit plan.

History: En. Sec. 5, Ch. 504, L. 1995.

40-5-806. Contents Of Medical Support Order

40-5-806. Contents of medical support order. (1) A medical support order may specify terms for individual insurance coverage and, to the extent of options within an available health benefit plan, the terms for plan coverage, including:

- (a) minimum required policy limits;
- (b) minimum required coverage;
- (c) maximum terms for deductibles or required copayments; and
- (d) other significant terms.

(2) If a child is already covered by individual insurance or a health benefit plan, if the child does not have existing coverage but coverage can be obtained under a health benefit plan that is available to the primary parent, or if the child does not have existing coverage and coverage for the child under a plan is available to the other parent, then the medical support order must require participation in that plan unless:

- (a) the cost of continuing coverage or the cost of the health benefit plan is not reasonable or cost-beneficial; or

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- (b) another plan or individual insurance is available that will better serve the interests of the parties.
- (3) If health benefit plans are available to both parents at a combined cost that is reasonable or cost-beneficial and with benefits that are complementary or compatible as primary and secondary coverage, the medical support order must require both parents to provide coverage for the child.
- (4) If, at the time of the medical support order, coverage for the child in a health benefit plan is not available to either parent, the parent other than the primary parent must be required to obtain individual insurance coverage for the child. If the cost of individual insurance is not reasonable or cost-effective, the parent other than the primary parent must be required to obtain individual insurance or a health benefit plan at such time in the future that it becomes available to that parent at reasonable cost. The requirements in this subsection (4) to obtain a plan are not enforceable if:
- (a) the primary parent has obtained individual insurance or a health benefit plan for the child and both parents have agreed in writing to share the costs of maintaining the coverage; or
- (b) the other parent persuades the tribunal that the cost of available health benefit plans is not reasonable or cost-beneficial.
- (5) If the department is providing child support enforcement services, the department shall ensure that a parent required by a medical support order to obtain a health benefit plan or individual insurance for a child is informed of any state group health benefit plan, such as the state children's health insurance plan, for which a child may be eligible. If a medical support order requiring enrollment is issued by the department or the court and a determination is made that insurance is not available at a reasonable cost, the tribunal shall notify the primary parent of the determination and of any state group health benefit plan for which a child may be eligible and may order the primary parent to submit an application to the department for enrollment of the child in a state group health benefit plan, such as the state children's health insurance plan. If the department determines that the child is eligible, it shall enroll the child in the program pursuant to standard enrollment procedures.
- (6) This section also applies when a child is placed with a third-party custodian, unless a parent has obtained individual insurance or a plan for the child and both parents have agreed in writing to share the costs of maintaining the coverage or a parent persuades the tribunal that the cost of available individual insurance and plans is not reasonable or cost-beneficial. For purposes of this subsection, the primary parent is considered to be the parent with whom the child resided for the most 24-hour periods in the 12 months prior to placement with the third-party custodian.
- (7) The medical support order must also provide that the cost of individual insurance or the health benefit plan, any copayments and deductibles required under the coverage, and all medical expenses for the child that are not covered by individual insurance or the plan must be shared between parents in accordance with the child support guidelines. If the order fails to designate each parent's share, each parent is liable for 50% of the costs and expenses.
- (8) The costs of providing individual insurance or a health benefit plan may not be used as a direct offset to the child support obligation. However, as provided by the child support guidelines, the costs may be considered in making or modifying a child support order.
- (9) The department shall adopt rules establishing guidelines to determine whether individual insurance or a health benefit plan is presumed to be available at a reasonable cost and under what conditions the presumption may be rebutted. The rules must apply in any proceeding to establish or enforce a medical support order.
- History: En. Sec. 6, Ch. 504, L. 1995; amd. Sec. 14, Ch. 579, L. 1999; amd. Sec. 2, Ch. 211, L. 2001.

40-5-807. Mandatory Provisions Of Medical Support Order

40-5-807. Mandatory provisions of medical support order. (1) Unless the tribunal expressly specifies otherwise, a medical support order must include terms directed toward the provisions of 40-5-806(2) through (8), even though a provision contained in those subsections may not apply to the parent's circumstances at the time the order is entered. The terms may be established as alternatives or contingencies that provide that if circumstances later change, the health needs of the child will continue to be met under one of the subsections without need for modification of the medical support order or other action by the tribunal that issued the order or any other tribunal of competent jurisdiction.

(2) If circumstances change and a parent believes that corresponding changes in costs are not reasonable or cost-beneficial, the parent may move to petition any appropriate tribunal for relief.

(3) If a health benefit plan is provided through an employer, union, or other group, the medical support order must also include provisions necessary to entitle the order to recognition as a qualified medical child support order.

History: En. Sec. 7, Ch. 504, L. 1995; amd. Sec. 15, Ch. 579, L. 1999.

40-5-807. Persistence And Duration Of Obligation

40-5-808. Persistence and duration of obligation. (1) A parent's obligation to provide for medical care of a child ceases only when the parental obligation to support a child terminates under law.

(2) The obligations to provide medical care for a child, provide financial child support, and provide or comply with visitation and custody arrangements are independent of each other, and the failure or inability to provide one or more does not reduce one of the others.

(3) A guardian or caretaker who is not the child's father or mother may not be compelled to support the child or be held liable for the child's expenses, except to the extent that the guardian or caretaker has voluntarily agreed in writing to assume the responsibility.

History: En. Sec. 8, Ch. 504, L. 1995.

ADDENDUM B.
Administrative Rules of Montana
ARM 37.62.101 to 37.62.148
(By Long Rule Number)

NOTES

This material—reformatted here for ADA compliance—is posted on the Montana Secretary of State's rules website at <https://rules.mt.gov/>, under Administrative Rules of Montana > Dept. No. 37 Public Health and Human Services > Chapter No. 37.62, Subchapter 1 Child Support Guidelines (or, use the direct path at <https://rules.mt.gov/gateway/Subchapterhome.asp?scn=37%2E62.1> and select the relevant rule by its full-length number).

Dept. No. 37. Public Health And Human Services

Chapter No. 62. Child Support Services

Subchapter 1. Child Support Guidelines

37.62.101. Authority, Policy and Purpose

- (1) These guidelines are promulgated under the authority of 40-5-209 , MCA, for the purpose of establishing a standard to be used by the district courts, child support enforcement agencies, attorneys and parents in determining child support obligations.
- (2) These guidelines are based on the principle that it is the first priority of parents to meet the needs of the child according to the financial ability of the parents. In a dissolution of marriage or when parents have never been married, a child's standard of living should not, to the degree possible, be adversely affected because a child's parents are not living in the same household.
- (3) These guidelines are structured to determine child support on an annual basis. Payment will be made in equal monthly installments.
- (4) As required by 40-4-204 , 40-5-226 and 40-6-116 , MCA, these guidelines apply to contested, non-contested and default proceedings to establish or modify support orders.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.102. Rebuttable Presumption

- (1) The guidelines create a presumption of the adequacy and reasonableness of child support awards. However, every case must be determined on its own merits and circumstances and the presumption may be rebutted by evidence that a child's needs are or are not being met.
- (2) At the request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208, and 40-6-116, MCA, the final outcome of the guidelines calculation, or "bottom line", may be rebutted and a variance from the guidelines final amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.
- (3) The support order may vary from the bottom line in a particular case only if the decree, separation order, or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate, based upon evidence sufficient to rebut the presumption.
- (4) Findings that rebut and vary the bottom line must include a statement of the amount of support that would have been ordered under the guidelines without the variance.
- (5) Child support may vary from the bottom line based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:
 - (a) it is in writing, executed by the parties free of coercion;
 - (b) it contains specific justification as to why application of the guidelines is unjust or inappropriate;
 - (c) it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance; and
 - (d) it has been approved by the court or in an administrative proceeding.
- (6) A support order granting a variance from the bottom line, based upon the existence of a condition or the performance of an act, must provide that, upon termination of the circumstances which justify the variance, the support immediately reverts to the amount which would have been ordered under the guidelines without the variance.
- (7) In contrast to the bottom-line presumption, the child support guidelines include a variety of presumptions affecting particular entries or lines in the calculation intended to customize support for a particular family. "Line-item" presumption refers to various provisions of the child support guidelines assuming specific fact patterns which occur in a majority of cases. If, in the case at issue, a parent can show that the facts in evidence are not consistent with the facts assumed, the facts in evidence are applied to the entry and result in a different but appropriate child support award. The entry based on the evidence rebuts the line-item presumption regarding the guideline provision. For example, ARM 37.62.110(1)(b)(ii) may allow a deduction from a parent's income for "an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists". The rule presumes the remaining half of the child's support is the responsibility of the other parent of the child, but if, in the case at issue, there is no other parent to share responsibility, the party ordinarily entitled to the one-half deduction is allowed the full deduction.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.103. Definitions

For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

- (1) "Actual income" is defined in ARM 37.62.105.
- (2) "CSSD" means the Child Support Services Division of the Department of Public Health and Human Services.
- (3) "Department" means the Department of Public Health and Human Services.
- (4) "Federal poverty guidelines" means the guidelines published by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2), which will be updated periodically in the Federal Register. Such updates will be adopted by amendment to these rules as appropriate.
- (5) "Guidelines" means the administrative rules for establishment of child support as provided in ARM Title 37, chapter 62, subchapter 1, as promulgated in 40-5-209, MCA.
- (6) "Imputed income" is defined in ARM 37.62.106.
- (7) "Incarceration" means a parent is held in a correctional, detention, or treatment facility for more than 180 days.
- (8) "Legal dependent" means natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parent's parents living in the household who are claimed on tax returns as legal dependents.
- (9) "Long distance parenting" is defined in ARM 37.62.130.
- (10) "Other child" means a child whom a parent is legally obligated to support but who is not the subject of the child support calculation. A step-child is not considered an other child.
- (11) "Personal allowance" is defined in ARM 37.62.114.
- (12) "Primary child support allowance" is defined in ARM 37.62.121.
- (13) "SOLA" means standard of living adjustment.

(14) "Standard of living" includes the necessities, comforts and luxuries enjoyed by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances.

(15) "Transfer payment" is defined in ARM 37.62.134.

(16) "Underemployed" means employed less than full time, when full-time work is available in the community or the local trade area, and/or earning a wage that is less than the parent has earned in the past, or is qualified to earn, when higher paying jobs are available in the community or the local trade area, for which the parent is qualified.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2017 MAR p. 2441, Eff. 12/23/17; AMD, 2020 MAR p. 966, Eff. 5/30/20.

37.62.105. Determination Of Income For Child Support

(1) Income for child support includes actual income, imputed income as set forth in ARM 37.62.106, or any combination thereof which fairly reflects a parent's resources available for child support. Income can never be less than zero.

(a) Parents are presumed to be capable of earning income from full-time employment; full-time employment is presumed to be 40 hours per week but may be more or less depending upon the parent's profession and/or the employer's policies.

(b) The net value of a parent's assets may be considered for child support where, in a specific case, it would be inappropriate not to do so.

(2) Actual income includes:

(a) economic benefit from whatever source derived, except as excluded in (3) of this rule, and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, earnings, profits, dividends, severance pay, pensions, periodic distributions from retirement plans, draws or advances against wages or salaries, interest, trust income, annuities, royalties, alimony or spousal maintenance, social security benefits, veteran's benefits, workers' compensation benefits, unemployment benefits, disability payments, earned income credit and all other government payments and benefits. Income also includes capital gains net of capital losses. To the extent the net gains result from recurring transactions, they may be averaged over a period of at least three years. If the net gains are attributable to a single event or year, they may be used to represent income over one or more years;

(b) gross receipts minus reasonable and necessary expenses required for the production of income for those parents who receive income or benefits as the result of an ownership interest in a business or who are self-employed. Specifically:

(i) straight line depreciation for vehicles, machinery, and other tangible assets may be deducted from income if the asset is required for the production of income. The party requesting such depreciation shall provide sufficient information to calculate the value and expected life of the asset. Internal Revenue Service rules apply to determine expected life of assets;

(ii) if expenses are not required for the production of income, the expenses are not allowable deductions; if business expenses include a personal component, such as personal use of business vehicles, only the business component is deductible;

(iii) a net loss in the operation of a business or farm may not offset other income. If a parent has more than one business and the businesses are related, however, the total losses of the businesses may be offset against (deducted from) the total profits. An artist, for example, whose principal income source is the sale of paintings in her gallery may also own a company that publishes calendars and other commercial uses of her paintings as a marketing tool. A loss in the operation of the publishing company may be offset against the profit in the gallery business because the two enterprises are related; and

(iv) investment losses outside the normal course of business may not reduce other income.

(c) the value of noncash benefits, including but not limited to in-kind compensation, personal use of vehicle, housing, payment of personal expenses, food, utilities, etc.;

(d) grants, scholarships, third-party contributions, and earned income received by parents engaged in a plan of economic self-improvement, including students.

Financial subsidies or other payment intended to subsidize the parent's living expenses and not required to be repaid at some later date must be included in income for child support; and

(e) allowances for expenses, flat rate payments or per diem received, except as offset by actual expenses. Actual expenses may be considered only to the extent a party can produce receipts or other acceptable documentation. Reimbursement of actual employment expenses may not be considered income for purposes of these rules.

(3) Income for child support does not include:

(a) income attributable to subsequent spouses, domestic associates, and other persons who are part of the parent's household;

(b) means-tested veteran's benefits;

(c) means-tested public assistance benefits including but not limited to cash assistance programs funded under the federal temporary assistance to needy families (TANF) block grant;

(d) supplemental security income (SSI);

(e) supplemental nutrition assistance program (SNAP) benefits, formerly known as food stamps;

(f) child support payments received from other sources; and

(g) adoption subsidies paid by state or federal agencies, unless expenses of the subsidized child are included in the calculation.

(4) Income for child support does not include lump sum social security payments or social security benefits received by a child or on behalf of a child as the result of a parent's disability or the child's disability, whether or not the child is a child of the calculation. See ARM 37.62.144 for more information on Social Security benefits.

(5) If overtime is mandatory and the worker has no control over whether or not overtime is worked, the overtime earnings are included in income for child support. In the case of voluntary overtime earnings or earnings from a job that is in addition to a full-time job, and the earnings are expected to continue for the foreseeable future, the earnings are presumed to be available for child support and are included in the calculation subject to rebuttal of the presumption.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 2012 MAR p. 747, Eff. 7/1/12.

37.62.106. Imputed Income For Child Support

(1) "Imputed income" means income not actually earned by a parent, but which is attributed to the parent based on the provisions of this rule. It is presumed that all parents are capable of working at least 40 hours per week at minimum wage, absent evidence to the contrary.

(2) It is appropriate to impute income to a parent, subject to the provisions of (6) of this rule, when the parent:

(a) is unemployed;

(b) is underemployed;

(c) fails to produce sufficient proof of income;

(d) has an unknown employment status; or

(e) is a student.

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- (3) In all cases where imputed income is appropriate, the amount is based on the following:
- (a) the parent's recent work and earnings history;
 - (b) the parent's occupational, educational, and professional qualifications;
 - (c) existing job opportunities and associated earning levels in the community or the local trade area;
 - (d) the parent's age, literacy, health, criminal record, record of seeking work, and other employment barriers;
 - (e) the availability of employers willing to hire the parent; and
 - (f) other relevant background factors.
- (4) Imputed income may be in addition to actual income and may not necessarily reflect the same rate of pay as the actual income.
- (5) Income is imputed according to a parent's status as a full- or part-time student, whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is determined, unless actual income is greater. If the student is:
- (a) full-time, the parent's earning capacity is based on full-time employment for 13 weeks and approximately half of full-time employment for the remaining 39 weeks of a 12-month period; or
 - (b) part-time, the parent's earning capacity is based on full-time employment for a 12-month period.
- (6) Income is not imputed if any of the following conditions exist:
- (a) the reasonable and unreimbursed costs of child care for dependents in the parent's household would offset in whole or in substantial part, that parent's imputed income;
 - (b) a parent is physically or mentally disabled to the extent that the parent cannot earn income, or is incarcerated for more than 180 days;
 - (c) unusual emotional and/or physical needs of a legal dependent require the parent's presence in the home;
 - (d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or
 - (e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.
- History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2017 MAR p. 2441, Eff. 12/23/17.

37.62.108. Income Verification / Determining Annual Income

- (1) A parent must swear to the accuracy and authenticity of all financial information submitted for the purpose of calculating child support.
- (2) Income of the parents must be documented. This may include pay stubs, employer statements, income tax returns, and profit and loss statements. If expenses are disputed, proof may be required.
- (3) To the extent possible, income for child support and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:
- (a) seasonal employment or fluctuating income may be averaged over a period sufficient to accurately reflect the parent's earning ability. If a parent has been self-employed for three years or less, the profit and loss statements and income tax returns of the individual parent and the business entity for each of those years are required so that the average of the parent's self-employment income can be considered in the child support calculation. If the parent has been self-employed for more than three years, a minimum of the most recent three years' profit and loss statements and tax returns are required; or
 - (b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage.
- (4) Nothing in this rule shall be construed to require the use of any particular method of determining annual income if it does not accurately reflect a parent's resources available for child support.
- (5) Income for child support may differ from a determination of income for tax purposes.
- History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.110. Allowable Deductions From Parents' Income

- (1) Allowable deductions from income include those required by law, those required as a condition of employment, and those necessary for the production of income. Allowable deductions may include:
- (a) the amount of alimony or spousal maintenance which a parent is required to pay under a court or administrative order;
 - (b) for an "other child" as defined in ARM 37.62.103(9):
 - (i) the amount of child support due under existing court or administrative support orders; and
 - (ii) an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists and who:
 - (A) reside with the parent of the calculation; or
 - (B) do not reside with a parent of the calculation if a showing of ongoing support is made;
 - (c) the amount of any health insurance premium which either parent is required to pay under a court or administrative order for a child not of this calculation;
 - (d) the actual income tax liability based on tax returns. If no other information is available, use the federal and state income tax tables which show the amount of withholding for a single person with one exemption;
 - (e) the actual social security (FICA plus Medicare) paid;
 - (f) court ordered payments except as excluded under ARM 37.62.111;
 - (g) actual unreimbursed expenses incurred as a condition of employment such as uniforms, tools, safety equipment, union dues, license fees, business use of personal vehicle and other occupational and business expenses;
 - (h) actual mandatory contributions toward internal revenue service (IRS) approved retirement and deferred compensation plans. Mandatory contributions are fully deductible;
 - (i) one-half the amount of a parent's unreimbursed payments for an "other child" for extraordinary medical expenses and child care expenses necessary to allow the parent to work, less federal tax credits;
 - (j) extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity;
 - (k) cost of tuition, books, and mandatory student fees for a parent who is a student as anticipated under ARM 37.62.106(5); and
 - (l) the current, annual interest on student loans, paid by a parent of the calculation for post-secondary education that has resulted in an economic benefit for the children of the calculation.
- (2) Allowable deductions from income for child support differ from allowable deductions for tax purposes.

37.62.111. Nonallowable Deductions From Income

(1) Deductions which are not allowable under these rules include:

- (a) payroll deductions for the convenience of the parent, such as credit union payments and savings;
- (b) imputed employment-related expenses, such as imputed child care;
- (c) expenses incurred for the support of a spouse capable of self-support;
- (d) payments for satisfaction of judgments against a parent related to the purchase of property for the parent's personal use;
- (e) bankruptcy payments except to the extent that they represent debts for expenses which would otherwise be deductible; or
- (f) a stepchild and associated costs.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.114. Personal Allowance

(1) Personal allowance is an amount which reflects 1.3 multiplied by the federal poverty guideline for a one-person household. This amount is deducted when determining child support. Personal allowance is a contribution toward, but is not intended to meet the subsistence needs of parents.

(2) If a parent has legal dependents not capable of self-support and whose needs have not already been considered at ARM 37.62.110, the personal allowance may reflect the parent's responsibility by increasing the number in the household when consulting the federal poverty guideline.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.116. Income Available for Child Support

(1) Income available for support is determined by subtracting from each parent's income, the deductions allowed under ARM 37.62.110 and the amount of personal allowance determined under ARM 37.62.114.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.118. Total Income Available / Parental Share

(1) The parents' incomes available for child support are combined to determine the total income available for child support. Each income is divided by the total. The resulting factor determines each parent's share of the primary child support allowance under ARM 37.62.121 and supplements under ARM 37.62.123.

(2) For any parent whose support obligation is determined according to the provisions of ARM 37.62.126(1) (a) and (1) (b), the amount of the minimum contribution is substituted for that parent's total income available for child support for the purpose of determining each parent's share of the primary child support allowance and supplements.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.121. Primary Child Support Allowance

(1) Primary child support allowance is a standard amount to be applied toward a child's food, shelter, clothing and related needs and is not intended to meet the needs of a particular child. This allowance is .30 multiplied by the personal allowance found at ARM 37.62.114 for the first child. For the second and third children, the personal allowance is multiplied by .20 and added for each child. For four or more children, the personal allowance is multiplied by .10 and added for each additional child.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.123. Supplements To Primary Child Support Allowance

(1) The primary child support allowance is supplemented by:

- (a) reasonable child care costs incurred by a parent for children of the calculation as a prerequisite to employment. The child care expense is reduced by the federal dependent care tax credit;
- (b) cost of health insurance coverage for the children of the calculation. Include only the actual cost of adding the children to an existing health insurance policy or the cost of a child-only policy;
- (c) unreimbursed health care expenses for each child of the calculation that exceed \$250 per year and are recurring and predictable; and
- (d) other needs of the child as determined by the circumstances of the case.

(2) The total supplemental needs of the child are divided proportionately between the parents according to the parental share determined under ARM 37.62.118.

(3) Each parent will receive credit for the amount of the supplemental needs paid by that parent.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.124. Parenting Days

(1) The parenting plan, referenced in 40-4-234, MCA, provides for the child's residential schedule with the parents.

(2) When the child resides primarily with one parent and does not spend more than 110 days per year with the other parent, there is no adjustment to the transfer payment due. When at least one child spends more than 110 days per year with both parents, however, or when at least one child resides primarily with each parent, the transfer payment is adjusted according to ARM 37.62.134.

(3) A "day" is defined as the majority of a 24-hour calendar period in which the child is with or under the control of a parent. This assumes there is a correlation between time spent and resources expended for the care of the child. For purposes of this chapter, and unless otherwise agreed by the parents or specifically found by the court, the calendar period begins at midnight of the first day and ends at midnight of the second day. When the child is in the temporary care of a third party, such as in school or a day care facility, the parent who is the primary contact for the third party is the parent who has control of the child for the period of third-party care. If both parents are primary contacts for a third party, or if the parents are otherwise unable to agree on the total number of days for each parent, the number of disputed days may be totaled and divided equally between the parents.

37.62.126. Minimum Support Obligation

- (1) A specific minimum contribution toward child support should be ordered in all cases when the parent's income, after deductions, is less than or equal to the parent's personal allowance or the parent's calculated child support obligation is less than 12% of that parent's income after deductions.
- (a) For parents whose income, as defined in ARM 37.62.105 and ARM 37.62.106, after deductions, as defined in ARM 37.62.110, is less than or equal to the parent's personal allowance, the minimum contribution is a portion of the income after deductions and is determined by applying the table in (3) as follows:
- (i) divide the income after deductions by the personal allowance as defined in ARM 37.62.114 to determine the income ratio;
 - (ii) find the income ratio in Column A;
 - (iii) locate the corresponding minimum contribution multiplier in Column B; and
 - (iv) multiply the income after deductions by the minimum contribution multiplier. The result is the parent's minimum contribution.
- (b) For parents whose income after deductions exceeds the personal allowance, the parent's minimum contribution is 12% of income after deductions.
- (2) The minimum contributions under this rule are presumptive and may be rebutted by the circumstances of a particular case, provided there is an appropriate finding on the record.
- (3) The table for determining the minimum support obligation of a parent whose income after deductions is less than or equal to the parent's personal allowance is as follows:

Column A – Income Ratio (IR)	Column B – Minimum Contribution Multiplier
If the IR is from 0.00 to 0.25	...then the minimum contribution is 0.00.
If the IR is over 0.25 but not over 0.31	...then the multiplier is 0.01.
If the IR is over 0.31 but not over 0.38	...then the multiplier is 0.02.
If the IR is over 0.38 but not over 0.45	...then the multiplier is 0.03.
If the IR is over 0.45 but not over 0.52	...then the multiplier is 0.04.
If the IR is over 0.52 but not over 0.59	...then the multiplier is 0.05.
If the IR is over 0.59 but not over 0.66	...then the multiplier is 0.06.
If the IR is over 0.66 but not over 0.73	...then the multiplier is 0.07.
If the IR is over 0.73 but not over 0.80	...then the multiplier is 0.08.
If the IR is over 0.80 but not over 0.87	...then the multiplier is 0.09.
If the IR is over 0.87 but not over 0.94	...then the multiplier is 0.10.
If the IR is over 0.94 but not over 1.00	...then the multiplier is 0.11.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.128. Income Available For Standard Of Living Adjustment (SOLA)

- (1) The purpose of SOLA is to ensure that the child enjoys, to the extent possible, the standard of living commensurate with the parent's income. If a parent has income available after deducting the personal allowance and the parent's share of the child support allowance as supplemented, the remaining income is subject to SOLA.
- (2) SOLA is calculated by subtracting from the parent's income available for support, as provided in ARM 37.62.116 the parent's share of the primary child support allowance under ARM 37.62.121 and supplements as provided in ARM 37.62.123.
- (3) If income is available for SOLA, multiply the income by the SOLA factor from the following table which corresponds to the number of children for whom support is being determined.

Number of Children	SOLA Factor
1	.14
2	.21
3	.27
4	.31
5	.35
6	.39
7	.43
8 or more	.47

(4) Income available for SOLA may not be less than zero.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.130. Long Distance Parenting Adjustment

- (1) Long distance parenting is any travel by a parent or child to attain the goals of the parenting plan. A long distance parenting adjustment is allowed when travel by a parent or child exceeds 2,000 miles in a calendar year.
- (2) The amount of income available for SOLA is reduced to the extent the actual annual expense of transportation for long distance parenting exceeds 2,000 miles multiplied by the current IRS business mileage rate (standard expense). The reduction is determined separately for each parent.
- (3) The reduction is calculated as follows:
- (a) multiply the parent's annual mileage driven to exercise long-distance parenting by the current IRS business mileage rate;
 - (b) add the annual cost of transportation by means other than automobile;
 - (c) subtract the standard expense from the total of (3) (a) and (b) above; and
 - (d) subtract any difference greater than zero from the parent's income available for SOLA.

(4) Expenses are limited to costs of transportation and do not include meals, lodging, or other costs.

(5) A long distance parenting adjustment may not reduce income available for SOLA below zero.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

37.62.134. Total Support Amount And Transfer Payment

(1) A total support amount is determined for each parent, separately, and consists of:

(a) the parent's share of the primary child support allowance, with supplemental needs, if any, plus the parent's standard of living adjustment; or

(b) the parent's minimum support obligation determined under ARM 37.62.126.

(2) After determining each parent's obligation according to (1)(a) or (1)(b), above, each parent's obligation is allocated according to the number of days each child spends with each parent.

(a) If all the children of the calculation reside primarily with one parent and do not spend more than 110 days per year with the other parent, the annual transfer payment, defined as the net amount of child support one parent owes the other, is the same as the total, annual support amount owed by the nonresidential parent.

(i) To set the amount of each child's monthly transfer payment, divide the annual transfer payment by the number of children in the calculation. Then, divide each child's annual payment by 12 and round the result according to ARM 37.62.134(2)(a)(ii), following.

(ii) The monthly transfer payment per child is rounded to whole dollars as follows: round down to the next whole dollar amounts ending in \$0.49 or less and round up for amounts ending in \$0.50 or more. The total of the rounded per child amount is the total monthly transfer payment owed by one parent to the other and/or to a third party, and due to rounding, may vary from the monthly transfer payment shown in the calculation.

(b) If any child of the calculation spends in excess of 110 days per year with both parents or if one or more children reside primarily with one parent while one or more children reside primarily with the other parent, the allocation of each parent's total support amount is determined as follows:

(i) recalculate the needs of each child separately;

(ii) recombine each parent's total support amount for each child based upon that child's proportionate need;

(iii) allocate the parent's total support amount for each child by retaining the amount for time the child spends with the parent and owing to the other parent the amount for time the child spends with the other parent;

(iv) offset the amounts each parent owes the other by subtracting the lower obligation from the higher for each of the children. The remaining balance for each child is the annual transfer payment for that child and is entered in the column of the parent owing the balance; and

(v) to set the monthly transfer payment, divide the annual transfer payment for each child by 12 and round according to (2)(a)(ii).

(A) where the calculation includes only one child, the monthly transfer payment is the total amount due from one parent to the other; or

(B) where the calculation includes two or more children, the monthly transfer payment for each child is the amount entered for the child at (2)(b)(v). The monthly transfer payment for each child is entered in the column of the parent owing the payment. Each parent's column is totaled and the difference between mother's total and father's total is the final monthly transfer payment owed by the parent with the higher total.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.136. Transfer Payment

This rule has been repealed.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; REP, 2012 MAR p. 747, Eff. 7/1/12.

37.62.138. Payment Of Monthly Support Amount In Combination Parenting Arrangements

This rule has been repealed.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; REP, 2012 MAR p. 747, Eff. 7/1/12.

37.62.140. Anticipated Changes

(1) To the extent possible, child support orders must address children's changing needs as they grow and mature in a way that minimizes the need for future modifications. If any material change in current circumstances is anticipated within 18 months, separate child support calculations must be completed.

(2) In the initial calculation, present circumstances should be included. In the subsequent calculation(s), appropriate anticipated changes should be calculated. The child support order should provide that the amount(s) from the subsequent calculations will take effect the month following the anticipated changes.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

37.62.142. Support Payable In Dollars

(1) The child support order is to be paid in U.S. dollars.

(2) Gifts, clothing, food, payment of expenses, etc., in lieu of dollars will not be allowed as a credit for payment of a child support obligation except by court or administrative order.

(3) Direct payments to the child, the parent or a third party will not be allowed as credit for payment of a child support obligation payable through the clerk of court, the Child Support Services Division or other entity specified in the court or administrative order.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2020 MAR p. 966, Eff. 5/30/20.

37.62.144. Social Security And Veterans Benefits

(1) Social security and veterans benefits which are based on the earning or service record of either parent shall be considered in establishing new support orders or modification of existing orders under the following conditions:

(a) benefits received by the parent on behalf of the minor child are not to be included in that parent's gross income;

(b) the parent's obligation is satisfied if the amount of the child's benefit received for a given month as a result of that parent's earning record is equal to or greater than the parent's child support obligation. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment or as future support;

(c) the parent must pay the difference if the amount of the child's benefit for a given month is less than the parent's child support obligation. This amount is presumed to be paid if the child resides with that parent a majority of the time; and

(d) whenever either parent receives for the benefit of the child, a lump sum payment which represents an accumulation of monthly benefits:

(i) the lump sum payment should not be treated as income of the parent; and

(ii) the lump sum should be credited to that parent's child support obligation for each month a payment accumulated for the child's benefit.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2017 MAR p. 2441, Eff. 12/23/17.

37.62.146. Modifications Of Child Support Orders

This rule has been repealed.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; REP, 2012 MAR p. 747, Eff. 7/1/12.

37.62.148. Support Guidelines Tables / Forms

(1) The Child Support Services Division (CSSD) has developed a child support calculation worksheet. Copies of this worksheet may be obtained from the Department of Public Health and Human Services, Child Support Services Division, P.O. Box 202943, Helena, MT 59620 or any regional office. The worksheet is also available on the department's web site at <https://dphhs.mt.gov/cssd/forms>.

(2) Included for use with the worksheet are a financial affidavit, necessary tables, and information for completion of the guidelines calculation. To assure that these tables are current, the Child Support Services Division will republish the tables annually as soon as practical after release of information upon which tables are based. The tables will be identified by the year of publication or republication.

(3) The child support guidelines worksheets, or a replica of those forms with a similar format and containing the same information, must be used in all child support calculations under the guidelines and a copy must be attached to the support order.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2020 MAR p. 966, Eff. 5/30/20.

ADDENDUM C.

CSSD Memos (2015, 2016) and Policy Manual CS 520.3 (Dec. 17, 2020): Mandatory Health Insurance Premiums

NOTES

This material—reformatted here for ADA compliance—is posted publicly, without the memos, at <https://dphhs.mt.gov/cssd/PolicyManual>, section 520.3 (direct path: <https://dphhs.mt.gov/assets/cssd/PolicyManual/cs520-3.pdf>).

Note that in 2020, “Child Support Enforcement Division (CSED)” was changed to “Child Support Services Division (CSSD).”

[Memo, External (2015): Deduction of Mandatory Health Insurance Premiums in Montana Child Support Guidelines]

Date: May 1, 2015
From: Montana Child Support Enforcement Division (CSED)
To: Montana District Court Judges, Attorneys, Standing Masters, Self-Help Law Centers, and Other Interested Parties
Subject: Deduction of Mandatory Health Insurance Premiums in Montana Child Support Calculations

Introduction

With implementation of the Affordable Care Act (ACA), everyone in the country is now required to purchase health insurance coverage for themselves and their dependents. The out-of-pocket expense (premium less subsidy) is now "required by law" as provided in the first paragraph of the child support guidelines rule at ARM 37.62.110, Allowable Deductions from Income.

The purpose of this communication from the CSED is:

- a. to inform readers that the out-of-pocket cost of health insurance for parents and their other children (premium less subsidy) is now an allowable deduction from income in a child support guidelines calculation;
- b. to explain where the premiums will be entered on the guidelines worksheet; and,
- c. to introduce new IRS tax forms designed to report on health insurance coverage and exemptions from coverage, and to calculate the Premium Tax Credit (the "subsidy").

What is the Affordable Care Act?¹

Under the Affordable Care Act, the federal government, state governments, insurers, employers, and individuals share responsibility for improving the quality and availability of health insurance coverage in the United States. The ACA reforms the existing health insurance market by prohibiting insurers from denying coverage or charging higher premiums because of an individual's preexisting conditions.

The ACA also creates the Health Insurance Marketplace, also known as the Marketplace or the Exchange. The Marketplace is where taxpayers find information about health insurance options, purchase qualified health plans and, if eligible, obtain help paying premiums and out-of-pocket costs. A new tax credit, the premium tax credit, is available only if the taxpayer purchased a qualified health plan through the Marketplace. This credit helps eligible taxpayers pay for coverage.

The ACA also includes the individual shared responsibility provision, which requires individuals to have qualifying health care coverage for each month of the year, qualify for a coverage exemption, or make a shared responsibility payment when filing their federal income tax returns. [This shared responsibility payment, or penalty, is **not** an allowable deduction from income in a child support calculation.]

Some taxpayers are exempt from the coverage requirement of the individual shared responsibility provision and do not have to make a shared responsibility payment when filing a federal income tax return. Coverage exemptions are available for individuals specifically described as having a religious, economic, or other justification for not having minimum essential coverage. Taxpayers who qualify for an exemption will attach a Form 8965, Health Coverage Exemptions, to their federal income tax return to claim that exemption. Taxpayers or any dependents that did not maintain minimum essential coverage for each month of their tax year and did not qualify for a coverage exemption must make an individual shared responsibility payment with their federal tax return.

The ACA and Montana's Child Support Guidelines

To adapt the provisions of the ACA to CSED's calculation of child support under the Montana guidelines, the first step is to identify those individuals whose health insurance premiums will be included in a child support calculation. Those individuals are: 1) each parent, but not the parent's new partner/spouse; 2) all children of the calculation; and, 3) other children of a parent in the calculation, whether or not the coverage is ordered. **CAUTION:** An insurance policy may cover everyone in the household which could include persons whose expenses are not eligible for entry to the child support calculation: adult children or other relatives, for example.

The second step is to determine the dollar amount of insurance premiums to enter for each of the eligible individuals. Ideally, the information will come from the premium rate sheet for the insurance policy provided by the parent. The rate sheet will include the cost for the main insured, only, insured + spouse, insured + children, etc. and is normally provided by the employer to the employee during the annual open enrollment period for the insurance or may be obtained by the parent from the insurance company. Where the rate information is available, the majority of the premium will be due to the main insured with additional amounts for a spouse and for children. In that case, enter the amount due for each person as shown on the rate sheet. The premium due for a spouse, for example, is the amount added to the main insured's premium. The premium due for the children is the amount added to the premium for the main insured and/or the spouse. Divide the children's premium by the number of children covered for a per-child amount. If no premium breakdown is available, simply divide the total premium by the number of persons covered for a per-person amount.

For a parent's premium, whether the main insured, or a spouse, enter the deduction on line 2k, worksheet A where it will be deducted from the parent's income. For children of the calculation, enter on line 12, as always. For other children, enter on line 2d or 2k.

IRS Forms for the ACA

Finally, three new IRS forms were created for the ACA. First is Form 1095-A, Health Insurance Marketplace Statement, which provides information from the Marketplace to the IRS and to the persons covered by the policy. The form is sent on the same schedule as a Form W-2, due by January 31st for the previous year. Taxpayers will need this form to complete their tax return if they purchased insurance through the Marketplace. Second, is Form 8962, Premium Tax Credit which calculates the subsidy available to the taxpayer for insurance purchased from the Marketplace. Third, is Form 8965, Health Coverage Exemptions, which is explained above.

¹ Health Care Law: What's New for Individuals & Families, IRS Pub. 5187, Tax Year 2014

[Memo, Internal (2016):] Deductions of Mandatory Health Insurance Premiums in Montana Guideline Calculations

By CSED Guidelines Committee, January, 2016

Introduction

With implementation of the Affordable Care Act (ACA), everyone in the country is now required to purchase health insurance coverage for themselves and their dependents. Although there are exemptions for certain individuals, and federal subsidies for many with lower income, the out-of-pocket expense is now "required by law" as provided in the first paragraph of the child support guidelines Rule 7 (ARM 37.62.110), Allowable Deductions from Income:

Allowable deductions from income include those required by law, those required as a condition of employment, and those necessary for the production of income. (Emphasis added.)

The purpose of this discussion is:

- a. to introduce the guideline implications of the federal Affordable Care Act (ACA) which requires that most adults purchase health insurance for themselves and their dependent children;
- b. to inform Court and legal staff that the out-of-pocket cost of health insurance for parents and their other children (premium less subsidy) is now an allowable deduction from income in a child support guidelines calculation, whether or not specifically ordered;
- c. to explain how to determine the amount of premiums that will be included and where the premiums will be entered in to the guidelines worksheet; and,
- d. to introduce new IRS tax forms designed to report on health insurance coverage and exemptions from coverage, and to calculate the Premium Tax Credit (the "subsidy"). The credit determines if and how much subsidy is allowed for the family/household based on the income reported on the tax return.

What is the Affordable Care Act?¹

Under the Affordable Care Act, the federal government, state governments, insurers, employers, and individuals share responsibility for improving the quality and availability of health insurance coverage in the United States. The ACA reforms the existing health insurance market by prohibiting insurers from denying coverage or charging higher premiums because of an individual's preexisting conditions.

The ACA also creates the Health Insurance Marketplace, also known as the Marketplace or the Exchange. The Marketplace is where taxpayers find information about health insurance options, purchase qualified health plans and, if eligible, obtain help paying premiums and out-of-pocket costs. A new tax credit, the premium tax credit, is available only if the taxpayer purchased a qualified health plan through the Marketplace. This credit helps eligible taxpayers pay for coverage.

The ACA also includes the individual shared responsibility provision, which requires individuals to have qualifying health care coverage for each month of the year, qualify for a coverage exemption, or make a shared responsibility payment when filing their federal income tax returns. For purposes of ACA, qualifying health care coverage is also called minimum essential coverage. Most taxpayers already had minimum essential coverage prior to the start of the year and only had to maintain that coverage during the entire year. If taxpayers and their dependents had minimum essential coverage for each month of the year, the taxpayer will simply check a box indicating that coverage when filing the federal income tax return. No further action is required. ²

Some taxpayers are exempt from the coverage requirement of the individual shared responsibility provision and do not have to make a shared responsibility payment when filing a federal income tax return. Coverage exemptions are available for individuals specifically described as having a religious, economic, or other justification for not having minimum essential coverage. Taxpayers who qualify for an exemption will attach a Form 8965, Health Coverage Exemptions, to their federal income tax return to claim that exemption.

Taxpayers or any dependents who did not maintain minimum essential coverage for each month of their tax year and did not qualify for a coverage exemption must make an individual shared responsibility payment with their federal tax return.

The ACA and Montana's Child Support Guidelines

To adapt the provisions of the ACA to the calculation of child support under the Montana guidelines, the first step is to identify those individuals whose health insurance premiums will be included in a child support calculation.

Step 1: Individual premiums will be entered into the worksheet for:

- a. Each parent, but not the parent's new partner/spouse;
- b. All children of the calculation; and
- c. Other children of a parent in the calculation, whether or not ordered.

Because health insurance policies may cover individuals in a parent's household who are not eligible to be included in a child support calculation (adult children, for example), it is important to scrutinize the list of individuals with coverage to ensure the identity of each person whose premiums should be included. See Form 1095-A Health Insurance Marketplace Statement, attached.

The second step is to determine the dollar amount of insurance premiums to enter for each of the above individuals. Ideally, the information will come from the premium rate sheet for the insurance policy provided by the parent. The rate sheet will include the cost for the insured/employee, only, insured/employee + spouse, insured/employee + children, etc. The rate sheet is normally provided by the employer to the employee during the annual open enrollment period for the insurance or may be obtained by the parent from the insurance company. The information may also be available directly from the employer.

¹ Health Care Law: What's New for Individuals & Families, IRS Pub. 5187, Tax Year 2014

² See IRS Form 1040, Line 61.

Step 2: To determine individual premiums from the rate sheet provided by the parent, follow these instructions and see the premiums, below.

- a. The premium for the parent, only, is usually the premium for the employee, only, for employer-provided coverage. Coverage for spouses and dependent children is expressed in amounts added to the parent's premium with an employee + family category as a catchall. In the examples, below, the individual who is a state employee (Mother's new husband, in this case) pays an out-of-pocket premium only if he/she chooses to cover a spouse and/or children; the State of Montana pays the total premium for the employee, only. Because premiums are paid out of the household income of Mother and her new husband, it is appropriate to allow credit to her in the support calculation for the out-of-pocket cost. If Mother's new husband was paying a premium for himself, it would not be an allowable deduction because he is the new partner of a parent in the calculation and therefore excluded under Step 1, above. For this discussion, the amount paid by the State of Montana over and above the cost of health insurance for the employee, only, is not considered.
- b. The total and out-of-pocket premiums are as follows; the difference is paid by the employer:

Category	Total Premium	Employee out-of-pocket
Employee, only	\$ 845 / month	\$ 0 / month
Employee + spouse	\$1,070 / month	\$ 225 / month
Employee + children	\$ 935 / month	\$ 90 / month
Employee + family	\$1,134 / month	\$ 289 / month

Following are instructions for entering the health insurance premiums for the various participants into the child support worksheet based on the amounts noted above.

Employee + Spouse (no children covered)

If one of the parents in the calculation is a spouse of an insured state employee, the cost of the premium for the spouse is \$225 per month, or \$2,700 per year. This amount is entered into the calculation at line 2k of worksheet A, where it is deducted from the parent's income. **NOTE:** Do not enter premiums for parents or other children at worksheet line 12; that line is reserved for children of the calculation.

Employee + Children

Children of the Calculation

The cost of covering children is usually a single amount regardless of the number of children; in the example above, the cost is \$90 per month or \$1,080 per year for the children. Divide \$1,080 by the number of children covered for the annual per-child premium. The per-child premium is entered for each child of the calculation and the total is entered at line 12b.

Other Children

The Montana child support guidelines provide a rebuttable presumption that only 50% of expenses for "other" children are allowed in the calculation of support. In the case of health insurance premiums, however, one parent is frequently ordered to pay more or less than 50% which may rebut the presumption of 50%. Any amount a parent is ordered to pay for health insurance for an "other" child is the amount CSED should enter at line 2d. If no amount is ordered, multiply the number of "other" children at the per-child premium and enter 50% of the annual total at line 2k for each parent who has "other" children.

Employee + Family

In the following example, Mother and three children of the calculation are insured under the health insurance policy provided by the employer of Mother's new husband, the State of Montana. The health insurance policy is billed as employee + family, thus the premium for the family, \$289/month, must be broken down into the cost for the spouse and the cost for the children. As noted above, the premium for the spouse is \$225/month which leaves \$64/month to be divided among the three children. ($\$289 - 225 = \64) Enter the annual per-person premiums at line 2k for the Mother (\$2,700, in this example), at line 12b for each child of the calculation ($\$64 \div 3 = \21 per child and $\$21 \times 12 = 252$ /year, in this example) and at line 2d or 2k for "other" children (none in this example).

No Premium Breakdown

If the premium covers multiple adults and/or children and there is no breakdown available, divide the total premium, less subsidy, by the number of persons covered. Enter the per-person premiums at line 2k for a parent, at line 2d or 2k for "other" children and at line 12b for children of the calculation.

New IRS Tax Forms for the ACA

The following tax forms are attached for your reference. They all have instructions, too, but you can print those out if or as you need them. Use the search box on the IRS Home page (www.irs.gov) and enter "Form 8962 Instructions" or whatever you seek. That appears to be the easiest way to find information if you know the form or publication number.

- a. Form 1095-A Health Insurance Marketplace Statement* – this form provides information from the marketplace to the IRS and the recipient of the marketplace insurance policy, including monthly premium amount and monthly advance payment of the Premium Tax Credit (subsidy). This form is sent on the same schedule as a Form W-2; it is due to the insured by January 31st for the previous year. You will notice the form does not include information regarding the cost for the primary insured, the spouse, or the children so unless the parent can obtain information on the breakdown of the premium, it appears the Marketplace cases may fall into the category of No Premium Breakdown. For your information the sample form attached is from an individual who earns approximately \$20,000/year. The premium for his policy without any subsidy is \$515/month but the subsidy of \$486/month leaves only \$29/month as his out-of-pocket premium. Eventually, there will be a Form 1095-B (health coverage from government programs such as Medicare, Medicaid, CHIP, and Tricare) and Form 1095-C (Employer provided health coverage).
- b. Form 8962 Premium Tax Credit – this form calculates the tax credit which is the subsidy for the premiums of lower income households. An individual may estimate his/her income for the coming year and choose to have an estimated subsidy sent directly to the insurance company each month to reduce the out-of-pocket cost to the individual; or, pay the full premiums throughout the year and claim the tax credit when the tax return is filed. Either way, at the end of the year, the Premium Tax Credit form is used to determine the subsidy based on actual income. If income for the year is lower than estimated, an additional subsidy may be due the taxpayer; if income is higher, some of the subsidy may have to be repaid. Limitations on repayment of advance subsidies are a feature of the ACA.

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- c. Form 8965 Health Coverage Exemptions – this form includes the two types of exemptions available for individuals: 1) the Marketplace-Granted Coverage Exemptions for Individuals; and 2) the Coverage Exemptions for Your Household Claimed on Your Return or Coverage Exemptions for Individuals Claimed on Your Return. The details of the exemptions can be found in the instructions for Form 8965. Following are some examples of the exemptions: Members of Indian tribes; incarceration; income below the filing threshold for tax return; coverage considered unaffordable; and, members of certain religious sects.

NEW Policy: Deduction of Health Insurance Premiums in Guideline Calculations

CSED policy is to allow deductions from income in a guideline calculation for health insurance premiums, less the federal subsidy, paid by a parent for him or herself and for the parent's dependent children where proof of payment and coverage is provided by the parent. There is no change to entry of premiums for children of the calculation; that will continue as always. New, is the deduction from a parent's income for the health insurance premium to cover him or herself and dependent "other" children whether or not the coverage is ordered. Third-party cases may require information from the parents regarding health insurance coverage for the child if the third-party does not provide coverage.

Guideline calculation preparers should request the following from parents regarding health insurance costs:

- a. The most recent Form 1095-A Health Insurance Marketplace Statement received by the parent, if any;
- b. Proof of health insurance premium payments, net of the federal subsidy, for the current year (from the parent or the insurance company);
- c. Proof of current health insurance coverage including the names of each insured (from the insurance company); and
- d. A breakdown of the premiums for the insured, spouse, and children (from the insurance company, if possible).

Preparers should use their own judgment regarding the sufficiency of proof of insurance premium payments. In some cases, a parent will not have a Form 1095-A because he/she did not carry Marketplace insurance until the current year or income has changed sufficiently that the last form received is no longer representative of current premiums. Although the subsidy can be determined on the Premium Tax Credit form, it is not recommended that CSED estimate it except in rare cases. The calculation uses "household income" which requires that adjusted gross income be modified before it is added for all household members, not just the members of the family in our case.

To avoid allowing a deduction for premiums paid during the year without the subsidy claimed on the not-yet-filed tax return, preparers should consider the likelihood of eligibility for a subsidy. The main qualification is household income between 100% and 400% of the federal poverty level for the household.* If you believe the parent will receive a subsidy for the premiums paid last year, require the parent to complete the Premium Tax Credit (Form 8962) to estimate the subsidy before you allow the deduction so we will be closer to the actual out-of-pocket expense. In the end, if we don't receive the information we need to determine an accurate deduction, we don't have to allow the deduction.

*The federal poverty guidelines may be accessed at the following link: <https://aspe.hhs.gov/poverty-research>

[Policy Manual CS 520.3 Enforcing a Support Order: Reviewing Health Insurance Orders (Dec. 17, 2020)]

SUPERSEDES

CS 520.3 Reviewing Health Insurance Orders, August 28, 2014

REFERENCES

42 USC §§ 652(f) and 666(a) (19); 45 CFR §§ 303.31 and 303.32; MCA §§ 40-5-208 and 40-5-801 et seq.

Introduction

Reference to this section provides policy and procedure for choosing the medical enforcement parent, and for conducting a review of health insurance orders. The CSSD is required by federal and state statute to establish and enforce health insurance obligations. In compliance, the CSSD reviews support orders for health insurance obligations and proper medical enforcement.

This section begins with a list of definitions relevant to CSSD medical enforcement. Following the definitions is table 1 Enforcement Parent Decision Matrix then table 2 Federal Modification and Enforcement Requirements for Health Insurance. Next are policy and procedures, which are followed by table 3 Third-Party Medical Enforcement. Table 3 is for use when there is more than one obligee and one of the obligees is a parent who is ordered to provide health insurance in a case.

Policy includes the following:

- Requirement for review
- Health insurance coverage and medical support
- Enforcement against the parent obligee
- Support orders with specified medical support amounts
- Medicaid reimbursement

Procedures are as follows:

- Identifying case requirements needed for medical support enforcement
- Identifying and fulfilling modification requirements
- Request for redirection of a medical support enforcement agreement
- The status of medical support enforcement relating to the enforcement parent
- Determining the availability of medical coverage outside of the CSSD enforcement parent
- Medical Support Dollar Amount

Definitions

For purpose of this section the following definitions apply:

Enforcement Parent: The parent whose health insurance order the CSSD is enforcing or preparing to enforce.

Employment Related Insurance: The CSSD considers employment related insurance from Unions or TRICARE* to be employment insurance. References to employer or employer insurance should be read to include the employer related insurances mentioned above. In cases where the enforcement parent refuses to obtain health insurance from either of these, the CSSD can enforce the insurance requirement through a contempt or medical penalty action (see procedures in CS 520.10 Enforcing Health Insurance Order—Penalty Actions). Hardship determinations for employment related insurance should be treated in the same manner as those for ordinary employer insurance.

*TRICARE, formerly known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), provides civilian health benefits for military personnel, military retirees, and their dependents. Included under the TRICARE name is several options such as TRICARE Standard, TRICARE Prime and TRICARE Reserve Select (TRS). In addition, dental is offered through the TRICARE Dental Program (TDP). Details on all the TRICARE options can be found on the [TRICARE website](#).

Health Insurance Order: Any court or administrative order that requires a parent to provide health insurance coverage for the children. An order that requires only that the parent pay medical expenses or health care costs for the children (or even an amount toward health insurance premiums) is not a health insurance order. An order that requires a parent to provide insurance through a particular employer--whether the employer is identified by name or by some other reference--is a health insurance order only if the parent is currently employed by that employer. In questionable circumstances, the caseworker should consult with regional legal staff to determine whether the language in the support order qualifies as a health insurance order.

Verification of Coverage: Insurance coverage is verified by contacting the employer, insurance company or the parent providing coverage to make sure the coverage on SEARCHS is still in force for a child.

Informal Medical Review: Use of electronic interfaces and other indicators to determine if the coverage on SEARCHS is likely to still be accurate.

LRD: Last Review Date

The Enforcement Parent Decision Matrix in Table 1, and Federal Modification and Enforcement Requirements for Health Insurance in Table 2 follow.

Table 1. Enforcement Parent Decision Matrix

Step	Question and Outcomes	Action
1	Are the children currently enrolled in HMK (CHIP)? Custodial Parent: YES Non-Custodial Parent: N/A	Notice both parents, then Stop
2	Is coverage currently in place for the children? The coverage must be attributable to the parent, must be geographically accessible, and must be in place now or scheduled by the plan administrator to take effect within 6 months from now upon completion of a waiting period. Custodial Parent: Yes Non-Custodial Parent: Yes Custodial Parent: No Non-Custodial Parent: Yes Custodial Parent: Yes Non-Custodial Parent: No Custodial Parent: No Non-Custodial Parent: No	Go to Step 3 Enforce NCP Enforce CP Go to Step 3
3	Is there credit for insurance in the current guidelines? (Credit must be verifiable on a copy of the child support guidelines that accompanies the support order; for a "reverter" support order where the child support amount depends on whether the NCP is providing health insurance, the CSSD considers there is no credit in the guidelines.) Custodial Parent: YES Non-Custodial Parent: YES Custodial Parent: NO Non-Custodial Parent: YES Custodial Parent: YES Non-Custodial Parent: NO Custodial Parent: NO Non-Custodial Parent: NO	Go to Step 4 Enforce NCP Enforce CP Go to Step 4
4	Is the parent currently employed? (Employment status is determined by the caseworker using information available on SEARCHS and in the case file.) Custodial Parent: Yes Non-Custodial Parent: Yes Custodial Parent: No Non-Custodial Parent: Yes Custodial Parent: Yes Non-Custodial Parent: No Custodial Parent: No Non-Custodial Parent: No	Go to Step 4a Enforce NCP Enforce CP STOP
4a	Is insurance available through the employer? (Insurance is available if the employer offers dependent coverage to some or all of its employees, and the parent is eligible for the coverage.) Custodial Parent: Yes Non-Custodial Parent: Yes Custodial Parent: No Non-Custodial Parent: Yes Custodial Parent: Yes Non-Custodial Parent: No Custodial Parent: No Non-Custodial Parent: No	Go to Step 4b Enforce NCP Enforce CP STOP
4b	Is the parent's out-of-pocket cost \$0? (The parent's out-of-pocket cost is \$0 if the employer pays the entire premium required for coverage of the children.) Custodial Parent: YES Non-Custodial Parent: YES Custodial Parent: NO Non-Custodial Parent: YES Custodial Parent: YES Non-Custodial Parent: NO Custodial Parent: NO Non-Custodial Parent: NO	Enforce CP or both Enforce NCP Enforce CP Go to Step 4c
4c	Is the parent's out-of-pocket cost reasonable? (The parent's monthly out-of-pocket cost is the cost of coverage for the children-only that is not paid by the employer. If the parent must be enrolled to get coverage for the children, the cost does not include the cost of the parent's coverage. If the cost of children-only coverage is not identified separately by the insurance plan, derive the amount by subtracting the cost of a parent-only package from the cost of the parent-child package. The out-of-pocket cost is reasonable if it does not exceed 5% of the parent's gross monthly income.) Custodial Parent: Yes Non-Custodial Parent: Yes Custodial Parent: No Non-Custodial Parent: Yes Custodial Parent: Yes Non-Custodial Parent: No Custodial Parent: No Non-Custodial Parent: No	("STOP" still requires the CSSD to identify and load any voluntary coverage and to review public assistance status quarterly.) Go to Step 5 Enforce NCP Enforce CP STOP—begin again at Step 1 when a triggering event occurs
5	For which parent is the cost of employer insurance a smaller percentage of gross income? (Use this test only if employer insurance is available and reasonable to both parents.) a. CP monthly out-of-pocket cost for the children only: b. CP monthly gross income: c. CP percentage (line a divided by line b): d. NCP monthly out-of-pocket cost for the children only: e. NCP monthly gross income: f. NCP percentage (line d divided by line e): g. Custodial parent's percentage (line c) is smaller h. Non-Custodial Parent's percentage (line f) is smaller	a—g: Enforce CP h: Enforce NCP

FURTHER INSTRUCTIONS: When an enforcement parent is identified by this process, leave the process, and enforce against that parent until employer coverage is obtained or enforcement fails. If enforcement fails, enforce against the other parent until coverage is obtained or enforcement fails.

Table 2. Federal Modification and Enforcement Requirements for Health Insurance (If Custodian Is A Parent)

	Parent who is ordered to provide health insurance	Parent who carries health insurance	Parent who is able to provide health insurance	CSSD required to modify order	CSSD required to enforce insurance	Reference
1	NCP	CP	N/A	Either: Yes/CP	Or: Yes/NCP	PIQ,1 Q#20
2	NCP	NCP	N/A	No	Yes/NCP	USC2
3	NCP	Neither	N/A	No	Yes/NCP	USC
4	CP	Neither	CP is able (NCP N/A)	No	Yes/CP	PIQ, Q#21
5	CP	Neither	CP is not able	Yes/NCP ³	(Yes/NCP after mod)	PIQ, Q#21
6	Neither	CP	N/A	Yes	(Yes/CP after mod., refer to Step 2 NOTE 1 in procedures.)	USC
7	Neither	NCP	N/A	Yes/NCP	(Yes/NCP after mod)	USC
8	Neither	Neither	N/A	Yes/NCP	(Yes/NCP after mod)	USC
9	Both	N/A	N/A	No	Yes/NCP ⁴	USC
10	CP	CP	N/A	No	Yes/CP	PIQ, Q#21
11	CP	NCP	N/A	Either: Yes/ NCP	Or: Yes CP	USC; PIQ, Q#21

¹ Policy Interpretation Question PIQ-02-03, Medical Support Enforcement Policy Clarifications, issued December 20, 2002, by the federal Office of Child Support Enforcement.

² Medical support enforcement provisions of Title IV-D of the Social Security Act, at 42 USC § 652(f).

³ Other CSSD policies concerning establishment or enforcement in temporarily unworkable cases may also apply.

⁴ In the situation where both parents in the case are ordered to provide insurance, the CSSD Enforcement Parent Decision Matrix applies.

POLICY

Requirement for Review

Federal law requires the CSSD to include medical support in all child support orders being enforced under Title IV-D of the Social Security Act, and to enforce medical support whenever health insurance is available at a reasonable cost. Montana law also requires establishment and enforcement of medical support orders that include health insurance obligations.

To comply with these laws the CSSD routinely reviews support orders for health insurance obligations and reviews cases with health insurance obligations for proper enforcement. Review occurs whenever a IV-D case is opened or re-opened, a support order is established or modified, a change occurs in the case that could affect medical support, or a pre-specified medical review date occurs. **The annual medical review may be conducted on an informal basis with no contact required described as in the procedural section below.**

Health Insurance Coverage and Medical Support

Generally, health insurance coverage is the vehicle by which the CSSD enforces medical support. While other provisions relating to medical services for the children may be included in the support order, it is the health insurance provision that is the subject of the review described above, and the basis for medical support enforcement of the case in CS 520.5 Medical Hardship Review through 520.10 Enforcing Health Insurance Orders— Penalty Actions. If the support order contains a health insurance provision, the CSSD refers to the provision as a health insurance order.

Enforcement Against the Parent Oblige

In cases where both the obligor and the parent obligee are ordered to provide health insurance, the CSSD may enforce the health insurance obligation of either parent. Factors that may be applied in identifying the appropriate enforcement parent include whether either parent is providing current coverage; whether either parent received credit for health insurance premiums in the guidelines calculation accompanying the support order; whether either parent is employed, and has insurance available through employment at a reasonable cost; and the percentage of each parent's gross income that would be taken up by the cost of reasonable insurance. Other factors apply in cases where some of the children live with a third-party obligee.

When the enforcement parent is identified, the CSSD takes action against that parent to obtain employer insurance. If all remedies fail, the CSSD turns to the other parent and again pursues coverage through all available remedies. If reasonable health insurance cannot be obtained through either parent, the CSSD monitors the case for any change that could affect medical support enforcement. If a change occurs, the CSSD applies the above-listed factors at that time and identifies the proper enforcement parent according to the new case facts.

When both parents are ordered to provide health insurance, it is necessary only to exhaust employer or employer related insurance for the enforcement parent. Once it has been exhausted you may choose to switch to the other obligated parent. The medical enforcement action for the other obligated parent should begin with that parent's employer.

Support Orders with Specified Medical Support Amounts

Infrequently a child support order includes a specified monthly amount for medical support in addition to the child support amount. The CSSD enforces the medical support amount in the same manner and at the same time as child support, but separate medical and child support accounts are required. The existence of the medical support dollar obligation may or may not relieve the CSSD of the need to establish a health insurance order in the case. In these situations, the caseworker should consult the regional legal unit for a determination based on the specific facts and language of the support order.

Medicaid Reimbursement

Most support orders entered by the CSSD on or after October 1, 1996, and before October 1, 1999, as well as some non-CSSD orders entered during that time, contain a requirement for the obligated parents to pay a "Medicaid reimbursement" amount to the state when the children are receiving Medicaid services and certain conditions apply. The CSSD enforced this requirement for applicable cases until October 1, 2000, when collection of Medicaid reimbursement accounts was discontinued by CSSD policy.

PROCEDURES

Procedures for Caseworker

1. Conducting a Medical Review. Proceeds in this step for any case where the CSSD is required to enforce medical support.

- a. Initiating the Medical Review. If any of the events in 1) through 4) occurs, reviews the case in Steps 2 through 8 below to determine whether a modification or enforcement action is required and identify the parent whose health insurance order should be enforced.
 - 1) The case is opened or re-opened, or current child support is established or modified.
 - 2) A new hire alert is received for the obligor.
 - 3) The medical review date arrives.
 - 4) Before the medical review date arrives a medical-related change occurs such as,
 - enforcement parent's employment
 - enforcement parent's income
 - enforcement parent's premium costs
 - child's geographic access to covered services
 - availability of employer/payor dependent coverage
 - status of any alternative coverage provided by the enforcement parent
- b. Completing the Medical Review. When the review and any required action are completed verifies any existing coverage, updates the last review date on the SEARCHS MEC screen, and monitors for any change. The next review date for medical support enforcement is generally one year from the last review unless there is a case-specific reason for an earlier review.

In IST cases presumes the coverage is still in place unless notified otherwise. There is no need to ask the other state annually for an update regarding medical, however a case note is required that nothing has happened in the case that would indicate a change in coverage.

PROCEDURAL NOTE:

Steps 2 Identifying Case Requirements and 4 Identifying the Enforcement Parent apply for the purpose of determining the CSSD enforcement parent only. Once enforcement against the identified parent begins, the Steps cannot be reapplied except as indicated in Step 6 Reviewing Medical Support Enforcement, or in CS 520.5 Medical Hardship Review, 520.7 Enforcing Health Insurance Orders, or 520.10 Enforcing Health Insurance Orders—Penalty Actions

2. Identifying Case Requirements. If a previous review has already determined the enforcement parent in the case, skips to Step 6 for that parent. Otherwise, identify the participants, support orders, and known coverages in the case and proceeds as directed in 2a through 2c below.

- a. No Order for obligee. In a case where there is no parent obligee ordered to provide health insurance, proceeds against the obligor in CS 520.7, unless modification in Step 3 is required.

NOTE 1:

When neither parent is ordered to provide insurance, but the custodial parent maintains voluntary coverage, proceeds to Step 7 Coverage Outside CSSD Enforcement to process the coverage. The case must then be reviewed for possible modification of the order to include a medical insurance provision, or to establish a NOMS as in section CS 402.1, Notice and Order for Medical Support whichever process is appropriate given individual case specifics.

NOTE 2:

Child in Two Cases. If a child is in two cases—one against each parent—and both parents are required to provide health insurance, the CSSD enforces against both obligors. Each obligor is the enforcement parent in his or her case.

- b. Order for Parent Obligee—no other obligees in case In a case where there is a parent obligee who is ordered to provide health insurance, and no enforcement children are attached to any third-party obligee, and the obligor is also ordered to provide insurance, proceeds to Step 4 Identifying the Enforcement Parent to determine the appropriate enforcement parent, or the obligor is not ordered to provide insurance, proceeds against the parent obligee in CS 520.7, unless modification in Step 3 Identifying and Fulfilling Modification Requirements is required.
- c. Order for Parent Obligee—multiple obligees in case. In a case where there is a parent obligee that is ordered to provide health insurance and some or all of the enforcement children are living with a third-party obligee, proceeds to enforce support according to the Third-Party Rules listed in Table 3, unless modification in Step 3 is required. Begins enforcement at CS 520.7.

NOTE:

Third-Party Rules Prevail. For a case described in this sub Step (2c) the CSSD applies the Third-Party Rules rather than the procedures in Step 4 to determine the enforcement parent.

3. **Identifying and Fulfilling Modification Requirements.** Consults Table 2 above for any requirement to modify health insurance in the case. If a modification of the support order is required, proceeds to Steps 3a through 3e below. **EXCEPTION:** Modification is not appropriate for a case in which the children will be emancipated within six months of initiation of the modification.

- a. If Montana has continuing exclusive jurisdiction over the support order, proceeds to Step 3c below.
- b. If another state has continuing exclusive jurisdiction over the support order proceeds in Step 7 for any voluntary coverage and takes no further action in this section until the appropriate tribunal modifies the support order to include health insurance.

NOTE:

It is the responsibility of the state having continuing exclusive jurisdiction to ensure that the order contains a provision for the health care coverage of the children.

- c. If a CSSD modification is required in Step 3a, sends the obligee a modification packet along with written notification that a modification of the support order is required for the purpose of establishing medical support, and that the obligee must complete and return the enclosed for CS 408.3A Request for Review form. If the obligee does not return the Request for Review, the CSSD may take appropriate action against the obligee's public assistance benefits or may proceed to close the obligee's non-public assistance case.

The written notification required above may be the standard CS 202.1A 10-day letter, custom language may be added to CS 408.3A Request for Review or any other letter. The caseworker should document the language.

NOTE:

Obligor Applicant. If the obligor was the applicant for CSSD services, actions in Steps 3c and 3d should be addressed to the obligor.

- d. Monitors for return of the completed Request for Review as in CS 408.3 Establishing a Support Obligation.
 - i. If the obligee does not timely return the Request for Review, initiates case closure or non-cooperation procedures, and take no further action in this section.
 - ii. If the obligee timely returns the Request for Review, completes the modification process according to the procedures in CS 408.3. Upon entry of the modification order or decision not to modify, proceeds as in Step 3e.
- e. Upon completion of the modification action in Step 3d proceeds below according to the outcome. **EXCEPTION:** If a parent obligee is ordered to provide health insurance, and some or all of the enforcement children are living with a third-party obligee, proceeds according to the Third-Party Rules in Table 3 below.
 - i. If both parents in the case are now ordered to provide health insurance, proceeds to Step 4 to identify the enforcement parent.
 - ii. If only one parent is ordered to provide insurance, proceeds to section CS 520.7 for that parent.

4. **Identifying the Enforcement Parent.** In cases where both the obligor and the parent obligee are ordered to provide health insurance for the children and a choice between parents is still available after steps 2 and 3 are applied, identifies the enforcement parent according to Table 1 above. Takes action as necessary to obtain any information required for a decision within the table. Proceeds to CS 520.7 for the parent chosen.

EXCEPTION: If a new-hire report is received before an enforcement parent can be identified, and the CSSD has previously issued and resolved an enrollment notice to the obligor in favor of enrollment, proceeds immediately to step 6 for the obligor as the enforcement parent; issues an Order to Enroll and proceeds as directed in CS 520.7.

5. **Request for Redirection--Medical Enforcement Agreement.** Upon receiving a request from a parent for a change in the CSSD enforcement parent, proceeds in steps 5a through 5d below; document the determination and any subsequent changes on SEARCHS.

- a. Reviews the case to determine whether all of the following conditions apply; in questionable cases consults with the CSSD regional legal staff:
 - i. Both parents are ordered to provide health insurance for the children.
 - ii. The CSSD is currently enforcing or preparing to enforce against one of the parents through an OTE.
 - iii. The parents submit a written agreement to the CSSD clearly stating which parent should provide health insurance coverage, and the agreement is signed by the named parent.
 - iv. Enforceable coverage (via OTE) is currently available to the parent named in the agreement, or alternative coverage attributable to that parent is currently in place.
- b. If all of the conditions in 5a are met, grants the request based on a medical enforcement agreement. Terminates any enforcement against the "old" enforcement parent and begins enforcement against the "new" enforcement parent in CS 520.7. Re-verify coverage whenever the case is reviewed for medical support in this section. (The parents may not apply to change the enforcement parent again, once the agreement is in place.)
- c. If any of the conditions in 5a are not met, denies the request, and continues enforcement against the existing enforcement parent.

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- d. If coverage lapses after the agreement is in place and the CSSD cannot obtain replacement coverage from the enforcement parent by any available remedy, initiates enforcement against the other parent. (NOTE that a lapse in coverage that is not rectified has the effect of automatically canceling the agreement.)

6. Reviewing Medical Support Enforcement. Determines the status of medical support enforcement with respect to the CSSD enforcement parent and proceeds as applicable for that parent in steps 6a through 6d.

- a. No Coverage or No Enforcement. If no coverage is known, or if coverage is in place on a voluntary basis only, proceeds in 6a(i) through 6a(iv) below.
- i. Determines whether all appropriate enforcement actions have been taken in CS 520.7 and if necessary, in CS 520.5 and CS 520.10. If further action is available, proceeds as directed. Actions may include:
- Issuing and resolving an enrollment notice
 - Determining whether employer insurance is reasonable in cost
 - Issuing and obtaining coverage under an Order to Enroll
- ii. Determines whether any previous barriers to employer coverage still exist; proceeds in 6a(i) if there has been a change.
- iii. Reviews any existing medical hardship as in CS 520.5 and proceeds as directed.
- iv. Prepares and sends to the parent form CS 520.3B Confirmation of Health Insurance Status, to identify or confirm coverage and employment. Monitors for a response within 10 working days and proceeds to step 6c. **OPTION FOR INFORMAL CONTACT:** In lieu of written confirmation the caseworker may obtain coverage and employment information by contacting the enforcement parent by telephone. The caseworker must obtain or confirm information in **all** the fields listed on the form.
- b. Enforcement with Coverage. If coverage has been obtained as a result of a CSSD enforcement action confirmation of the coverage may be done through a Formal or an Informal Annual Review, and in some instances an annual verification of coverage is no longer required.
- i. A Formal Review involves a triggering event. Triggering events occur in cases that make it necessary to do a full medical review pursuant to this policy section. A full medical review means sending a Confirmation of Health Insurance or a Payor's Statement is required. Examples of some triggering events are as follows:
- New hire reports and other reported changes in employment status
 - Case opening or re-opening
 - Change of custodian
 - Support order establishment or modification
 - Notification by either parent or an employer that there has been a lapse or change in coverage
 - A change in the CP's public assistance status if the CP is the enforcement parent
 - A change in marital status if the insurance is provided through a current spouse
 - A CP change of address to another state when Indian Health Service (IHS) is the insurance

- ii. An Informal Annual Review involves verification of coverage that must be done by accessing HMK via CHIMES EA, DER, MT BCBS, Federal BCBS, EBMS and Allegiance. Use of these resources is required and is done rather than sending a Confirmation of Health Insurance or Payor's Statement. Scenarios of when an Informal Annual Review may be used follow:

Scenario 1

If an OTE is in place and the insurance on MID is a result of that OTE, check to make sure that the parent is still working for the same employer. Use of electronic tools such as MISTICS, ESW, and HIR quarterly reports if working out of state are some examples. If the parent is the AP and money is still coming in from the same employer, the caseworker may use the recent payments on PAH as evidence that employment has not changed. Once satisfied that the parent is still with the same employer, make a case note and update LRD on MEC.

Scenario 2

If the insurance is from an employment source where an OTE is not possible such as military or union, check the parent's continued employment status using the same methods, electronic tools and interfaces listed above. For the military, quarterly wages will appear on HIR and DER should show the coverage. For union coverage, caseworkers should check to make sure that the parent is still employed by an employer in the specific trade associated with that union.

Scenarios 3 and 4

Case workers should check to make sure nothing has happened over the last year that would lead them to believe there had been a potential change to the medical insurance. They should look for any possible missed triggering events such as a CP who now has a case open against the spouse that had been providing insurance or a change in public assistance status. If no changes are apparent, document it in case notes and update the LRD on the MEC screen.

A case note documenting the findings of the informal review in all the scenarios listed above **is required** as is updating the Last Review Date on the MEC screen.

- iii. Annual Verification Not Required. In the instances below annual verification of coverage is no longer required. Enters a case note documenting findings and updating the LRD on the MED screen are **required**.
- In cases where insurance is provided based on an OTE in place with a parent’s current employer, there is no need to verify the coverage annually unless we are notified that there has been a change of employer, a change of insurer or otherwise notified that the child is no longer covered.
 - In cases where coverage is provided through employment but an OTE is not possible, such as military or union, presume the child remains covered unless something indicates otherwise.
 - If a CP is providing other coverage for the child where there is no OTE, presume the child is still covered unless notified or until some other triggering event would lead us to believe the child may no longer be covered. An example of this may be coverage obtained through a spouse (stepparent) and then we learn of a subsequent divorce.

Note 1: If the AP is providing other coverage where there is no OTE such as spousal coverage or private insurance, the coverage information should be verified annually.

Note 2: In cases where the CP is the parent providing coverage and the CSSD receives a TANF or Medicaid referral for the CP, the caseworker should check CHIMES to see if the insurance information we have in SEARCHS is known in CHIMES. If not, then the insurance must be verified.

- c. Response to Confirmation Letter. If the parent timely responds to the confirmation letter in step 6a with the required information regarding coverage and employment (and IHS if applicable), verifies any new coverage listed on the response, updates SEARCHS and notifies the parent obligee as applicable (see procedures for processing coverage information in CS 520.7). Proceeds in 6a(i) as applicable for any new information received.
- If the parent does not timely respond, contacts the parent or if applicable contacts the employer or insurance provider for the information. When contacting an insurance provider, you may be asked to provide the CSSD Federal ID number. If information cannot be obtained from any source, and the information is necessary to proceed against the parent (for example, if employment or unemployment cannot be determined), proceeds to CS 520.10 to initiate a medical penalty.
- d. Enforcement Remedies Exhausted If all possible remedies for obtaining health insurance are exhausted for the enforcement parent, proceeds in 6d(i) through 6d(iii) below as applicable.
- i. If there is no other parent in the case, or if the other parent is not ordered to provide health insurance, monitor for a change in circumstances and takes no further action in this section. (NOTE that modification requirements in Step 3 may still apply.)
 - ii. If there are two parents with health insurance orders in the case and third-party rules do not apply, proceeds as follows:
 - A. If the CSSD has not pursued enforcement against the other parent since the determination in step 4, proceeds to enforce against that parent, beginning in step 6a.
 - B. If the CSSD has pursued enforcement against the other parent since the determination in step 4 and has exhausted all available remedies, monitors for a change in case facts that may affect the CSSD's ability to enforce health insurance. If a change occurs, returns to step 4; otherwise, takes no further action in this section.
 - iii. If there are two parents with health insurance orders in the case and third-party rules apply, proceeds against the other parent to the extent allowed in Table 3.

NOTE:

When both parents are ordered to provide. When both parents are ordered to provide health insurance, it is **necessary only** to exhaust employer insurance for the enforcement parent. Once employer insurance for the enforcement parent has been exhausted you may switch to the other parent’s employer. For any existing coverage (including private insurance) send CS 520.3B Confirmation of Health Insurance Status, update the last review date on the SEARCHS MEC screen and monitor for any change.

7. **Coverage Outside CSSD Enforcement.** Determines from information available in the case file whether any person or entity other than the enforcement parent (for example, the other parent, the other parent's spouse, or an unordered parent) is providing geographically accessible health insurance coverage for the children. If so, processes the enrollment information according to applicable procedures in CS 520.7. For any coverage that may be unknown to the custodian of the covered child, notifies the custodian of the coverage in writing.

Proceeds in this step regardless of whether the enforcement parent is providing health insurance and regardless of whether either parent is ordered to provide health insurance.

EXCEPTION: In a case where the CSSD is no longer providing current support services, it is not necessary to load the coverage on SEARCHS. Any coverage that is loaded on the MID screen must be monitored and updated annually or ended.

NOTE:

Importance of Other coverage Information. The information described above may not be needed to proceed with health insurance enforcement in the case. However, it is important for determining the percentage of children covered and other aggregate data maintained by the CSSD and the federal government.

- 8. Medical Support Dollar Amount.** Regardless of whether the obligor provides or has been ordered to provide health insurance, if the support order specifies a sum-certain medical support amount payable by the obligor sets up an unassigned or assigned medical support account in the case.

Table 3. Third Party Rules

This table applies in cases where there is more than one obligee, and one of the obligees is a parent who is ordered to provide health insurance for the children. Enforcement should proceed against the obligor, unless the obligor is not ordered to provide health insurance.

Rule No.	Description
1	Attached children only. The CSSD does not enforce against a parent obligee for children who are not living with the parent obligee.
2	No mixed enforcement. The CSSD does not enforce against two parents in the same case at the same time, except in temporary situations in RULE 3.
3	All children vs. some children--existing coverage. The CSSD will enforce existing coverage provided by the parent obligee (subject to RULE 1) only while pursuing coverage through the obligor for all the children, if enforcement through the obligor for all the children fails, -if the obligor is not ordered to provide health insurance, or has received a public assistance exception.
4	All children vs. some children--no existing coverage. If there is no existing coverage provided by the parent obligee, the CSSD will enforce first against the obligor; if that enforcement fails, or if the obligor is not ordered to provide health insurance or has received a public assistance exception, the CSSD will enforce against the parent obligee for the children living with the parent obligee.
5	Correct case number on OTE. If the third-party custodian opens a case against the parent obligee, the CSSD follows regular procedures to establish a financial obligation against that parent. As soon as the support order is entered, the CSSD will issue a new OTE to the parent's employer under the new case number. NOTE: Financial Obligation. While the financial obligation is being established, the CSSD can continue to enforce the parent's medical obligation under the existing OTE. However, if the parent changes employers prior to entry of a financial obligation against that parent, a new OTE is required under the new case number. Prior to completion of the SEARCHS NIS/NID and OTS/OTD screens, CSSD enters a medical record on SOS/SOD screens to issue an OTE under the new case number. The information from SOS/SOD screens under the existing case number is transferred to the new case number, except for the following: -The financial support obligation is entered as "0.00"; and -The MED INS field is entered as "A".

ADDENDUM D.

Policy Manual CS 408.3 (Oct. 22, 2019):

Re. Incarceration

NOTES

This material—reformatted here for ADA compliance—is posted publicly at <https://dphhs.mt.gov/cssd/PolicyManual>, section 408.3 (direct path: <https://dphhs.mt.gov/assets/cssd/PolicyManual/cs408-3.pdf>).

Note that in 2020, “Child Support Enforcement Division (CSED)” was changed to “Child Support Services Division (CSSD).”

[Policy Manual CS 408.3 Establishing A Support Obligation: Review And Modification Of Support Order (Oct. 22, 2019)]

SUPERSEDES

CS 408.3 Review and Modification of Support Order, December 23, 2017

REFERENCES

42 USCS § 666(a)(10); 45 CFR § 303.8; MCA §§ 40-4-208(2), 40-5-150, 40-5-226(3), 40-5-271 through 40-5-278, 40-5-907(6), 40-5-1008, 40-5-1012 and 50-15-302; ARM 37.62.146, and ARM 37.62.2103 through 37.62.2107; *Marriage of Cowan*, 279 Mont. 491, 928 P.2d 214 (1996)

DEFINITIONS

The following definitions apply for purposes of review and modification only:

Party to the action: A person who (1) is obligated by the existing support order, (2) may be obligated by the modified order, or (3) is named as a party in the existing order.

Party to the request: A person or agency who is (1) a party to the action as defined above, (2) a non-obligated custodian in the existing or modified administrative support order, or (3) another state requesting modification on behalf of a child in substitute care (foster care or juvenile corrections).

Incarceration: Refers to a parent who is held in a correctional, detention or treatment facility for more than 180 days.

State: A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe.

POLICY

Review and Modification

Every three years the CSED provides notice to each parent or non-obligated custodian subject to a support order in a CSED case that he or she may request review and possible modification of the support order. The opportunity for a three-year review is available regardless of any showing of change of circumstances.

Within fifteen business days of learning that an Obligor is expected to be incarcerated for at least 180 days, CSED provides notice to the Obligor and Obligee that he or she may request review and possible modification of the support order. A supply of notices will be maintained in each region for this purpose.

The existing support order determined support based on established facts that existed at the time it was entered. Those factors cannot be reconsidered. Instead, if a parent or custodian requests a review less than three years after the support order was established or last reviewed, the CSED will grant the request only if a change of circumstances applies. The CSED may grant a full review or a limited review to determine whether modification of the order is appropriate and, if so, will initiate a modification action. By law, the first payment date named in the modification action may be no earlier than the date all the parties to the action received notice of the review.

CSED Initiated Review

In addition to providing an opportunity to request a review every three years, federal statutes require the CSED to initiate a review for modification once every three years in cases having an assignment of rights under Title IV-A. Cases meeting the criteria must be reviewed, and if modification is appropriate modified within 180-days.

Special Characteristics

Modification of a support order is different from all other CSED actions in that it involves--at the request stage--not only the parents but also any applicable third-party custodian or other state. This is the result of the transition from the old to the new support order, when sub cases and roles may be changing, and the total case must be considered for impacts on all the obligations.

Jurisdiction

To conduct a review and, if appropriate, to modify a support order the CSED must have personal jurisdiction over the parties to the modification action, as described in MCA 40-5-1008 or 40-5-231. Generally, jurisdiction is established if the party is served with notice in Montana, has resided in Montana with or while supporting the child, has caused the child to live in Montana, or could have conceived the child in Montana.

The CSED must also have jurisdiction over the support order. Jurisdiction may be in the form of continuing, exclusive jurisdiction (CEJ) as defined by MCA 40-5-1012, or concurrent jurisdiction authorized by other applicable statutes. The jurisdiction determination depends on certain case facts, such as the current states of residence of the obligor, the obligee, and the children named in the order; whether the obligor or the obligee requested the review; and the identity of the state that issued the order. See the table at the end of this section for the complete factors and outcomes in determining jurisdiction over the support order.

NOTE:

A change of residential parent. When there is a change of residential parent, whether the original order is a Montana court order, or an administrative order do not establish a new order against the other parent. A modification of that order is required.

Registration for Modification

Orders issued by a court or administrative agency of another state must be registered with a Montana district court under MCA section 40-5-271 as part of the modification process. Montana court orders are not registered. Registration for purposes of modification is available only during a review and modification proceeding, and does not confer jurisdiction for enforcement purposes.

The CSED provides notice that the other state's order has been registered for modification. The Notice of Registration is combined with the Modification Notice and Order and filed with a Montana district court as part of the Notice of Proposed Modification and Request for Approval. The other state's order is filed and registered with a Montana district court at the time the CSED seeks court approval of the proposed modification.

Review Eligibility

A case qualifies for review when a significant change of circumstances exists, or at least thirty-six months have elapsed since the existing support order was entered, an administrative hearing was scheduled under MCA section 40-5-277, or a modification was denied under MCA section 40-5-272(4). A case that qualifies for review may be processed as either a full review or limited review.

NOTE 1:

Request for review may be withdrawn. A request for review may be withdrawn at any time before a final order is issued in step 10. Other parties are given the opportunity to complete the modification action if a request to withdraw is received after the notice is issued in step 5. If the request is successfully withdrawn at any stage, the thirty-six month timeframe does not begin anew.

NOTE 2:

If a denial of review issued. The thirty-six month timeframe begins anew if CS 408.3B Denial of Review Request is issued, for the following reasons:

- a negligible change exists; or
- no substantial change of circumstances occurred, modification is not otherwise necessary to set a medical support order, and no change of custody occurred

NOTE 3:

When a final order is issued. The thirty-six month timeframe begins anew when a final order is issued in step 10.

FULL REVIEW

A full review considers all aspects of a support order. A full review is appropriate when:

- 1) The existing order was set without reference to the guidelines.

Replacement in Lieu of Modification. If the existing support order is a CSED order, the caseworker should proceed to **replace** the order instead of initiating review and modification in this section. Replacement is accomplished using a Motion and Order Replacing Support Order (MORSO), or a Notice of Intent to Vacate (NOIV), as applicable. (See section CS 401.5, or consult the regional legal unit.)

- 2) Either parent's gross income increased or decreased by at least 30%.

Incarceration is not voluntary underemployment for purposes of review. Reduction in earning capacity as a result of incarceration is a substantial change of circumstances for purposes of review.

Decrease in Income Must be Involuntary. Under Montana case law, a voluntary reduction in income does not qualify as a substantial and continuing change of circumstances that render a support order unconscionable. A review is not appropriate for income reduction resulting from a voluntary employment change, reduced work hours or termination. A full review is appropriate only if the income reduction is not caused by a parent's voluntary acts and the parent is incapable of obtaining similar employment. Incarceration is not a voluntary decrease of income for purposes of review and modification.

LIMITED REVIEW

Limited review is available only for Montana orders. The CSED may conduct a limited review of a Montana support order to make specific changes, when a full review is not appropriate. The remaining terms of the support order and calculation under the Montana Child Support Guidelines are retained. A limited review may be converted to a full review at any time a parent alleges a 30% change of gross income.

NOTE:

Limited Review is not available. When the existing order is based on a guideline calculation that cannot be obtained, a limited review is not available.

The only facts considered in a limited review are:

- 1) A change in parenting time (visitation) or custody, and there is written evidence or other acceptable demonstration of the permanent intent, and either the existing order or the modified order involves combined parenting as defined in section CS 404.1 Child Support Guidelines.

REMINDERS: If no combined parenting is involved, changes in visitation and custody are handled as follows:

- (a) If the physical custody of all the children in the existing order changes from one parent to the other parent, the change creates a modification case, not an establishment case.
 - (b) If the physical custody of one or more of the children changes from the non-obligor parent to a third-party custodian, or vice versa, the existing order will follow the child without creating a change in support.
- 2) The cost of day care services needed for the children has increased or decreased by at least 25% and the change will continue for at least 18 months.
 - 3) A child has developed special needs that did not exist when the existing order was entered, and the needs will continue for at least 18 months, or special needs considered in the order no longer exist.
 - 4) The cost of health insurance provided by a parent has increased or decreased by at least 25% of the support order, and the change will continue for at least 18 months.

Example: Support obligation = \$100.00 per month and includes health insurance costs of \$60.00 per month. Health insurance costs for the children must **change** at least \$25.00 per month to qualify for review. ($100 \times .25 = \$25.00$) The new premium = \$72.00 per month and does not qualify for review because the change is less than 25% of the support order.

- 5) A child was adopted, emancipated, reached the age of majority, married, entered military service, or died and the support order is not a per-child order.
- 6) A child of the biological unit has been added to the case and a Subsequent Notice and Order Concerning Support (see section CS 401.6) does not apply.
- 7) The existing order contains no medical support provision.

NOTE:

Provision for medical support. A provision for medical support means a health insurance order as defined in section CS 520.3 Reviewing Health Insurance Orders, or some other provision that requires a parent to provide a specified medical support amount. In unusual situations, the meaning of "medical support" may be expanded to include other payments or duties, if approved by the regional legal unit.

Three Stage Process

The CSED conducts review and modification in three stages, at increasing levels of formality. In the first stage, the CSED receives and screens a request for review. The CSED investigates the allegations and then either denies the request or agrees that modification is appropriate. Activities at this level involve all the parties to the request.

For a CSED initiated review, a case that involves IV-A assignment of rights, the first stage of the three-stage process is to review the case for possible modification. Activities at this level **do not** involve the parties in the case.

In the next stage, the CSED initiates and resolves a contested case action to modify the support order. At this level, there is an opportunity for a statutory modification hearing to contest the action. Review and modification of an administrative support order ends with this stage.

The final stage (judicial level) applies for court-issued support orders and orders issued by another state. Under MCA section 40-5-277, Montana court orders and orders from other states must be modified by a Montana district court. The CSED decision and order from stage two is not effective as a final modification order until it is filed with and approved by the applicable Montana court. The parties may contest the CSED's order by requesting a hearing with the court. The court may adopt, modify, reject or remand the order.

Time Frames

Federal regulations require that the CSED conduct a review, and modify the order or determine that the order should not be modified, within 180 calendar days of receiving the complete request for review and locating the other parties to the request. The requirement applies to modification of court orders as well as administrative orders. The time is not extended to accommodate the additional steps (or delays) involved in obtaining a final modification from the district court.

Procedures

Procedures for Caseworker

SEARCHS FORMS:

Generation of the SEARCHS forms in these procedures requires special attention to the facts of the particular case. Heading formats in form CS 408.3A are specially designed to reflect all the parties to the request; the parents that may be obligated to support the children; and the children that may be affected by a modification. In other forms, proper generation depends on correctly identifying the circumstances of the modification action, the roles of the individuals or entities involved, and the

characteristics of the existing support order. **Precise SEARCHS processing is necessary for statutory compliance.** See the detailed instructions available in the regions for properly generating all modification forms.

1. Initiating a Review.

Upon discovering a CSED case that meets either of the conditions in (a) or (b) below, initiates a review for possible modification of the existing support order beginning in step 4.

- a. Subsequent child. A child of the biological unit has been added to the case and a Subsequent Notice and Order Concerning Support (CS 401.6 SNOCS) does not apply, proceeds to step 4c Review Granted.
- b. CSED Initiated Review. A case requiring a review of the existing support order as part of the periodic IV-A review process. Subsequent to reviewing the support order proceeds to either step 4b Modification Denied, or step 4c(iv) Guideline Calculation.

NOTE 1:

A TANF case that is receiving benefits, but that is not currently being reviewed under the 3-year review criteria may still qualify for a modification. This occurs when a case is identified as having an inadequate support order, and the caseworker is aware of a significant change in the non-custodial parent's income. The custodial parent in the case is sporadically off TANF keeping the case from meeting the 3-year review criteria. A modification in this instance is likely to result in an increased support order and may be in the best interest of the child. "Best interest of the child," means that a change in the support amount is essential to the reasonable enforcement of support, and the parent or custodian has not requested a review.

NOTE 2:

Orders Not Providing for Medical Support. The CSED does not initiate a review and modification action solely to add a provision for health insurance coverage to the support order. If modification is required, the person who applied for CSED services is directed to obtain a modification. If the applicant does not take the steps necessary to complete a required modification, the CSED initiates non-cooperation or case closure procedures (see section CS 520.3).

NOTE 3:

Orders Not Considering Social Security Benefits. The *Cowan* decision issued by the Montana Supreme Court in November of 1996 established that the amount of a disabled obligor's support obligation is automatically decreased by the amount of Title II Social Security benefits paid to the child on behalf of the obligor. Therefore, modification of the support amount for the sole purpose of subtracting the Social Security payment from the support obligation is not needed; the CSED simply credits the payment to the obligor's current support account. If the obligation is greater than the Social Security payment, the case may be eligible for review (for purposes of the excess obligation) based on a significant change of circumstances, such as a change in income.

2. Issuing Form CS-408.3A Request for Review.

Upon being contacted for a modification by a person or state meeting the definition of "party to the request" (POLICY) generates form CS 408.3A Request for Review.

If contacted for a modification by the IV-D agency of another state in a case where the children are not receiving substitute care, informs the state that the parent or custodian that resides in the state must request the review.

Prepares a packet containing:

- form CS 408.3A Request for Review
- form CS 404.6A Financial Affidavit

Sends the packet by regular mail to the requestor; takes no further action until the signed and completed Request for Review is returned.

3. Screening the Request for Review.

Upon receiving form CS 408.3A Request for Review from a party to the request, checks to see if the form is properly signed and completed, and is accompanied by the necessary financial information and verifications.

NOTE 1:

Request Withdrawn. If the requestor withdraws the request at any point before Modification Notice and Order is issued in step 5, the caseworker should acknowledge the withdrawal in writing and enter an appropriate SEARCHS case note; no further action in this section is necessary.

NOTE 2:

Case Closed by Other Party. If at any point in these PROCEDURES a party to the request closes the IV-D case, and the CSED has reason to believe that a second party to the request is aware a review or review request is pending, the CSED is required to notify the second party of the case closure request. The second party may continue the review by opening a case. The CSED sends form CS-408.3K Letter Re: Case Closure, by regular mail. The party must submit an application within 20 days of the date the letter was mailed; if not, the review and modification process is terminated. The notification requirement does not apply to parties to the request who are not eligible to apply for CSED services or in cases where the case was closed as the result of a good-cause determination.

- a. If the Request for Review is substantially complete (see the NOTE following step 3b), enters the appropriate case notes for the request received and the Financial Affidavit received, if applicable. **Completes the appropriate steps in the remainder of this section within 180 calendar days of the date the complete request was received, and the other parties are located.**

Investigates to determine whether review of the existing support order is available. Review is available for an open CSED enforcement case if all of the following conditions apply:

- 1) The CSED has jurisdiction to modify the order (POLICY).
- 2) Modification services are not being provided by another child support agency.
- 3) Modification action is not pending in another administrative agency or court.
- 4) The support order will not terminate for at least six months after the date the Request for Review is received.
- 5) The CSED can obtain sufficient reliable information--from its records or from other parties to the request--to perform a guidelines determination if applicable. See sub step 4c(iv).
- 6) The case qualifies for either a full review or limited review (POLICY), or at least thirty-six (36) months have elapsed since the existing support order was entered, an administrative hearing was scheduled under MCA section 40-5-277, or a modification was denied under MCA section 40-5-272(4).

NOTE 1:

A request for review may be withdrawn at any time before a final order is issued in step 10. Other parties are given the opportunity to complete the modification action if a request to withdraw is received after the notice is issued in step 5. If the request is successfully withdrawn at any stage, the thirty-six month timeframe does not begin anew.

NOTE 2:

Denial of review request issued. The thirty-six month timeframe begins anew if CS 408.3B Denial of Review Request is issued, for the following reasons:

- a negligible change exists or
- no substantial change of circumstances occurred, modification is not otherwise necessary to set a medical support order, and no change of custody occurred

NOTE 3:

When a final order is issued. The thirty-six month timeframe begins anew when a final order is issued in step 10.

- b. If the Request for Review is not substantially complete (see the NOTE below), contacts the requestor in writing and explains the request cannot be processed until the missing information is received. In the case of a missing signature or notarization, encloses the requestor's original document to be signed or notarized. If the Request is incomplete only because the requestor failed to check one of the boxes on the form, a telephone call to identify the intended box(es) is recommended.

Enters a case note for the incomplete request received and the action taken. Returns to step 3a only if the missing information is provided; otherwise, takes no further action in this section.

NOTE:

Complete Request Defined. A Request for Review is substantially complete for purposes of initiating review and modification proceedings if it contains the requestor's signature, a completed, signed, and notarized Financial Affidavit (if the requestor is a parent and the support order is at least 36 months old or a 30% change of gross income is alleged), other financial information needed to verify income, for example tax returns and pay stubs (if applicable) and written verification for any claim qualifying case for either a limited review or full review (unless the CSED can verify the claim without information from the requestor).

Although the CSED asks the requestor to provide certified copies of the applicable support order(s), the Request is substantially complete without them.

4. Granting/Denying the Request for Review

Proceeds in steps 4a through 4c as applicable.

- a. **Personal Jurisdiction.** If the CSED does not have personal jurisdiction over one or more parties to the action, determines (1) whether review and modification by the CSED would be beneficial to the enforcement of the case and, if so, (2) whether each of the parties involved is likely to consent to Montana's jurisdiction.

If CSED jurisdiction would be beneficial and consent is likely, consults with regional legal unit. If jurisdiction is obtained proceeds in step 4c. If not, proceeds to step 4b.

NOTE:

Personal jurisdiction alone is not enough to modify a support order. The CSED must also have jurisdiction over the order. See the table at the end of this section for complete factors and outcomes to determine jurisdiction over the support order.

- b. **Review Denied.** If review is not available because the case does not meet the conditions in step 3a (and the exception in NOTE 1 below does not apply) or a negligible change exists under sub step 4c(iv), prepares and sends to the requestor by regular mail form CS-408.3B Denial of Review Request (DORR), advising the requestor the support order is not eligible for review or possible modification, identifying the reason(s) for the denial, and allowing the requestor 10 days to request a hearing. Proceeds in sub step 4b(i) or 4b(ii) below as applicable.

CSED Initiated Review – Modification Not Appropriate

If a modification of the existing support order is not appropriate or a negligible change exists updates the review date on the Support Order Detail screen (SOD), enters text in the SOD text field stating why the review date was changed, and documents in case notes why a modification is not appropriate at that time.

NOTE:

If the caseworker anticipates a change, in the *near future* to the reason, a modification was not appropriate; a tickler may set as a reminder for further review.

- i. If the requestor contests the denial by timely requesting a hearing, follows regular CSED procedures for identifying the issues, preparing for the hearing, attending the hearing as a witness, and entering a SEARCHS case note for the hearing order received. If the Administrative Law Judge determines the order is eligible for further review and possible modification, proceeds to step 4c. Otherwise proceeds in sub step 4b(ii).
- ii. If the requestor does not timely request a hearing, or if the Administrative Law Judge upholds the denial, takes no further review action in this section. Enters a SEARCHS case note

NOTE 1:

Jurisdiction over support order, Montana not responding state. If review is not available because the CSED does not have jurisdiction to modify the support order, **and** the case is an interstate initiating or non-interstate case, the DORR is not appropriate. Instead the CSED issues form CS-408.3R Jurisdiction of Other State and CSE-GT, General Testimony informing the requestor the State of Montana does not have jurisdiction to modify the support order, and providing the name of the state that has or may have jurisdiction. The forms do not provide an opportunity for hearing; however, the requestor may ask the CSED to petition the other state for a modification on the requestor's behalf. No further action under this section is necessary.

NOTE 2:

For a CSED initiated review of a case involving direct income withholding interstate the case, and update the review date on SOD.

NOTE 3:

Denial Involving Subsequent Child. If the Request for Review identifies a subsequent child as defined in section CS 401.6, Subsequent Notice and Order Concerning Support (SNOCS), and SNOCS procedures apply, the caseworker must initiate the SNOCS action or continue with any SNOCS in progress. The DORR should state that the CSED is converting the request to apply to another administrative process that will add the child to the order.

NOTE 4:

Denial Involving Native American Jurisdiction If the reason for denial is lack of jurisdiction, and the case is a Native American case, the DORR should state that the CSED declines to conduct a review because it would infringe on tribal sovereignty and the requesting party has not provided a waiver from the tribal court.

NOTE 5:

Judicial Review Not Available. DORR hearings are not contested case hearings under MCA section 2-4-102 and are not subject to judicial review. No proposed order is entered prior to the final order.

- c. Review Granted. If a review is granted, investigates in sub steps 4c(i) through 4c(iv) below as applicable, then proceeds to step 5.
 - i. Controlling Order. If there is more than one enforceable support order in the case, works with the regional legal unit to obtain a controlling order determination, and proceeds in the remainder of this step (4c) for the controlling order only.
 - ii. Registration. Identifies the status of the existing support order for purposes of registration. If the order was issued by another state, it must be registered. Montana court orders are not registered. The notice of registration is combined with the Modification Notice and Order issued in step 5 and is included in the Court Approval Process beginning in step 11.
 - iii. Attorneys of Record. If the existing support order was issued by a Montana court, identifies any original attorneys of record who have not withdrawn. The caseworker may identify these attorneys by sending form CS-217 Information Request. Caseworker is not required to determine attorneys of record for non-Montana orders.

NOTE:

Attorneys of Record and SEARCHS Attorneys In cases involving modification of a court order, Montana law requires that the CSED provide copies of new court filings to the "parties and their counsel of record in the administrative and court proceedings." In addition, CSED policy requires that copies of all documents issued in the administrative action be sent to the parties' attorneys listed on SEARCHS. The combination of these requirements may, in rare cases, lead to a situation where a party has two attorneys who must receive copies of documents issued by the CSED in the modification action.

- iv. Guideline Calculation. Prepares forms CS 404.1A through 1E Worksheets A through E Montana Child Support Guidelines. Performs guidelines calculation according to the instructions in section CS 404.1, subject to the following limitations:
 - A. If a full review is **not** appropriate, adjusts calculation only for facts that qualify for limited review. (POLICY) Retains all other elements of the existing calculation including income, allowable deductions, personal allowances and primary child support allowance. Retains portions of supplement to primary allowance, credit for payment of expenses, and adjustments to income available for SOLA that are not limited review factors. Includes notation in comment section of calculation that limited review was performed and specifically names the items adjusted.

NOTE:

Caseworker does not perform guideline calculation if limited review is only to add a medical support order and no parent incurs costs for insurance premiums at the time of review. Instead, the existing monthly obligation and guideline calculation are retained in the Modification Notice and Order.

- B. If full review is appropriate, calculation is based on reliable, relevant information. The allegations may be based on caseworker investigation or information submitted by parents or non-obligated parties to the request.

NOTE:

Does not decrease a parent's income unless proof exists that reduction is involuntary, usually based on a disability or incarceration that occurred subsequent to the existing order. If reason for income decrease is unknown or based on voluntary events, retains the parent's income from existing calculation.

Negligible Change

If the total monthly obligation under the existing order and the total obligation under the new guideline calculation differ by 15% or more, proceeds to step 5. If the difference is less than 15%, caseworker denies the request for review as in step 4b, unless modification is otherwise necessary. For instance, modification may be necessary to accommodate a change of custody, to add a medical support obligation, or to create a per child order when the existing order contains a flat rate obligation.

5. Issuing Contested Case Notice (and Notice of Intent to Register if necessary).

Generates other forms as needed for obtaining jurisdiction as described in step 4.

NOTE:

Caseworker may conduct a review session as described in step 7 prior to issuing the notice in this step.

For each party to the action, and for each attorney of record identified in step 4c, generates the Modification Notice and Order package. Retains for later use one set of stuffers, the original signed Modification Notice and Order and copies of any guidelines worksheets. Arranges for service by certified mail, personal service, or acknowledgment, unless otherwise noted; combines packages for the same person or entity as applicable. An informational copy of the package (excluding hearing request and Financial Affidavit) is provided by mail to requesting parties who are not parties to the action.

Package consists of:

- Form CS 408.3G Modification Notice and Order, see step 5a
- Financial Affidavit if applicable, see step 5b
- Forms CS 404.1 A through 1E, Worksheets A through E Montana Child Support Guidelines prepared in sub step 4c (iv) above
- Form CS 408.3I Modification Acknowledgment and Waiver of Service if applicable
NOTE: CS-408.3I Modification Acknowledgment and Waiver of Service is STRONGLY encouraged when serving an incarcerated parent. Inmate mail restrictions prohibit business reply envelopes.
- CSED Initiated Modification. For cases that involve a CSED initiated modification the caseworker may elect to include CS 408.3J Public Assistance Modification Letter explaining to the parties why the support order in their case has been reviewed and modified.

Monitors for service and response time in (1), (2), or (3) below:

- 1) Sends the package by certified mail, return receipt requested. Monitors for response within 3 mailing days plus 20 calendar days after mailing, or 20 days after the date the parent signs the return receipt, whichever allows for later response.
- 2) Arranges for personal service of the package through the sheriff or a civil process server. Monitors for response within 20 calendar days of the date on the return of service
- 3) Prepares CS-405.1 Notice and Acknowledgment of Receipt of Administrative Notice. Encloses the Modification Notice and Order package the original and one copy of the Acknowledgement form and a business reply envelope for each party to return. (Omit the business reply envelope for an incarcerated parent) If a party does not respond in writing to the Acknowledgment within 20 calendar days after the date of mailing, the CSED must issue the package for service by sheriff or private process server only, in accordance with the Montana Rules of Civil Procedure.
 - a. Modification Notice and Order
 - For a Modification Notice and Order resulting from a full review (POLICY), selects option to send a Financial Affidavit to any obligated parent who did not request the review.
 - For a Modification Notice and Order resulting from a limited review, selects limited review option and reasons for limited review.
 - To modify another state's order, selects option to register and selects Court order even if order from another state is an administrative order. This generates a Modification Notice and Order and Notice of Intent to Register. Administrative orders from another state should be treated as if it is a court order for purposes of registration and modification. Does not select registration option to modify Montana orders.
 - For all notices, chooses the first day of the month following issuance of the Modification Notice and Order as the date of the modified support obligation.

- Selects consent language only if Financial Affidavits have been received for all obligated parents or a 30% change of income was not alleged.
- Includes non-per child language if the amounts in the guidelines worksheet are not the same, or are not owed by the same parent for each child. Enters the total monthly payment for all the children.
- Adjusts the language of the support order where applicable to reflect the requirements of section CS 404.1 for rebutted presumptions, variances, anticipated changes in circumstance. To accommodate other special facts of the case, seeks the advice of the regional legal unit.

NOTE 1:

If there is a domestic violence indicator on SEARCHS for the case, checks to make sure the certificate of mailing does not include an address for the person who is listed as the alleged victim.

NOTE 2:

Determining the Type of Order. If the existing order on SOD appears to be a Montana district court order, the caseworker should check to see if the order was truly issued by a Montana district court or was issued by the CSED and abstracted to a Montana district court. Any order actually issued by the CSED is considered an administrative order for purposes of this section.

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EXCEPTION: If the order on SOD is an order issued by the CSED **that modified a court order**, the order is considered a court order for purposes of this section. (Modification of court orders was available to the CSED until August 31, 2000).

NOTE 3:

Adjusting for Multiple Obligees, Multiple Obligors, or Parties Not in the SEARCHS Case. The notice is designed to name only one obligor and one obligee in the heading. In cases where additional obligors or custodians must be included in the modified order, the heading should be adjusted for accuracy. In cases where a party to the action is not, an obligor or obligee in the modified order, the caseworker, in consultation with the legal unit, must adjust the form to provide an opportunity for all parties to the action to consent to the modified order or to request a hearing.

NOTE 4:

Adjusting for Special Court Provisions. If the existing support order is a court order, any special provisions in the order that substantially conflict with standard CSED language must be retained in the modified order to the extent allowed by law. Special provisions may include the court's determinations on income withholding, emancipation, or other areas affecting the enforcement or duration of the order. The CSED must also retain the court's medical provisions in cases where the court has made specific findings that differ substantially from the standard CSED (OBRA 93) medical language. In situations where the court's medical provisions have clearly become obsolete (for example, where the support order requires a parent to maintain insurance through an employer for whom the parent no longer works), the caseworker may consult with the regional legal unit to identify possible changes in the medical language, and procedures for adoption of the changes by the parties.

NOTE 5:

Adjusting for Registration and Modification of an Order from Another State. The duration of a support obligation is a non-modifiable term of the original order. If needed the modification notice must be adjusted to maintain the language of the original order.

NOTE 6:

Adjusting the Modification Action for Parties Not in the SEARCHS Case. Procedures in the remainder of this section assume the parties to the action are limited to the obligor and any parent obligee in the modified order. If this is not the case, procedures must be adjusted by the caseworker, in consultation with the supervisor or legal unit, to afford due process to all other parties to the action.

- b. Form CS-404.6A Financial Affidavit if applicable. Use only for full review based on an alleged 30% change of gross income. The information requested on the financial affidavit includes copies of federal income tax returns with all schedules filed and W-2 forms for the last three years. If a parent is self-employed, the request is for business returns (partnership or corporation) for the last three years *in addition* to the individual returns.

For any parent who is not a party to the action, the Modification Notice and Order does not require production of financial information. If financial information is needed, form CS-405.12A Investigative Subpoena is obtained according to the procedures in section CS 405.12, directing the parent to submit the information within 10 days after service. OPTION: The caseworker may include a note in the package asking the parent to assist the CSED by completing and returning the financial affidavit.

FOLLOW-UP: If the non-party parent fails to respond to the note as requested, the caseworker should quickly proceed with an investigative subpoena as in section CS 405.12 directing the parent to submit the information within 10 days after service.

6. Evaluating Response to Modification Notice and Order.

Takes action in steps 6a through 6f as applicable, according to the responses to the packages served in step 5.

- a. **Unable to serve notice.** If any party to the action cannot be served despite diligent efforts to locate the individual, terminates the proceedings according to step 6c. In questionable cases consults the regional legal unit. Diligent efforts to locate for service must include an attempt to serve the notice by sheriff's service or private process server.
- b. **Unable to obtain financial information.** If no other reliable information is obtained for a parent, caseworker must use the parent's income from guideline calculation associated with the existing order, if available. If any person ordered to produce financial information fails to do so within 20 days after service of the Modification Notice and Order, within the time imposed by investigative subpoena (or by a later date set by the caseworker), and the caseworker determines there is not sufficient reliable information to perform a valid guidelines calculation, terminates the proceedings according to step 6c.

EXCEPTION: If the caseworker determines that the review and modification action is essential to reasonable enforcement in the case, the caseworker may (1) proceed with the review and modification action using the best available information or (2) consult with the regional legal unit concerning further action to compel the party to produce the information.

- c. **Terminating the Action.** After the Modification Notice and Order is issued in step 5, the action may be terminated by the CSED, or based on a motion from the party requesting review.
- i. Upon determining in steps 6a through 6b that further review is not appropriate, prepares and sends form CS-401.3F Motion to Dismiss Administrative Notice to the parties by regular mail. If the motion is granted, enters appropriate SEARCHS case note and takes no further action in this section.
 - ii. **Withdrawing the Request.** If the party requesting the review contacts the CSED to withdraw the request at any point after the contested case notice is issued in step 5 but before the notice is finally resolved, the party must file a written motion with the OALJ.

If the request is successfully withdrawn, the thirty-six (36) month timeframe identified in sub step 3a(6) does not begin anew. Enters appropriate SEARCHS case note and takes no further action in this section.

NOTE 1:

The OALJ will respond to motions according to the requirements of ARM 37.62.921, and may schedule a hearing if a motion is opposed. Hearings on motions identified in step 6c are not contested case matters under MCA section 2-4-102, and are not subject to judicial review. If the Administrative Law Judge determines further review of the existing order is appropriate, proceeds to step 8.

- d. **Request for Hearing Granted.** Proceeds in step 7 for review session. If review session was completed prior to issuing the Modification Notice and Order, proceeds to step 8b.
- e. **Amending the Notice.** If additional information is received or discovered that changes the guideline calculation, performs new calculation and amends the Modification Notice and Order. The amended notice may be served by regular mail. An amended notice is required to convert a limited review to a full review.
- f. **Resolving the Notice.** If no additional information is received and no hearing is requested, proceeds to step 8 to resolve the notice.

TERMINOLOGY: Beginning in step 7 the term **parties** refers to the parties to the modification action, as defined at the beginning of this section, unless otherwise noted.

7. Review Session.

If a hearing is requested in step 6 and a hearing is granted, a review session is mandatory and must be completed prior to the hearing. If no hearing is granted, a review session is optional and may be held at any time prior to entry of the final order. Based on information obtained, amends Modification Notice and Order as appropriate.

- a. Sets an appropriate time and date for a telephone review session with each party. Sessions may be scheduled separately with each party, or with all parties together, whichever is more beneficial to the success of the review. May either contact the parents informally via telephone or prepare and send to each party form CS-408.3M Letter Scheduling Review.

NOTE:

Prior to issuance of the Modification Notice and Order in step 5, caseworker is not required to provide a copy of the guideline calculation to the parties.

- b. Holds an informal review session by telephone with each party. (Note that the CSED does not hold a review session with a non-obligated party to the request, even if the person or entity is the requestor.) A party may appear in person at the review session at the party's own expense.

The review session includes the following elements:

- 1) Discusses the financial information and other data used in a guideline calculation, along with any resulting support amount. The party is given an opportunity to confirm or challenge the accuracy of the numbers used. If a party requests the other parent's financial information in a full review, arranges to send the information either by fax during the review session (if practical) or by regular mail after the review session is over.

CAUTION! SAFEGUARDING INFORMATION. If a parent is a SEARCHS participant, and there is a domestic violence indicator on SEARCHS for that parent as the victim, removes all information concerning the parent's whereabouts (telephone, address, employer) before releasing information to the other parties. If the parent is not a SEARCHS participant, removes the parent's Social Security Number and all information concerning the parent's whereabouts (telephone, address, employer) before releasing information, regardless of whether any risk of harm is known.

- 2) Review of other provisions that will be changed by the modified order.
- 3) If the existing order is a court order, or an order from another state, review of information needed to complete the Montana State Case Registry and Vital Statistics Reporting Form. Supplies of this form are available in the regional office; the form is also available and can be completed on the Internet, but must be submitted in hard copy. (This is the "statistical report" required in MCA section 50-15-302. The purpose of the form is to facilitate transmission of information from the court to the Central Case Registry (see section CS 200.3) when the court enters the final modification order. The CSED delivers the form to the clerk of court in step 14.)
- 4) If session is conducted after a request for hearing:
 - A. **Defenses.** If a parent claims an absolute or affirmative defense, elicits the parent's reasons or supporting facts.
 - i. If the defense is proved to the satisfaction of the caseworker, dismisses the action; includes in the motion to dismiss a request to vacate the hearing as well.

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- ii. If the defense is not proved, or if further information will be required to determine the validity, proceeds to sub step 7b(4)(B). Requests the parent provide any information still needed as soon as possible. Consults with the CSED legal unit on all questionable cases.

NOTE 1:

Absolute Defenses Defined. Absolute defenses are defenses that need no further proof and, if true, prevent the CSED from proceeding with the modification action. Absolute defenses may include (1) the CSED served the Modification Notice and Order on the person by mistake, intending to serve another person, or (2) there is a modification action pending in another tribunal, or (3) the CSED does not have subject matter jurisdiction to modify the existing support order.

NOTE 2:

Affirmative Defenses Defined. Affirmative defenses are defenses that, if not raised before the hearing, cannot be raised at a later time. Affirmative defenses to the modification action may include (1) the custodian has waived the right to receive child support, (2) a court has declared any of the children emancipated, or (3) the CSED lacks personal jurisdiction over the parent to modify the existing support order.

- B. **Contested Elements.** Using CS 408.3Y Hearing Checklist Modification Notice and Order, reviews the elements of the case with all parties to the action. Identifies any elements that will be contested at hearing. Where necessary explains specific CSED procedures or calculations, confirms the CSED's authority to act, and gives or obtains any other information relating to issues raised.
 - C. **Results of Contact.** Upon completion of the required interview(s), takes appropriate action as follows:
 - i. **Withdrawal.** If the requesting parent is satisfied with the explanation and no longer wishes to contest the notice, explains the procedures for withdrawing the hearing request or (if applicable) consenting to the notice. Emphasizes any withdrawal must be in writing and signed by the requesting parent; if the request is not properly withdrawn the hearing will proceed.
 - ii. **Amended Notice.** If a contacted parent provides information that would change the noticed terms of the obligations, amends notice.
 - iii. **Hearing Checklist.** If a contacted parent maintains a request for hearing, prepares form CS-408.3YHearing Checklist Modification Notice and Order, documenting the contact(s) and results, and specifying any issues the caseworker expects to be contested at hearing. If both parents were contacted, enters the information for both parents on a single copy of the form. Before the date of the hearing, sends a copy of the form to each obligated parent and the OALJ, maintaining a copy for the case file.
 - D. **Failed Attempts to Contact.** If unable to contact a party before the hearing date despite repeated attempts, documents the attempts on the hearing checklist and sends copies of the completed checklist to the parties and the OALJ.
- 5) **Documentation.** Enters a SEARCHS case note describing the issues reviewed and any confirmation of information received. Documents any party's failure to appear.

8. **Resolving the Modification Notice and Order.**

When service has been obtained on all parties, monitors for response within 20 calendar days, deems the consent of any party who does not timely return a completed consent or request for hearing, and proceeds in 8a or 8b as applicable.

- a. **Consent/Deemed Consent.** If no party timely requests a hearing, assembles the original Modification Notice and Order as follows:
 - i. For any party who has returned a signed consent, replaces the original (blank) consent page for that party with the returned, signed page.
 - ii. Completes the certificate of service and response at the end of the Modification Notice and Order, retains a copy for the file, and forwards the assembled document to the Office of Administrative Law Judge (OALJ) for the signature of the Administrative Law Judge (ALJ). Upon receipt of the executed order in the region, proceeds to 8a(iii) below. The OALJ will send copies as described in step 10c and abstract any administrative order to the district court.
 - iii. If the order being modified is a Montana administrative order, enters the appropriate SEARCHS case note, modifies the existing order on SOD, enters the signed date as the review date, sends an informational copy of the executed order to any parties to the request who are not parties to the action, and proceeds to enforcement; takes no further action in this section.

If the order that was modified is a court order, or an order from another state enters a SEARCHS case note, and sends informational copies as in the above paragraph. Notifies the paralegal that a filing in step 11 is required; monitors for receipt of the final court order and follows applicable procedures in step 13 at that time.
- b. **Request for Hearing.** If any party timely requests a hearing, follows regular CSED procedures for identifying the issues, preparing for the hearing, and attending the hearing as a witness. Prepares hearing checklist as a result of the review session held in step 7 and submits checklist to the OALJ prior to hearing.

See step 9 for issues, conduct, and possible outcomes of the modification hearing. Includes Debt Computation Worksheet as an Exhibit and is prepared to testify about payments made prior to hearing. If appropriate performs a "live" guidelines calculation during the telephone hearing concurrently with the calculation performed by the Administrative Law Judge.

Monitors for a proposed decision and order, any timely motion for review, and a final decision and order, under ARM 37.62.949 and 37.62.951. Enters the appropriate SEARCHS case note, and sends an informational copy of the final decision and order to any party to the request who is not a party to the action. Proceeds in sub step 8b(i) or 8b(ii) below as applicable.

- i. If the final decision and order contains a **modification** of an existing
 - Montana administrative order supersedes the existing order on SOD and proceeds to enforce.
 - court order or an order from another state notifies the paralegal that a filing in step 11 is required; monitors for receipt of the final court order and follows applicable procedures in step 13 at that time.
- ii. If the final decision and order finds that **no modification** is appropriate, takes no further action in this section.

Procedures for Office of Administrative Law Judge/Admin. Law Judge

9. Conducting Modification Hearing/Proposed Decision and Order

Upon receipt of a timely request for hearing on the Modification Notice and Order, follows applicable procedures in section CS 401.3 for scheduling, vacating, and conducting the hearing. If the Modification Notice and Order includes a Notice of Intent to Register, ALJ resolves only the Modification Notice and Order. Registration does not occur at the administrative level. It takes place at the district court as part of the Court Approval Process beginning in step 11. To contest registration, a party must request a hearing at the district court after receipt of form CS 408.3X Notice of Proposed Modification Notice of Registration and Request for Approval issued in step 11. Limits the modification portion of the hearing to the issues listed in NOTE 2 below, and questions the witnesses in a non-adversarial manner to elicit full disclosure of all pertinent facts in dispute.

NOTE 1:

ALJ questions caseworker concerning debt owed under existing order and payments made since the Modification Notice and Order was issued. Seeks agreement to adjust monthly obligation to accommodate any overpayments that should apply to future support as a result of a decrease to the support obligation. Overpayments are refunded and not applied to future support when the overpayment was posted to accounts assigned to the State of Montana as a condition of public assistance eligibility.

Following the close of the hearing, issues and sends to the caseworker and parties a proposed decision and order modifying the support obligation or finding that modification is not appropriate.

NOTE 2:

Issues at Modification Hearing. The following issues may be contested at a modification hearing:

- 1) The CSED's authority to act in this proceeding (open case; existing support order; request for review and possible modification, received from appropriate requestor or initiated by the CSED; subject matter jurisdiction; no other modifications pending or in progress)
- 2) The CSED's personal jurisdiction over the parties
- 3) Service of the Modification Notice and Order
- 4) The monthly support amount
- 5) For full review, individual amounts in the guidelines worksheet, including income, deductions, supplemental expenses, adjustments to income, credit for payment of expenses, and days spent with each parent
- 6) For limited review, only the individual adjustments in the guideline worksheet to accommodate the limited review items
- 7) Medical support provisions only if the Modification Notice and Order seeks to change provisions of existing order
- 8) Immediate income withholding (or exception) for full review only

10. Entering Final Decision and Order

Proceeds in step 10a or 10b as applicable, and step 10c.

- a. Upon receipt of a consent/deemed consent package prepared in step 8a, reviews the package for correctness and obtains the signature of the ALJ on the (final) decision and order contained in the package.
- b. Following service of a proposed hearing decision and order in step 9, monitors for receipt of a motion for review within 20 days. If no motion is timely received, issues a final decision and order based on the proposed decision and order. If a motion is timely received, considers the motion and affirms, corrects, or amends the proposed decision and order, and issues a final decision and order.

NOTE:

Judicial Review If the existing support order is a court order or an order from another state and the final decision and order in step 10b above finds that modification is appropriate; the opportunity for judicial appeal is automatically contained in the special court process described in steps 11 through 14. If the final decision and order finds that modification is not appropriate, or modifies a Montana administrative order, judicial review is available on petition of a party as in other CSED contested case actions.

- c. Upon entry of a final decision and order in step 10a or 10b, proceeds as follows:
 - i. If the order being modified is a Montana administrative order, sends regular copies to the caseworker and the parties.
 - ii. If the order being modified is a court order or an order from another state, sends a single sided certified copy to the caseworker and no copies to the parties.

COURT APPROVAL PROCESS

TERMINOLOGY NOTE: Beginning in step 11 the following definitions are used to distinguish between the CSED's administrative modification process and the court's completion of that process.

Proposed Decision and Order. Order issued by ALJ following CSED modification hearing.

Final Decision and Order. Order issued by ALJ after any motion to review the proposed decision and order has been resolved, or the time for entering the motion has passed.

Proposed Modification Order. Modification order (from CSED's final decision and order) submitted to the district court for filing and judicial action: court may adopt, modify, reject, or remand.

Final Modification Order. Modification order entered by the district court.

Procedures for Paralegal

11. Notice and Request to Court.

Upon receipt of the CSED's final decision and order in the regional office, proceeds in 11a through 11f.

- a. For the appropriate Montana district court, prepares and obtains the attorney's signature on form CS-408.3X Notice of Proposed Modification and Request for Approval. The Notice includes a praecipe to the clerk of court. If the existing order is a court order from another state, selects registration option. Completes the certificate of mailing in the Notice when the packages in 11c and 11d are being prepared.

When the existing order is a Montana order, the appropriate court is the court that entered the existing support order. For orders from another state, consults legal unit if no party lives in Montana. If at least one party lives in Montana, the other state's order is filed in:

- the district court in the county of the obligated party if both parties live in Montana
or
- the district court where the party lives if only one party resides in Montana

IMPORTANT: This form and all other forms generated in this section to be filed with the district court require specialized, complex data elements. Elements needing special attention include headings (cause number, captions, name of court); order information (existing support order, other state's court order if applicable, final CSED decision and order); and names and addresses of non-SEARCHS parties and attorneys. Also, all filings must be on court-approved paper as required by Uniform District Court Rule 1 (25-19-Rule 1, MCA); local practice rules of the particular district court also apply.

- b. For each party, prepares and signs form CS-408.3L Letter Re: Filing of Proposed Modification, explaining the opportunity to file an objection to the proposed modification (and notice of registration if appropriate) with the district court.
- c. Assembles this package for each party:
 - 1) Letter prepared in step 11b (original)
 - 2) District Court Fee Information sheet (from regional office supply)
 - 3) Final decision and order entered in step 10 (copy)
 - 4) Notice prepared in step 11a, with the praecipe (copy)

Serves the package on each party and the party's attorney(s) by regular mail

- d. Sends the following package to the district court, by regular mail:
 - 1) Notice prepared in step 11a, with the praecipe (original, plus extra copy of Notice only); self-addressed stamped envelope for return of the conformed copy
 - 2) If applicable, existing support order issued by another state's court (copy)
 - 3) Final decision and order entered in step 10 (certified copy)
- e. Monitors for objection to the proposed modification within 20 days after mailing the package in step 11c to each party. If a party objects, consults with regional attorney and prepares motion for scheduling order if appropriate. Monitors for hearing date, and proceeds to step 12.
- f. If the CSED has not received word of an objection within 20 days, contacts the court and identifies the status of the proposed modification. If a hearing will be held, proceeds to step 12. If not, skips to step 13.

12. Court Hearing on Proposed Modification

Upon being notified that the court has set a date for a hearing on the proposed modification order notifies and consults with the CSED staff attorney concerning the facts of the case.

- a. Prepares testimony describing how the CSED:
 - served notice as required by law
 - conducted the review sessions if applicable
 - determined that registration was necessary if applicable
 - conducted the hearing or determined the consent or deemed consent of each party
 - determined the support amounts and other provisions contained in the proposed modification order

Assists the CSED staff attorney in the preparation and submission of any exhibits needed for the above testimony; if necessary, participates in the hearing as a witness.

NOTE:

CSED Representation at the Hearing. The CSED is a party to the court action but appears at the hearing only to provide information. Also, only the CSED staff attorney can represent or appear for the CSED at the court hearing. The caseworker or paralegal can appear only as a witness to give testimony as described above.

-
- b. Upon receipt of a final order from the court, notifies the CSED staff attorney, enters the appropriate SEARCHS case note, and informs the caseworker of the outcome. In the case of a modification, completes the Montana State Case Registry and Vital Statistics Reporting Form and sends to the clerk of court, with a letter or praecipe identifying the form as the statistical report required by MCA section 50-15-302, and giving the date of entry of the court's final modification order. Otherwise, takes no further action in this section.

NOTE:

Remanded Order. If the court remands the case to the CSED rather than modifying the existing order or finding that modification is not appropriate, the regional legal unit and the caseworker must work together to take action to satisfy the court. Specifically, they must evaluate the reasons or guidance provided with the remand, identify the appropriate point at which to re-open the CSED's contested case, and take steps as outlined in this section to achieve the necessary administrative resolution and, if necessary, a final court order.

Procedure for Caseworker

- c. Upon being notified of a final court order from step 12b or step 14, updates SOD according to regular procedures (enters the signed date as the review date) and proceeds to enforce as appropriate. Sets registration indicator if appropriate.

Procedures for Paralegal

13. Order Approving Modification.

If the court has received no timely objections and has scheduled no hearing on the proposed modification order, prepares form CS-408.3Z Order Approving Modification. The Order includes a praecipe to the clerk of court. The praecipe directs the court to send a certified copy of the signed order to the CSED, and a conformed copy to each party and attorney.

Selects registration option if the existing support order was registered in step 11. After submitting the document for SEARCHS generation, but before printing, adds the date of the CSED's final decision and order to the appropriate sentence in part IV of the form. This incorporates the terms and provisions of the CSED's proposed modification order by reference.

In generating the form, pays special attention to the identity of the petitioner and respondent in the existing order, and their current roles on SEARCHS. If the case facts do not fit the standard format (for example, if the SEARCHS AP and CP are not named as petitioner and respondent in the existing court order), adjusts the SEARCHS-generated document as necessary to correctly identify the obligations.

14. Filing the Order Approving Modification.

Assembles the following package and sends to the court by regular mail:

- 1) Form CS 408.3Z Order Approving Modification, including the praecipe to the clerk of court (original)
- 2) Completed Montana State Case Registry and Vital Statistics Reporting Form
- 3) Copies of item (1) for the CSED (one copy), the parties (one copy for each), and their attorneys (one copy for each), with stamped addressed envelopes for the same

Upon receipt of the final modification order from the court, notifies the staff attorney, enters the appropriate SEARCHS case note and informs the caseworker of the outcome. (See step 12c for caseworker responsibilities). If an order from another state was modified, files a copy of the final modification order and a copy of the final decision and order from step 10 with the other state.

Scenario	CP Residence	NCP Residence	Support Order	Who requests review?	Who can review?
1	MT	MT	Doesn't Matter	Doesn't Matter	MT
2	Other State	MT	MT	Doesn't Matter	MT
3	MT	Other State	MT	Doesn't Matter	MT
4	Other State	MT	Third State	CP	MT
5	Other State	MT	Third State	AP	Other State
6	MT	Other State	Third State	CP	Other State
7	MT	Other State	Third State	AP	MT
8	Other State	MT	Other State	Doesn't Matter	Other State
9	MT	Other State	Other State	Doesn't Matter	Other State
10	Other State	Other State	MT	Doesn't Matter	MT

[Reply to Incarcerated Obligor's Request For Modification]

STATE OF MONTANA | DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES | CHILD SUPPORT SERVICES DIVISION | [Regional Office Address & Phone]

[To: Obligor's Name]
[Prisoner ID]
[Correctional Facility]
[Address]
[City, State, Zip]

RE: MODIFICATION OF SUPPORT ORDER

Dear [Name]:

We received your inquiry about modifying your child support order. Please complete and sign the enclosed Request for Review form and Financial Affidavit. Please have your signature notarized on the Financial Affidavit. If a notary is not available, indicate that on the affidavit near your signature.

You must also provide proof of your current income from any source. Provide documentation of your daily earnings and the number of days each month you are likely to work. Gifts sent to you while you are incarcerated do not need to be reported.

To qualify for modification, the length of continuous incarceration and projected release date are necessary. Please send a copy of the location report and the sentence calculation spreadsheet. These documents should be available to you through the institution where you are located.

Voluntary cooperation is essential to complete the modification process. If you receive an acknowledgement of service in the future, please make sure to sign, date and return it right away. This will expedite the modification process.

We look forward to working with you. If you have additional questions during the process, please feel free to contact us.

[INC-COVLTR | 11/17]

ADDENDUM E.

Guidelines Worksheets, With Instructions, And Policy Manual CS 404.2 (Apr. 1, 2021)

NOTES

This material—reformatted here for ADA compliance—is posted publicly as follows...

- Guidelines worksheets with instructions are under CSSD forms, at <https://dphhs.mt.gov/cssd/forms> > Montana Child Support Guidelines Worksheets (<https://dphhs.mt.gov/cssd/services/Guidelines>) > Guidelines Worksheets and Instructions (direct path: <https://dphhs.mt.gov/assets/cssd/GuidelineWorksheetsandInstructions.pdf>).
- Policy manual is at <https://dphhs.mt.gov/cssd/PolicyManual>, section 404.2 (direct path: <https://dphhs.mt.gov/assets/cssd/PolicyManual/cs404-2.pdf>).

INSTRUCTIONS FOR COMPLETING CHILD SUPPORT WORKSHEETS A, B, C, D, and E

You will need the following documents or information for each parent: (all references to specific forms are to [Internal Revenue Service \(IRS\) forms](#).)

- ✓ A completed child support guidelines financial affidavit or the information contained in it;
- ✓ Federal tax returns (Form 1040, 1040A, or 1040EZ) and state tax returns, including W-2 and 1099 forms for the past three years;
- ✓ Copies of partnership (Form 1065) and/or corporation (Form 1120 or 1120S) tax returns for the past three years, if a party is self-employed or receives income/losses from an interest in a partnership or corporation;
- ✓ If depreciation expense is deducted on a tax return (Form 4562), a copy of the supporting depreciation schedule or summary for each year's return. The depreciation schedule/summary is not an IRS tax form and is a document usually kept by the tax preparer and updated each year;
- ✓ Pay stubs or payroll advice for the past three months;
- ✓ Child care expense for children of the calculation and "other" children in the parent's household (see Definitions, below); the expense must be necessary for the parent's employment;
- ✓ Health insurance premiums for each parent, each child of the calculation and each parent's "other" children; only the annual out-of-pocket cost (premium less subsidy) paid by a parent is allowed;
- ✓ Mandatory retirement contributions through the parent's employer;
- ✓ Alimony ordered by court or administrative order;
- ✓ Child support ordered by court or administrative order for "other" children;
- ✓ Required employment expense, such as union dues, safety equipment, use of personal vehicle, etc. not reimbursed by the employer or other party;
- ✓ Cost of tuition, books, and mandatory fees for post-secondary education (IRS Form 1098-T) and a record of scholarships and grants accepted/received by the student parent;
- ✓ Interest expense of student loan repayment (IRS Form 1098-E) where the child has benefitted from the parent's education.

You may also need copies of blank IRS tax forms or instructions, in some cases. The form numbers are identified below in the line-by-line instructions.

DEFINITIONS: - "Child of the calculation" means a child who is the subject of the calculation and who is the child of both parents shown on worksheet A, page 1.
- "Other" child means a child who is not the subject of the calculation and who is the child of only one of the parents shown on worksheet A, page 1. (See Rule 3 for this and other definitions of terms used in the child support guidelines, which are found in the Administrative Rules of Montana (ARM) at Title 37, Chapter 62, Sub chapter 1).

LINE-BY-LINE INSTRUCTIONS FOR GUIDELINE WORKSHEETS A, B, C, D, AND E:

Worksheet A

At the top of worksheet A, page 1, enter the name of each parent and the cause number assigned by the court or the case number assigned by CSED. DO NOT ENTER THE NAMES OF THE CHILDREN OF THE CALCULATION in the worksheet. Instead, enter each child's birth year in a separate box below "Child 01", "Child 02", etc. All children of the calculation must have the same two parents entered on page 1.

ALL ENTRIES ARE ANNUAL

Line #1 Income (See Rules 4, 5)

1a. wages, salaries, commissions - enter the gross (highest) amount shown on the parent's most recent W-2 form (add amounts together if more than one W-2 for the year); or, average these amounts from more than one year's W-2 form; or, project the annual earnings based on the parent's

current rate of pay. To average, add together the income amount(s) for each of three years, if possible, and divide the total by the number of years. To project, multiply the current hourly rate of pay by 2080 hours (40 hours per week x 52 weeks per year).

1b. self-employment net earnings – ideally, self-employment income is based on at least a three-year average of the net earnings shown on Schedule C or Schedule F of the federal 1040 tax return or the ordinary income line on a K-1 form provided by a partnership. Depreciation expense must also be converted to Straight Line (SL) if accelerated depreciation or Section 179 expense were claimed as an expense on the tax return and the SL amount is less than the amount claimed.

1c. pensions, social security - enter the gross amount from the year-end statement provided by the Social Security Administration, business, or organization that pays the benefits. Pension and social security payments may include both taxable and non-taxable income. If the breakdown is known, enter the taxable income at line 1c and the non-taxable income at line 1h. If the breakdown is not known, enter all pension and social security income on line 1c. Do not include the amount of children's benefits or Supplemental Security Income (SSI) benefits received by the parents or the child.

1d. unearned income - enter the total amount of interest, dividends, royalties and similar items from the year-end form provided by the person or organization that pays the income.

Do not include unearned income for calculating the Earned Income Tax Credit.

1e. imputed income - enter the gross amount of income the parent could earn if employed full-time (usually 40 hours/week) at the highest rate of pay the parent can realistically earn. Consider the jobs available in the area where the parent lives. If the parent is working but not working full-time, enter the parent's actual wages/earnings on the appropriate income line. Subtract the actual or average hours worked each week from 40 hours to determine how many hours to impute. Multiply the imputed hours by the rate of pay the parent could earn if the hours were worked and enter the total here at line 1e. (See Rule 5 which also includes reasons why income should not be imputed in some cases.)

EXAMPLE: Imputed Income

George works 30 hours per week as a waiter. He could be working 40 hours per week as work is available at the pay he is currently earning. George earns \$10 per hour plus approximately \$7.50 per hour in tips for a total of \$17.50 per hr for 30 hours per week, or \$525 per week. For 52 weeks at \$525 per week, George earns a total of \$27,300 per year and that amount is entered at line 1a. Because he could be working 40 hours per week, income should be imputed to him for the remaining 10 hours per week, as follows: Multiply \$17.50 x 10 hours x 52 weeks for a total of \$9,100 per year and enter on line 1e of worksheet A. The actual income plus the imputed income will total \$36,400 per year.

1f. earned income tax credit - enter the amount of the tax credit from the federal tax return or enter the amount the parent is eligible to receive according to IRS Schedule EIC and the EIC Table (IRS Publication 596). Do not enter the earned income credit based on a parent's imputed or unearned income.

1g. other taxable income - enter the gross amount of any taxable income not already entered, such as rental property income, income from an S corporation, or prize/lottery winnings. Also, enter the amount of scholarships or grants received by a student parent that exceed the qualified tuition and related expenses found on IRS Form 1098-T (Tuition Statement); only the amount of scholarships and grants that exceeds qualified tuition and related expenses is taxable.

1h. other non-taxable income - enter the amount of non-taxable income received, such as tax-exempt interest. Include the amount of any tax-deductible expense that is not allowed for child support such as accelerated depreciation on business assets; enter the non-taxable portion of scholarships and grants (see 1g, above). (See Rule 4)

1i. total income - add together the entries on lines 1a through 1h.

ALL ENTRIES ARE ANNUAL

Line #2 Allowable deductions (See Rules 7, 8)

NOTE: Both 2a and 2b, below, address deductions for "other" children: children who are not the subject of the calculation. If the child qualifies, the deduction for an "other" child may be taken at 2a or at 2b, but not both.

2a. child support for other children.

- enter the amount of child support required by a court or administrative order for a parent's child who is not a child of the calculation.

2b. allowance for other children –

Determine the number of parent's other children who: 1) live with him or her; 2) are not children of the calculation; and 3) for whom the parent is not ordered to pay child support. If the parent has a child who does not live with him or her, and the parent is not ordered to pay child support, that child can be included only if the parent can show that child support is being paid to the child's custodian. Find the number of other children in the first column, and enter that amount on line 2b.

EXAMPLE: Allowance for Other Children

Dave is the father of three minor children: Susan, Robert, and Mary. Susan is the oldest at 15 and she currently resides with Dave. Robert is 10 and he resides with his mother; Dave is not ordered to pay child support for Robert and he does not make any voluntary payments. Mary is the child of the calculation and her child support is being modified; she currently resides with her mother. Dave is allowed a deduction for the other child allowance for Susan because she resides with him. He is not allowed a deduction for Robert because Robert does not reside with him. There is no support order, and Dave makes no voluntary child support payments. Since Mary is a child of the calculation, she does not qualify as an "other" child.

2c. ordered alimony / spousal support –

Enter the amount of alimony or spousal support required by a court order.

2d. ordered health insurance premium (for other children) - enter the amount of health insurance premiums required by a court or administrative order, less the federal subsidy, for other children unless the premiums are included in the child support deducted at line 2a.



EXAMPLE: Health Insurance Premiums

Karen has two children with different fathers. Her oldest child, Sam, is the child of the calculation and her youngest child, Sara, is an "other" child according to the child support guidelines. Karen is court ordered to pay for health insurance for Sara and she covers herself and both Sam and Sara with a policy from the federal health insurance marketplace, where she receives a subsidy to help her pay the premiums. The cost of the insurance for Karen, alone, after the subsidy is subtracted is \$110 per month. She pays an additional \$70 per month or \$840 per year to cover the children. The cost for Sara is half the amount Karen pays for the two children: \$35 per month or \$420 per year and that amount is entered here on line 2d. The other half of the cost for the children is \$35 per month or \$420 per year for covering Sam and it will be entered at line 12b because Sam is the child of the calculation. Karen's out-of-pocket cost is entered at line 2k Other.

2e. federal income taxes - enter the amount of total tax due from the federal income tax return or the average federal tax if income has been averaged. If tax returns are not available, calculate the amount of federal tax according to IRS Circular E. **NOTE:** If available tax returns are "Married Filing Jointly" (MFJ), determine the tax return income for each party. Calculate each party's percentage of the total income (each parent's income divided by total income) and use the same percentages to divide the amount of income tax liability shown on the return for each party.

2f. state income taxes - enter the amount of total tax due from the state income tax return or the average state tax if income has been averaged. If tax returns are not available, calculate the amount of state tax according to the Montana State Withholding Tax Guide. If tax returns are filed MFJ, see 2e, above.

2g. social security (FICA plus Medicare) - enter the amount of social security/Medicare contributions withheld from gross pay according to the W-2 form. If W-2 forms are not available, calculate the amount according to IRS Circular E.

2h. mandatory retirement contributions - enter the amount of mandatory (required by the employer) contributions from the W-2 form or the statement provided by the employer. Normally, 401(k) plans are not mandatory.

2i. required employment expense - enter the cost of items provided by the parent in order to

do his or her job that are not reimbursed by the employer. Such items include safety glasses, work gloves, uniforms, mileage if personal car is used (multiplied by the IRS business mileage rate found in guidelines Table 3), and similar items. Union dues are also an allowable deduction.

EXAMPLE: Dependent Care Tax Credit

Find the percentage on IRS Form 2441 for the amount of the parent's annual income, such as 30% if a parent's income is over \$23,000 but not over \$25,000. Multiply the percentage by the amount of child care expense paid but not more than \$3,000 for one child or \$6,000 for two or more children. If the parent pays \$9,000 per year for child care for three children (\$4,500, or 50%, for an infant and \$2,250 each, or 25% each for the other two children after school), multiply \$6,000 by .30 = \$1,800. Subtract \$1,800 from \$9,000 for a net child care expense of \$7,200. Then divide \$7,200 among the three children according to each child's percentage share of the gross child care expense.

2j. **dependent care expense for other children**, less dependent care tax credit; if a parent pays child care expense for a child of the calculation and an "other" child, too, the tax credit may be calculated and deducted from the total child care amount. Prorate the net child care amount among the children according to each child's percentage of the total.

If tax returns are available, subtract the tax credit amount shown on IRS Form 2441 from the total amount of child care expense. If tax returns are not available, see example, below. For "other" children, enter one-half (50%) of the child's net child care on line 2j. (The full amount of child care expense for a child of the calculation will be entered on line 12a.)

2k. **other** - enter the amount of any other expense which is an allowable deduction according to Rules 7 and 8. Include interest paid by the parent on student loans where the child has benefitted from the parent's education. Enter from IRS Form 1098-E, Student Loan Interest Statement. Enter a parent's qualified tuition and related expenses from IRS Form 1098-T, Tuition Statement. Also, enter the annual, out-of-pocket cost (premium less subsidy) of mandatory health insurance premiums for each parent and each other child not already entered.

2l. **total allowable deductions** - add together lines 2a through 2k.

Line #3 Income after deductions - follow worksheet

line instructions

Line #4 Personal allowance - Enter the amount from Table 1 for each parent. (See Rule 9)

Line #5 Income available for child support - follow worksheet line instructions. (See Rule 10)

Line #6 Minimum contribution - if line 5 is zero, complete worksheet C. (See Worksheet C instructions later in this section.) If line 5 is greater than zero, follow worksheet line #6 instructions. (See Rule 15)

Line #7 - follow worksheet line instructions

Line #8 - follow worksheet line instructions

Line #9 - follow worksheet line instructions. (See Rule 11)

Line #10 - follow worksheet line instructions

Line #11 Primary child support allowance - Locate the number of children from line 10 in the first column of Table 2. Follow the line for that number of children to the second column of Table 2 and enter the amount from the second column on line 11. (See Rule 12)

ALL ENTRIES ARE ANNUAL

Line #12 Supplements to primary allowance

If any of the children of the calculation live with a third party, such as a relative, include supplemental expenses for the children if paid by the third party. No entry required line 12.

12a. **child day care costs less dependent care tax credit** - see the instructions for line 2j, above, and repeat the process for only the children of the calculation.

12b. **child health insurance premium** - enter the total amount of health insurance premiums paid by the parent for the children of the calculation.

12c. **child health care expenses** - enter the amount of unreimbursed health care expenses for the children of the calculation that exceed \$250 per child, per year. The expenses must be recurring and predictable.

12d. **other** - enter the total amount of other expenses of the children in the calculation that are not reimbursed.

12e. **total supplement** - add lines 12a through line 12d. (See Rule 13)

Line #13 - follow worksheet line instructions

Line #14 - follow worksheet line instructions

Line #15 - follow worksheet line instructions

Line #16 - follow worksheet line instructions

Line #17 - follow worksheet line instructions (See Rule 16)

Line #18 Adjustments to income available for SOLA
(See Rules 16, 17) No entry required, line 18.

18a. Long distance parenting adjustment - complete a separate worksheet D for each parent who has transportation expenses to visit or allow visitation of the children of the calculation.

18b. Other - amounts entered here will decrease the amount of child support due from the parent for whom they are entered and may create a variance to the child support obligation. Any variance must be explained in terms of the child's best interest in the child support order. (See Rules 2, 17)

Line #19 - follow worksheet line instructions

Line #20 - Complete worksheet E for each parent who has an entry on line 19 and enter result here. (See Rule 16)

Line #21 - follow worksheet line instructions

Line #22 - follow worksheet line instructions (See Rule 18)

Line #23 Credit for payment of expenses - enter the amount of line 12e expenses that each parent actually pays. If all the children in the calculation live with one or the other of the parents, the total of line 23 for both parents should equal the amount on line 12e. If any of the children in the calculation live with a third party, such as a relative, and the third party pays some or all of the expenses on line 12, enter only the amount of expenses on line 23 paid by the parents. (See Rule 13)

Line #24 - follow worksheet line instructions

Line #25 - enter the number of days each child spends with each parent. Follow worksheet line instructions; if directed to complete worksheet B, see instructions below.

EXAMPLE: Counting Parenting Days

If the parties use the standard definition of a day (see Rule 14) so that the day begins and ends at midnight (calendar day), determine which parent had control of the children for more than 12 hours during the 24 hour period between midnight of the first day and midnight of the second day.

If the parties and/or the court agree to use a different time than midnight for the definition of a day, such as noon to noon, it still must be determined which parent had the children for more than 12 hours during the 24 hour period between noon of the first day and noon of the second day. The number of days will not necessarily be the same for each child. (See Rule 14 re: "control")

Line #26 - follow worksheet line instructions

Line #27 - follow worksheet line instructions (See Rule 18)

WORKSHEET B

(See Rule 18) The instructions on worksheet A, line 25 will direct the user to worksheet B, if it is required, based on the number of days the children spend with each parent. Worksheet B entries require no new information and are all based on entries already made to worksheet A or amounts previously calculated on worksheet B. Line 3 of worksheet B, Part I is explained below. For all other lines of part I, follow worksheet line instructions.

Part I, Line 3 - enter here the same information entered on line 12 of worksheet A but separated by child. In the case of child care expense, enter for each child the net amount after the dependent care tax credit has been deducted.

EXAMPLE: Worksheet B, Part I, Line 3

Line 3 is intended for the entry of each child's share of the supplemental expenses entered on Lines 12a, 12b, 12c, and 12d of worksheet A. For example, if the net amount of child care expense (child care expense less the dependent care tax credit) as shown on line 12a for two children is \$2000 per year, enter the share of that amount spent for each child. If the breakdown by child is unknown, divide the total evenly among the children. Using this same method, determine the breakdown, by child, for the other supplemental expenses entered on Lines 12b, 12c, and 12d of worksheet A. Total each child's share of expenses and enter on line 3 in that child's column.

Part 2 - complete a separate part 2 for each child in the calculation by following the worksheet line instructions. The result of each part 2 will be entered on worksheet A, line 25, according to the instructions on line 12 of worksheet B, part 2.

When each parent owes child support to the other, the monthly transfer payment due is the difference between the amounts owed by each parent and is paid by the parent with the higher obligation.

NOTE: Worksheet C, D, and E are used in manual calculations only. If a computer program is used for the calculation, the computer will calculate the results of these worksheets automatically and copies of worksheets C, D, and E will not be attached.

WORKSHEET C (for parents sent to worksheet C by line 6 worksheet A)

To determine the Income Ratio, divide line 3, worksheet A, by line 4, worksheet A. Find the Income Ratio in the first column of the Minimum Contribution table. Follow the line to the second column and multiply the amount from line 3, worksheet A, by the factor shown. Enter the result at line 6 worksheet A.

WORKSHEET D (For a parent who has transportation expense for parenting time and an entry at line 18, worksheet A)

Enter on line only the number of miles actually driven by each parent for the purpose of parenting time with the children. Enter on line 4, the cost of other transportation (airplane, train, bus, etc). Do not enter other expenses and meals, etc. Follow the instructions on each line on worksheet D and enter the results at line 18a, worksheet A.

WORKSHEET E (For each parent with an entry on line 19, worksheet A)

Find the number of children from worksheet A line 10 in the first column of worksheet E. In the second column of worksheet E, enter the parent's amount from line 19, worksheet A, and multiply by the SOLA factor in the third column. Enter the result in the fourth column and on line 20 of worksheet A

MONTANA CHILD SUPPORT GUIDELINES: WORKSHEET A (Page One)

CAUSE/CASE NO.:		CALCULATION INCLUDES: <input type="checkbox"/> Worksheet A or <input type="checkbox"/> A&B								
MOTHER:				FATHER:						
CHILDREN:	CHILD 01	CHILD 02	CHILD 03	CHILD 04	CHILD 05	CHILD 06	CHILD 07	CHILD 08		
Enter year of birth for each child of this calculation →										
1	INCOME	MOTHER		FATHER		PARENT TOTALS		1		
1a	Wages, salaries, commissions					REMEMBER: ALL ENTRIES ARE ANNUAL		1a		
1b	Self-Employment net earnings							1b		
1c	Pensions, Social Security							1c		
1d	Unearned Income							1d		
1e	Imputed income							1e		
1f	Earned Income Tax Credit (EITC)							TOTAL INCOME		1f
1g	Other taxable income (specify): _____					Mother	Father	1g		
1h	Other non-taxable income (specify): _____							1h		
1i	TOTAL INCOME (Add 1a through 1h)							1i		
2	ALLOWABLE DEDUCTIONS							2		
2a	Ordered child support for other children					INCOME AFTER DEDUCTIONS		2a		
2b	Allowance for other children from Table 2							2b		
2c	Ordered alimony/spousal support							2c		
2d	Ordered health insurance premium for other children							2d		
2e	Federal income tax							2e		
2f	State income tax							2f		
2g	Social Security (FICA plus Medicare)							2g		
2h	Mandatory retirement contributions							2h		
2i	Required employment expense							Mother	Father	2i
2j	Dependent care expense for other children, less dependent care tax credit									2j
2k	Other (specify): _____					Mother	Father	2k		
2l	TOTAL ALLOWABLE DEDUCTIONS (Add 2a through 2k)							2l		
3	INCOME AFTER DEDUCTIONS (Line 1i minus 2l)							3		
	PARENTS' PERCENTAGES and PRIMARY CHILD SUPPORT ALLOWANCE	MOTHER	CHILD	FATHER						
4	Personal allowance from Table 1				PERCENTAGE OF INCOME					
5	Income available for child support (line 3 minus line 4; if less than zero, enter zero)						Mother	Father		
6	If line 5 = zero, enter minimum contribution from Worksheet C. If line 5 > 0, multiply line 3 by 12% (.12) and enter here.									
7	Compare each parent's lines 5 & 6; enter higher number				Mother	Father				
8	Combined income available (add both columns, line 7)									
9	Parental share of combined income (line 7 ÷ line 8)									
10	Number of children listed above due support									
11	Primary child support allowance from Table 2									
12	Supplement to primary allowance for children of calculation: combine annual expenses of Mother, Father, and third party custodian, if any.									
12a	Child care cost less dependent care tax credit									
12b	Child health insurance premium									
12c	Unreimbursed medical expense (> \$250/child)									
12d	Other (specify) _____									
12e	Total supplement (add lines 12a through 12d)									
13	Total primary allowance and supplement (add lines 11 and 12e)									

MONTANA CHILD SUPPORT GUIDELINES: WORKSHEET A (page two)

MONTANA CHILD SUPPORT GUIDELINES: WORKSHEET A (page two)											
SOLA AND PARENT'S ANNUAL CHILD SUPPORT				MOTHER		FATHER		PARENT TOTALS			
14	For each parent, if line 6 > line 5, skip to line 21 and enter line 6 amount. If line 6 < line 5, go to line 15								14		
15	Parent's share of total (for each column, line 13 x line 9)								15		
16	Compare line 15 to line 5; enter lower amount here								16		
17	Income available for SOLA (line 5 minus line 16; if zero, enter zero and skip to line 21)							REMEMBER: ALL ENTRIES ARE ANNUAL	17		
18	Adjustments to income available for SOLA								18		
18a	Long distance parenting adjustment (Worksheet D)								18a		
18b	Other (specify) _____								18b		
19	Adjusted income for SOLA [line 17 minus (18a + 18b)]								19		
20	SOLA amount (Worksheet E)								20		
21	Add line 16 and line 20								21		
22	Gross Annual Child Support (for each parent, compare line 21 to line 6; enter the higher amount)								TOTAL ANNUAL CHILD SUPPORT (Line 24)	22	
23	Credit for payment of expenses (enter amount of line 12 expenses paid by each parent)								Mother	Father	23
24	Total Annual Child Support (line 22 minus line 23; if less than zero, enter zero)										24
PARENTING DAYS AND ANNUAL CHILD SUPPORT											
25	Enter annual number of days each child spends with each parent in Table 25-A, below. Divide Mother's line 24 by line 10 and enter the same amount for each child in Mother's column of Table 25-B. Do the same for Father in his column. Total the parent's columns in Table 25-B.								25		
Table 25-A: PARENTING DAYS PER YEAR				Table 25-B: CHILD SUPPORT/YEAR							
	Mother+	Father =	365 days	Mother	Father	Child					
Child 01						Child 01	<i>Rounding: For amounts ending in \$0.49 or less, round down to the nearest whole dollar; ending in \$0.50 or more, round up to next whole dollar.</i>				
Child 02					Child 02						
Child 03					Child 03						
Child 04					Child 04						
Child 05					Child 05						
Child 06					Child 06						
Child 07					Child 07						
Child 08					Child 08						
						TOTAL					
CHILD SUPPORT PER CHILD				ANNUAL			MONTHLY				
26	QUESTION: Do all children on line 10 reside primarily with the same parent and do <u>not</u> spend more than 110 days per year with the other parent?			Table 26-A: ANNUAL CHILD SUPPORT PER CHILD			Table 26-B: MONTHLY SUPPORT PER CHILD				
				Mother	Father	◀Child▶	Mother	Father	26		
	IF THE ANSWER IS "YES": Divide each child's ANNUAL support from Table 25-B, by 12, round per instructions and enter each child's amount for each parent into MONTHLY Table 26-B at far right. Total columns and enter total for non-residential parent at line 27. IF THE ANSWER IS "NO": Complete Worksheet B, Parts 1 and 2; follow instructions for entering results into ANNUAL Table 26-A, at right. Divide each amount in Table 26-A by 12, round according to instructions, and enter in MONTHLY column of Table 26-B, at far right. Total all columns. From Table 26-B, subtract the lower total from the higher total and enter the difference at line 27 in the column of the parent with the higher total.					Child 01					
								Child 02			
								Child 03			
								Child 04			
								Child 05			
								Child 06			
								Child 07			
								Child 08			
								◀TOTAL▶			
				WORKSHEET PREPARED BY: _____							
				DATE: _____							
FINAL MONTHLY TRANSFER PAYMENT							CHILD SUPPORT/MO.				
27	The amount shown at right is the final MONTHLY TRANSFER PAYMENT for the children of this calculation. It is owed by the parent in whose column it is entered.						Mother	Father	27		
							\$	\$			

MONTANA CHILD SUPPORT GUIDELINES: WORKSHEET B, PART 1

INSTRUCTIONS: Complete Worksheet B (WS-B), Part 1, below, only if sent here from Worksheet A (WS-A), line 26. USE THIS FORM ONLY for parenting arrangements in which: (1) at least one child resides > 110 days per year with each parent; AND/OR, (2) one or more children reside primarily with one parent while one or more children reside primarily with the other parent. If there are more than four (4) children in the calculation, use additional pages of Worksheet B, Part I, entering each child into a separate column. Continue labeling the additional children as Child 05, Child 06, etc. and maintain totals for all children from all Worksheets B, Part I in TOTALS column at far right, on sheet that includes Child 01.

MOTHER:		CHILDREN				TOTALS
FATHER:		Child 01	Child 02	Child 03	Child 04	(or Parents)
1	Enter an "X" for each child from Worksheet A					1
2	Divide line 11, WS-A by number of children on line 1, above. Enter the same amount for each child.					2
3	Enter the supplemental needs shown on WS-A, lines 12a, 12b, 12c, and 12d, broken out by child. Total for all children must match WS-A, line 12e.					3
4	Total needs of each child; line 2 plus line 3					4
5	Add all columns of line 4; enter in Totals column					5
6	For each child (column), divide line 4 by line 5					6
MOTHER'S DIVISION OF OBLIGATION						
7	Enter Mother's gross support from WS-A, line 22					7
8	Enter amount from Mother's WS-A, line 20					8
9	Subtract line 8 from line 7					9
10	Multiply line 6 by line 9 for each child					10
11	Enter amount from Mother's WS-A, line 20					11
12	Divide line 11 by total children on line 1 (all sheets)					12
13	Add line 10 and line 12					13
14	Enter credit for payment of expenses for each child. Total must match WS-A, line 23 for Mother.					14
15	Mother's support for each child: line 13 minus line 14 for each child; enter here and on WS-B, Part 2, line 1 of Mother's column. If < 0, enter as negative number.					15
FATHER'S DIVISION OF OBLIGATION						
16	Enter Father's gross obligation from WS-A, line 22					16
17	Enter amount from Father's WS-A, line 20					17
18	Subtract line 17 from line 16					18
19	Multiply line 6 by line 18 for each child					19
20	Enter amount from Father's WS-A, line 20					20
21	Divide line 20 by total children on line 1 (all sheets)					21
22	Add line 19 and line 21					22
23	Enter credit for payment of expenses for each child. Total must match WS-A, line 23 for Father.					23
24	Father's support for each child: line 22 minus line 23 for each child; enter here and on WS-B, Part 2, line 1 of Father's column. If < 0, enter as negative number.					24


MONTANA CHILD SUPPORT GUIDELINES: WORKSHEET B, PART 2

INSTRUCTIONS: USE THIS FORM ONLY if you were required to complete Worksheet B, Part 1. Complete one section of Part 2 for each child included in Worksheet A. (Two sections of Part 2 per page, below)

CHILD 01		MOTHER	FATHER	
1	Enter each parent's obligation for this child from Worksheet B, Part 1, line 15 for Mother and line 24 for Father			1
2	Enter number of days* this child spends with each parent during the year			2
3	If line 2 is greater than 110 for both parents, skip to line 5. If not, enter the obligation from line 1 of the parent with the least number of days. Leave the other parent's line blank. Go to line 12.			3
4	Standard annual parenting days	110	110	4
5	Subtract line 4 from line 2			5
6	Credit factor	0.0069	0.0069	6
7	Multiply line 6 by line 5.			7
8	Multiply line 7 by line 1 and round according to instructions on Worksheet A, page 2.			8
9	Subtract line 8 from line 1			9
10	Determine the difference between line 9 for Mother and line 9 for Father; enter in the column of the parent with the higher obligation			10
11	If entry on line 10, compare to entry on line 1; enter smaller amount here.			11
12	Enter amount from line 3 or line 11, here, and in the same parent's column of Table 26-A, Worksheet A, page 2, for this child.			12

*See definition of a "day", below, [ARM 37.62.124(3) Parenting Days].

A "day" is defined as the majority of a 24-hour calendar period in which the child is with or under the control of a parent. This assumes there is a correlation between time spent and resources expended for the care of the child. For purposes of this chapter, and unless otherwise agreed by the parents or specifically found by the court, the calendar period begins at midnight of the first day and ends at midnight of the second day. When the child is in the temporary care of a third party, such as in school or a day care facility, the parent who is the primary contact for the third party is the parent who has control of the child for the period of third-party care. If both parents are primary contacts for a third party, or, if the parents are otherwise unable to agree on the total number of days for each parent, the number of disputed days may be totaled and divided equally between the parents.

CHILD 02		MOTHER 	FATHER	
1	Enter each parent's obligation for this child from Worksheet B, Part 1, line 15 for Mother and line 24 for Father			1
2	Enter number of days* this child spends with each parent during the year			2
3	If line 2 is greater than 110 for both parents, skip to line 5. If not, enter the obligation from line 1 of the parent with the least number of days. Leave the other parent's line blank. Go to line 12.			3
4	Standard annual parenting days	110	110	4
5	Subtract line 4 from line 2			5
6	Credit factor	0.0069	0.0069	6
7	Multiply line 6 by line 5.			7
8	Multiply line 7 by line 1 and round according to instructions on Worksheet A, page 2.			8
9	Subtract line 8 from line 1			9
10	Determine the difference between line 9 for Mother and line 9 for Father; enter in the column of the parent with the higher obligation			10
11	If entry on line 10, compare to entry on line 1; enter smaller amount here.			11
12	Enter amount from line 3 or line 11, here and in the same parent's column of Table 26-A, Worksheet A, page 2, for this child.			12

*See definition of a "day", above, [ARM 37.62.124(3) Parenting Days].

MONTANA CHILD SUPPORT GUIDELINES

WORKSHEET C: MINIMUM SUPPORT OBLIGATION

Complete this worksheet only if a parent is sent here from line 6, worksheet A.

Find the Income Ratio (IR): Divide line 3, worksheet A, _____ by line 4, worksheet A, _____ = _____ (IR)

If the IR is in the range ...	Multiply line 3, WS-A, by ...	For the Minimum Support Obligation ...
Over .00 but not over .25	.00 x line 3	-0-
.25 .31	.01 x line 3	=
.31 .38	.02 x line 3	=
.38 .45	.03 x line 3	=
.45 .52	.04 x line 3	=
.52 .59	.05 x line 3	=
.59 .66	.06 x line 3	=
.66 .73	.07 x line 3	=
.73 .80	.08 x line 3	=
.80 .87	.09 x line 3	=
.87 .94	.10 x line 3	=
.94 1.00	.11 x line 3	=

Enter the Minimum Support Obligation (from column 3, above) on line 6, worksheet A

WORKSHEET D: LONG DISTANCE PARENTING ADJUSTMENT

Complete this worksheet for a parent who has transportation expense for parenting time and an entry at line 18, worksheet A.

1. Annual mileage actually driven by the parent to exercise long-distance parenting _____
2. Current IRS business mileage rate (from Table 3) _____
3. Parent's mileage cost (line 1 times line 2) _____
4. Parent's annual cost of transportation by means other than automobile _____
5. Parent's total cost (line 3 plus line 4) _____
6. Standard expense (from Table 3) _____
7. LONG DISTANCE PARENTING ADJUSTMENT (Line 5 minus line 6; if less than zero, enter zero. Enter this amount on line 18a, worksheet A) \$ _____

WORKSHEET E: STANDARD OF LIVING ADJUSTMENT (SOLA)

Complete this worksheet for each parent who has an entry on line 19, worksheet A.

Number of Children	Adjusted Income Available for SOLA (line 19, WS-A)	SOLA Factor	SOLA Amount
1	\$	X .14	=
2	\$	X .21	=
3	\$	X .27	=
4	\$	X .31	=
5	\$	X .35	=
6	\$	X .39	=
7	\$	X .43	=
8 or more	\$	X .47	=

Enter the SOLA amount from column 3, above, on line 20, worksheet A.

MONTANA CHILD SUPPORT GUIDELINE TABLES

EFFECTIVE APRIL 1, 2020

CS 404.2

Section CS 404.2 Montana Child Support Guidelines Tables contains the tables needed to apply the Montana Child Support Guidelines. The CSSD updates these tables annually to incorporate the latest U.S. Poverty Guidelines (Tables 1 and 2) and IRS business mileage rate (Table 3).

TABLE 1
PERSONAL ALLOWANCE PER YEAR (ARM 37.62.114)
FOR EACH PARENT \$16,588

TABLE 2
PRIMARY CHILD SUPPORT ALLOWANCE PER YEAR (ARM 37.62.121)
ANNUAL ALLOWANCE FOR OTHER CHILDREN (ARM 37.62.110)

Number of children	Allowance for children of this calculation (enter on line 11, worksheet A)	Allowance for "other children" (enter on line 2b worksheet A)
1	\$4,976	\$2,488
2	\$8,294	\$4,147
3	\$11,612	\$5,806
4	\$13,270	\$6,635
5	\$14,929	\$7,465
6	\$16,588	\$8,294
7	\$18,247	\$9,123
8	\$19,906	\$9,953

TABLE 3
LONG DISTANCE PARENTING ADJUSTMENT (ARM 37.62.130)
IRS Business Mileage Rate: \$0.575/mile
Standard Expense: \$ 1,150

ADDENDUM F.
Conversion Table (Short and Long Rule Numbers)
And ARM 37.62.101 to 37.62.148
(By Short Rule Number)

NOTES

This material—reformatted here for ADA compliance—is posted publicly, without the conversion table but with a short index, at <https://dphhs.mt.gov/cssd/Forms> > Montana Child Support Guidelines Worksheets (<https://dphhs.mt.gov/cssd/services/Guidelines>) > Guidelines Forms and Instructions: Montana Child Support Guidelines – Administrative Rules of Montana (<https://dphhs.mt.gov/assets/cssd/guidelinesandindex20191.pdf>).

Conversion Table (Short and Long Rule Numbers)

Each ARM rule has both a short rule number (commonly used by CSSD workers), and a long rule number (commonly used by legal professionals) that contains its full department number, chapter number, and subchapter number (e.g., 37.62.101), as shown in Addendum B. Below is a conversion table showing both numbers.

Short Rule No.	Rule Title	Long Rule No.
Rule 1	Authority, Policy and Purpose	ARM 37.62.101
Rule 2	Rebuttable Presumption	ARM 37.62.102
Rule 3	Definitions	ARM 37.62.103
Rule 4	Determination Of Income For Child Support	ARM 37.62.105
Rule 5	Imputed Income For Child Support	ARM 37.62.106
Rule 6	Income Verification / Determining Annual Income	ARM 37.62.108
Rule 7	Allowable Deductions From Parents' Income	ARM 37.62.110
Rule 8	Nonallowable Deductions From Income	ARM 37.62.111
Rule 9	Personal Allowance	ARM 37.62.114
Rule 10	Income Available for Child Support	ARM 37.62.116
Rule 11	Total Income Available / Parental Share	ARM 37.62.118
Rule 12	Primary Child Support Allowance	ARM 37.62.121
Rule 13	Supplements To Primary Child Support Allowance	ARM 37.62.123
Rule 14	Parenting Days	ARM 37.62.124
Rule 15	Minimum Support Obligation	ARM 37.62.126
Rule 16	Income Available For Standard Of Living Adjustment (SOLA)	ARM 37.62.128
Rule 17	Long Distance Parenting Adjustment	ARM 37.62.130
Rule 18	Total Support Amount And Transfer Payment	ARM 37.62.134
[None; rule was repealed]	Transfer Payment	ARM 37.62.136
[None; rule was repealed]	Payment Of Monthly Support Amount In Combination Parenting Arrangements	ARM 37.62.138
Rule 20	Support Payable In Dollars	ARM 37.62.142
Rule 21	Social Security And Veterans Benefits	ARM 37.62.144
[None; rule was repealed]	Modifications Of Child Support Orders	ARM 37.62.146
Rule 22	Support Guidelines Tables / Forms	ARM 37.62.148

Montana Child Support Guidelines | Amended, Effective July 1, 2017*

Administrative Rules of Montana (ARM), Title 37, Chapter 62, Subchapter 1

*This copy of the amended child support guidelines was printed/posted prior to issuance of final ARM replacement pages by the office of Montana's Secretary of State. If any difference between the two copies is found, the Secretary of State's copy is the official, final authority.

Rule 1: Authority, Policy and Purpose (ARM 37.62.101)

(1) These guidelines are promulgated under the authority of 40-5-209, MCA, for the purpose of establishing a standard to be used by the district courts, child support enforcement agencies, attorneys and parents in determining child support obligations.

(2) These guidelines are based on the principle that it is the first priority of parents to meet the needs of the child according to the financial ability of the parents. In a dissolution of marriage or when parents have never been married, a child's standard of living should not, to the degree possible, be adversely affected because a child's parents are not living in the same household.

(3) These guidelines are structured to determine child support on an annual basis. Payment will be made in equal monthly installments.

(4) As required by 40-4-204, 40-5-226 and 40-6-116, MCA, these guidelines apply to contested, non-contested and default proceedings to establish or modify support orders.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 2: Rebuttable Presumption (ARM 37.62.102)

(1) The guidelines create a presumption of the adequacy and reasonableness of child support awards. However, every case must be determined on its own merits and circumstances and the presumption may be rebutted by evidence that a child's needs are or are not being met.

(2) At the request of one of the parties and upon consideration of the factors set out in the guidelines and in 40-4-204, 40-4-208, and 40-6-116, MCA, the final outcome of the guidelines calculation, or "bottom line", may be rebutted and a variance from the guidelines final amount may be granted. Any consideration of a variance from the guidelines must take into account the best interests of the child.

(3) The support order may vary from the bottom line in a particular case only if the decree, separation order, or support order contains a specific written finding showing justification that application of the guidelines would be unjust or inappropriate, based upon evidence sufficient to rebut the presumption.

(4) Findings that rebut and vary the bottom line must include a statement of the amount of support that would have been ordered under the guidelines without the variance.

(5) Child support may vary from the bottom line based on a stipulation or agreement of the parties only if the stipulation or agreement meets the following criteria:

(a) it is in writing, executed by the parties free of coercion;

(b) it contains specific justification as to why application of the guidelines is unjust or inappropriate;

(c) it contains a statement of the amount of support that would have been appropriate under the guidelines without the variance; and

(d) it has been approved by the court or in an administrative proceeding.

(6) A support order granting a variance from the bottom line, based upon the existence of a condition or the performance of an act, must provide that, upon termination of the circumstances which justify the variance, the support immediately reverts to the amount which would have been ordered under the guidelines without the variance.

(7) In contrast to the bottom-line presumption, the child support guidelines include a variety of presumptions affecting particular entries or lines in the calculation intended to customize support for a particular family. "Line-item" presumption refers to various provisions of the child support guidelines assuming specific fact patterns which occur in a majority of cases. If, in the case at issue, a parent can show that the facts in evidence are not consistent with the facts assumed, the facts in evidence are applied to the entry and result in a different but appropriate child support award. The entry based on the evidence rebuts the line-item presumption regarding the guideline provision. For example, ARM 37.62.110(1)(b)(ii) may allow a deduction from a parent's income for "an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists". The rule presumes the remaining half of the child's support is the responsibility of the other parent of the child, but if, in the case at issue, there is no other parent to share responsibility, the party ordinarily entitled to the one-half deduction is allowed the full deduction.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 3: Definitions (ARM 37.62.103)

For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Actual income" is defined in ARM 37.62.105.

(2) "CSSD" means the Child Support Services Division of the Department of Public Health and Human Services.

(3) "Department" means the Department of Public Health and Human Services.

(4) "Federal poverty guidelines" means the guidelines published by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2), which will be updated periodically in the Federal Register. Such updates will be adopted by amendment to these rules as appropriate.

(5) "Guidelines" means the administrative rules for establishment of child support as provided in ARM Title 37, chapter 62, subchapter 1, as promulgated in 40-5-209, MCA.

(6) "Imputed income" is defined in ARM 37.62.106.

(7) "Incarceration" means a parent is held in a correctional, detention, or treatment facility for more than 180 days.

(8) "Legal dependent" means natural born and adopted minor children, spouses, special needs adult children, household members covered by a conservatorship or guardianship, and parent's parents living in the household who are claimed on tax returns as legal dependents.

(9) "Long distance parenting" is defined in ARM 37.62.130.

(10) "Other child" means a child whom a parent is legally obligated to support but who is not the subject of the child support calculation. A step-child is not considered an other child.

(11) "Personal allowance" is defined in ARM 37.62.114.

(12) "Primary child support allowance" is defined in ARM 37.62.121.

(13) "SOLA" means standard of living adjustment.

(14) "Standard of living" includes the necessities, comforts and luxuries enjoyed by either parent, the child or both parents and the child, which are needed to maintain them in customary or proper community status or circumstances.

(15) "Transfer payment" is defined in ARM 37.62.134.

(16) "Underemployed" means employed less than full time, when full-time work is available in the community or the local trade area, and/or earning a wage that is less than the parent has earned in the past, or is qualified to earn, when higher paying jobs are available in the community or the local trade area, for which the parent is qualified.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2017 MAR p. 2441, Eff. 12/23/17; AMD, 2020 MAR p. 966, Eff. 5/30/20.

Rule 4: Determination Of Income For Child Support (ARM 37.62.105)

(1) Income for child support includes actual income, imputed income as set forth in ARM 37.62.106, or any combination thereof which fairly reflects a parent's resources available for child support. Income can never be less than zero.

(a) Parents are presumed to be capable of earning income from full-time employment; full-time employment is presumed to be 40 hours per week but may be more or less depending upon the parent's profession and/or the employer's policies.

(b) The net value of a parent's assets may be considered for child support where, in a specific case, it would be inappropriate not to do so.

(2) Actual income includes:

(a) economic benefit from whatever source derived, except as excluded in (3) of this rule, and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, earnings, profits, dividends, severance pay, pensions, periodic distributions from retirement plans, draws or advances against wages or salaries, interest, trust income, annuities, royalties, alimony or spousal maintenance, social security benefits, veteran's benefits, workers' compensation benefits, unemployment benefits, disability payments, earned income credit and all other government payments and benefits. Income also includes capital gains net of capital losses. To the extent the net gains result from recurring transactions, they may be averaged over a period of at least three years. If the net gains are attributable to a single event or year, they may be used to represent income over one or more years;

(b) gross receipts minus reasonable and necessary expenses required for the production of income for those parents who receive income or benefits as the result of an ownership interest in a business or who are self-employed. Specifically:

(i) straight line depreciation for vehicles, machinery, and other tangible assets may be deducted from income if the asset is required for the production of income. The party requesting such depreciation shall provide sufficient information to calculate the value and expected life of the asset. Internal Revenue Service rules apply to determine expected life of assets;

(ii) if expenses are not required for the production of income, the expenses are not allowable deductions; if business expenses include a personal component, such as personal use of business vehicles, only the business component is deductible;

(iii) a net loss in the operation of a business or farm may not offset other income. If a parent has more than one business and the businesses are related, however, the total losses of the businesses may be offset against (deducted from) the total profits. An artist, for example, whose principal income source is the sale of paintings in her gallery may also own a company that publishes calendars and other commercial uses of her paintings as a marketing tool. A loss in the operation of the publishing company may be offset against the profit in the gallery business because the two enterprises are related; and

(iv) investment losses outside the normal course of business may not reduce other income.

(c) the value of noncash benefits, including but not limited to in-kind compensation, personal use of vehicle, housing, payment of personal expenses, food, utilities, etc.;

(d) grants, scholarships, third-party contributions, and earned income received by parents engaged in a plan of economic self-improvement, including students. Financial subsidies or other payment intended to subsidize the parent's living expenses and not required to be repaid at some later date must be included in income for child support; and

(e) allowances for expenses, flat rate payments or per diem received, except as offset by actual expenses. Actual expenses may be considered only to the extent a party can produce receipts or other acceptable documentation. Reimbursement of actual employment expenses may not be considered income for purposes of these rules.

(3) Income for child support does not include:

(a) income attributable to subsequent spouses, domestic associates, and other persons who are part of the parent's household;

(b) means-tested veteran's benefits;

(c) means-tested public assistance benefits including but not limited to cash assistance programs funded under the federal temporary assistance to needy families (TANF) block grant;

(d) supplemental security income (SSI);

(e) supplemental nutrition assistance program (SNAP) benefits, formerly known as food stamps;

(f) child support payments received from other sources; and

(g) adoption subsidies paid by state or federal agencies, unless expenses of the subsidized child are included in the calculation.

(4) Income for child support does not include lump sum social security payments or social security benefits received by a child or on behalf of a child as the result of a parent's disability or the child's disability, whether or not the child is a child of the calculation. See ARM 37.62.144 for more information on Social Security benefits.

(5) If overtime is mandatory and the worker has no control over whether or not overtime is worked, the overtime earnings are included in income for child support. In the case of voluntary overtime earnings or earnings from a job that is in addition to a full-time job, and the earnings are expected to continue for the foreseeable future, the earnings are presumed to be available for child support and are included in the calculation subject to rebuttal of the presumption.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 2012 MAR p. 747, Eff. 7/1/12.

Rule 5: Imputed Income For Child Support (ARM 37.62.106)

(1) "Imputed income" means income not actually earned by a parent, but which is attributed to the parent based on the provisions of this rule. It is presumed that all parents are capable of working at least 40 hours per week at minimum wage, absent evidence to the contrary.

(2) It is appropriate to impute income to a parent, subject to the provisions of (6) of this rule, when the parent:

(a) is unemployed;

(b) is underemployed;

(c) fails to produce sufficient proof of income;

(d) has an unknown employment status; or

(e) is a student.

(3) In all cases where imputed income is appropriate, the amount is based on the following:

- (a) the parent's recent work and earnings history;
- (b) the parent's occupational, educational, and professional qualifications;
- (c) existing job opportunities and associated earning levels in the community or the local trade area;
- (d) the parent's age, literacy, health, criminal record, record of seeking work, and other employment barriers;
- (e) the availability of employers willing to hire the parent; and
- (f) other relevant background factors.

(4) Imputed income may be in addition to actual income and may not necessarily reflect the same rate of pay as the actual income.

(5) Income is imputed according to a parent's status as a full- or part-time student, whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is determined, unless actual income is greater. If the student is:

(a) full-time, the parent's earning capacity is based on full-time employment for 13 weeks and approximately half of full-time employment for the remaining 39 weeks of a 12-month period; or

(b) part-time, the parent's earning capacity is based on full-time employment for a 12-month period.

(6) Income is not imputed if any of the following conditions exist:

(a) the reasonable and unreimbursed costs of child care for dependents in the parent's household would offset in whole or in substantial part, that parent's imputed income;

(b) a parent is physically or mentally disabled to the extent that the parent cannot earn income, or is incarcerated for more than 180 days;

(c) unusual emotional and/or physical needs of a legal dependent require the parent's presence in the home;

(d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or

(e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2017 MAR p. 2441, Eff. 12/23/17.

Rule 6: Income Verification / Determining Annual Income (ARM 37.62.108)

(1) A parent must swear to the accuracy and authenticity of all financial information submitted for the purpose of calculating child support.

(2) Income of the parents must be documented. This may include pay stubs, employer statements, income tax returns, and profit and loss statements. If expenses are disputed, proof may be required.

(3) To the extent possible, income for child support and expenses should be annualized to avoid the possibility of skewed application of the guidelines based on temporary or seasonal conditions. Income and expenses may be annualized using one of the two following methods:

(a) seasonal employment or fluctuating income may be averaged over a period sufficient to accurately reflect the parent's earning ability. If a parent has been self-employed for three years or less, the profit and loss statements and income tax returns of the individual parent and the business entity for each of those years are required so that the average of the parent's self-employment income can be considered in the child support calculation. If the parent has been self-employed for more than three years, a minimum of the most recent three years' profit and loss statements and tax returns are required; or

(b) current income or expenses may be projected when a recent increase or decrease in income is expected to continue for the foreseeable future. For example, when a student graduates and obtains permanent employment, income should be projected at the new wage.

(4) Nothing in this rule shall be construed to require the use of any particular method of determining annual income if it does not accurately reflect a parent's resources available for child support.

(5) Income for child support may differ from a determination of income for tax purposes.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 7: Allowable Deductions From Parents' Income (ARM 37.62.110)

(1) Allowable deductions from income include those required by law, those required as a condition of employment, and those necessary for the production of income. Allowable deductions may include:

(a) the amount of alimony or spousal maintenance which a parent is required to pay under a court or administrative order;

(b) for an "other child" as defined in ARM 37.62.103(9):

(i) the amount of child support due under existing court or administrative support orders; and

(ii) an amount equal to one-half of the primary child support allowance as found in ARM 37.62.121 for the number of other children for whom no support order exists and who:

(A) reside with the parent of the calculation; or

(B) do not reside with a parent of the calculation if a showing of ongoing support is made;

(c) the amount of any health insurance premium which either parent is required to pay under a court or administrative order for a child not of this calculation;

(d) the actual income tax liability based on tax returns. If no other information is available, use the federal and state income tax tables which show the amount of withholding for a single person with one exemption;

(e) the actual social security (FICA plus Medicare) paid;

(f) court ordered payments except as excluded under ARM 37.62.111;

(g) actual unreimbursed expenses incurred as a condition of employment such as uniforms, tools, safety equipment, union dues, license fees, business use of personal vehicle and other occupational and business expenses;

(h) actual mandatory contributions toward internal revenue service (IRS) approved retirement and deferred compensation plans. Mandatory contributions are fully deductible;

(i) one-half the amount of a parent's unreimbursed payments for an "other child" for extraordinary medical expenses and child care expenses necessary to allow the parent to work, less federal tax credits;

(j) extraordinary medical expenses incurred by a parent to maintain that parent's health or earning capacity which are not reimbursed by insurance, employer, or other entity;

(k) cost of tuition, books, and mandatory student fees for a parent who is a student as anticipated under ARM 37.62.106(5); and

(l) the current, annual interest on student loans, paid by a parent of the calculation for post-secondary education that has resulted in an economic benefit for the children of the calculation.

(2) Allowable deductions from income for child support differ from allowable deductions for tax purposes.

Rule 8: Nonallowable Deductions From Income (ARM 37.62.111)

(1) Deductions which are not allowable under these rules include:

- (a) payroll deductions for the convenience of the parent, such as credit union payments and savings;
- (b) imputed employment-related expenses, such as imputed child care;
- (c) expenses incurred for the support of a spouse capable of self-support;
- (d) payments for satisfaction of judgments against a parent related to the purchase of property for the parent's personal use;
- (e) bankruptcy payments except to the extent that they represent debts for expenses which would otherwise be deductible; or
- (f) a stepchild and associated costs.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 9: Personal Allowance (ARM 37.62.114)

(1) Personal allowance is an amount which reflects 1.3 multiplied by the federal poverty guideline for a one-person household. This amount is deducted when determining child support. Personal allowance is a contribution toward, but is not intended to meet the subsistence needs of parents.

(2) If a parent has legal dependents not capable of self-support and whose needs have not already been considered at ARM 37.62.110, the personal allowance may reflect the parent's responsibility by increasing the number in the household when consulting the federal poverty guideline.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 10: Income Available for Child Support (ARM 37.62.116)

(1) Income available for support is determined by subtracting from each parent's income, the deductions allowed under ARM 37.62.110 and the amount of personal allowance determined under ARM 37.62.114.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 11: Total Income Available / Parental Share (ARM 37.62.118)

(1) The parents' incomes available for child support are combined to determine the total income available for child support. Each income is divided by the total. The resulting factor determines each parent's share of the primary child support allowance under ARM 37.62.121 and supplements under ARM 37.62.123.

(2) For any parent whose support obligation is determined according to the provisions of ARM 37.62.126(1) (a) and (1) (b), the amount of the minimum contribution is substituted for that parent's total income available for child support for the purpose of determining each parent's share of the primary child support allowance and supplements.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 12: Primary Child Support Allowance (ARM 37.62.121)

(1) Primary child support allowance is a standard amount to be applied toward a child's food, shelter, clothing and related needs and is not intended to meet the needs of a particular child. This allowance is .30 multiplied by the personal allowance found at ARM 37.62.114 for the first child. For the second and third children, the personal allowance is multiplied by .20 and added for each child. For four or more children, the personal allowance is multiplied by .10 and added for each additional child.

History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 13: Supplements To Primary Child Support Allowance (ARM 37.62.123)

(1) The primary child support allowance is supplemented by:

- (a) reasonable child care costs incurred by a parent for children of the calculation as a prerequisite to employment. The child care expense is reduced by the federal dependent care tax credit;
- (b) cost of health insurance coverage for the children of the calculation. Include only the actual cost of adding the children to an existing health insurance policy or the cost of a child-only policy;
- (c) unreimbursed health care expenses for each child of the calculation that exceed \$250 per year and are recurring and predictable; and
- (d) other needs of the child as determined by the circumstances of the case.

(2) The total supplemental needs of the child are divided proportionately between the parents according to the parental share determined under ARM 37.62.118.

(3) Each parent will receive credit for the amount of the supplemental needs paid by that parent.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 14: Parenting Days (ARM 37.62.124)

(1) The parenting plan, referenced in 40-4-234, MCA, provides for the child's residential schedule with the parents.

(2) When the child resides primarily with one parent and does not spend more than 110 days per year with the other parent, there is no adjustment to the transfer payment due. When at least one child spends more than 110 days per year with both parents, however, or when at least one child resides primarily with each parent, the transfer payment is adjusted according to ARM 37.62.134.

(3) A "day" is defined as the majority of a 24-hour calendar period in which the child is with or under the control of a parent. This assumes there is a correlation between time spent and resources expended for the care of the child. For purposes of this chapter, and unless otherwise agreed by the parents or specifically found by the court, the calendar period begins at midnight of the first day and ends at midnight of the second day. When the child is in the temporary care of a third party, such as in school or a day care facility, the parent who is the primary contact for the third party is the parent who has control of the child for the period of third-party care. If both parents are primary contacts for a third party, or if the parents are otherwise unable to agree on the total number of days for each parent, the number of disputed days may be totaled and divided equally between the parents.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 2012 MAR p. 747, Eff. 7/1/12.

Rule 15: Minimum Support Obligation (ARM 37.62.126)

- (1) A specific minimum contribution toward child support should be ordered in all cases when the parent's income, after deductions, is less than or equal to the parent's personal allowance or the parent's calculated child support obligation is less than 12% of that parent's income after deductions.
- (a) For parents whose income, as defined in ARM 37.62.105 and ARM 37.62.106, after deductions, as defined in ARM 37.62.110, is less than or equal to the parent's personal allowance, the minimum contribution is a portion of the income after deductions and is determined by applying the table in (3) as follows:
- (i) divide the income after deductions by the personal allowance as defined in ARM 37.62.114 to determine the income ratio;
 - (ii) find the income ratio in Column A;
 - (iii) locate the corresponding minimum contribution multiplier in Column B; and
 - (iv) multiply the income after deductions by the minimum contribution multiplier. The result is the parent's minimum contribution.
- (b) For parents whose income after deductions exceeds the personal allowance, the parent's minimum contribution is 12% of income after deductions.
- (2) The minimum contributions under this rule are presumptive and may be rebutted by the circumstances of a particular case, provided there is an appropriate finding on the record.
- (3) The table for determining the minimum support obligation of a parent whose income after deductions is less than or equal to the parent's personal allowance is as follows:

Column A – Income Ratio (IR)	Column B – Minimum Contribution Multiplier
If the IR is from 0.00 to 0.25	...then the minimum contribution is 0.00.
If the IR is over 0.25 but not over 0.31	...then the multiplier is 0.01.
If the IR is over 0.31 but not over 0.38	...then the multiplier is 0.02.
If the IR is over 0.38 but not over 0.45	...then the multiplier is 0.03.
If the IR is over 0.45 but not over 0.52	...then the multiplier is 0.04.
If the IR is over 0.52 but not over 0.59	...then the multiplier is 0.05.
If the IR is over 0.59 but not over 0.66	...then the multiplier is 0.06.
If the IR is over 0.66 but not over 0.73	...then the multiplier is 0.07.
If the IR is over 0.73 but not over 0.80	...then the multiplier is 0.08.
If the IR is over 0.80 but not over 0.87	...then the multiplier is 0.09.
If the IR is over 0.87 but not over 0.94	...then the multiplier is 0.10.
If the IR is over 0.94 but not over 1.00	...then the multiplier is 0.11.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 16: Income Available For Standard Of Living Adjustment (SOLA) (ARM 37.62.128)

- (1) The purpose of SOLA is to ensure that the child enjoys, to the extent possible, the standard of living commensurate with the parent's income. If a parent has income available after deducting the personal allowance and the parent's share of the child support allowance as supplemented, the remaining income is subject to SOLA.
- (2) SOLA is calculated by subtracting from the parent's income available for support, as provided in ARM 37.62.116 the parent's share of the primary child support allowance under ARM 37.62.121 and supplements as provided in ARM 37.62.123.
- (3) If income is available for SOLA, multiply the income by the SOLA factor from the following table which corresponds to the number of children for whom support is being determined.

Number of Children	SOLA Factor
1	.14
2	.21
3	.27
4	.31
5	.35
6	.39
7	.43
8 or more	.47

- (4) Income available for SOLA may not be less than zero.
- History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 17: Long Distance Parenting Adjustment (ARM 37.62.130)

- (1) Long distance parenting is any travel by a parent or child to attain the goals of the parenting plan. A long distance parenting adjustment is allowed when travel by a parent or child exceeds 2,000 miles in a calendar year.
- (2) The amount of income available for SOLA is reduced to the extent the actual annual expense of transportation for long distance parenting exceeds 2,000 miles multiplied by the current IRS business mileage rate (standard expense). The reduction is determined separately for each parent.
- (3) The reduction is calculated as follows:
- (a) multiply the parent's annual mileage driven to exercise long-distance parenting by the current IRS business mileage rate;
 - (b) add the annual cost of transportation by means other than automobile;
 - (c) subtract the standard expense from the total of (3) (a) and (b) above; and
 - (d) subtract any difference greater than zero from the parent's income available for SOLA.
- (4) Expenses are limited to costs of transportation and do not include meals, lodging, or other costs.
- (5) A long distance parenting adjustment may not reduce income available for SOLA below zero.
- History: Sec. 40-5-203, MCA; IMP, Sec. 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98.

Rule 18: Total Support Amount And Transfer Payment (ARM 37.62.134)

(1) A total support amount is determined for each parent, separately, and consists of:

- (a) the parent's share of the primary child support allowance, with supplemental needs, if any, plus the parent's standard of living adjustment; or
- (b) the parent's minimum support obligation determined under ARM 37.62.126.

(2) After determining each parent's obligation according to (1)(a) or (1)(b), above, each parent's obligation is allocated according to the number of days each child spends with each parent.

(a) If all the children of the calculation reside primarily with one parent and do not spend more than 110 days per year with the other parent, the annual transfer payment, defined as the net amount of child support one parent owes the other, is the same as the total, annual support amount owed by the nonresidential parent.

(i) To set the amount of each child's monthly transfer payment, divide the annual transfer payment by the number of children in the calculation. Then, divide each child's annual payment by 12 and round the result according to ARM 37.62.134(2)(a)(ii), following.

(ii) The monthly transfer payment per child is rounded to whole dollars as follows: round down to the next whole dollar amounts ending in \$0.49 or less and round up for amounts ending in \$0.50 or more. The total of the rounded per child amount is the total monthly transfer payment owed by one parent to the other and/or to a third party, and due to rounding, may vary from the monthly transfer payment shown in the calculation.

(b) If any child of the calculation spends in excess of 110 days per year with both parents or if one or more children reside primarily with one parent while one or more children reside primarily with the other parent, the allocation of each parent's total support amount is determined as follows:

(i) recalculate the needs of each child separately;

(ii) recombine each parent's total support amount for each child based upon that child's proportionate need;

(iii) allocate the parent's total support amount for each child by retaining the amount for time the child spends with the parent and owing to the other parent the amount for time the child spends with the other parent;

(iv) offset the amounts each parent owes the other by subtracting the lower obligation from the higher for each of the children. The remaining balance for each child is the annual transfer payment for that child and is entered in the column of the parent owing the balance; and

(v) to set the monthly transfer payment, divide the annual transfer payment for each child by 12 and round according to (2)(a)(ii).

(A) where the calculation includes only one child, the monthly transfer payment is the total amount due from one parent to the other; or

(B) where the calculation includes two or more children, the monthly transfer payment for each child is the amount entered for the child at (2)(b)(v). The monthly transfer payment for each child is entered in the column of the parent owing the payment. Each parent's column is totaled and the difference between mother's total and father's total is the final monthly transfer payment owed by the parent with the higher total.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12.

Rule 20: Support Payable In Dollars (ARM 37.62.142)

(1) The child support order is to be paid in U.S. dollars.

(2) Gifts, clothing, food, payment of expenses, etc., in lieu of dollars will not be allowed as a credit for payment of a child support obligation except by court or administrative order.

(3) Direct payments to the child, the parent or a third party will not be allowed as credit for payment of a child support obligation payable through the clerk of court, the Child Support Services Division or other entity specified in the court or administrative order.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2020 MAR p. 966, Eff. 5/30/20.

Rule 21: Social Security And Veterans Benefits (ARM 37.62.144)

(1) Social security and veterans benefits which are based on the earning or service record of either parent shall be considered in establishing new support orders or modification of existing orders under the following conditions:

(a) benefits received by the parent on behalf of the minor child are not to be included in that parent's gross income;

(b) the parent's obligation is satisfied if the amount of the child's benefit received for a given month as a result of that parent's earning record is equal to or greater than the parent's child support obligation. Any benefit received by the child for a given month in excess of the child support obligation is not treated as an arrearage payment or as future support;

(c) the parent must pay the difference if the amount of the child's benefit for a given month is less than the parent's child support obligation. This amount is presumed to be paid if the child resides with that parent a majority of the time; and

(d) whenever either parent receives for the benefit of the child, a lump sum payment which represents an accumulation of monthly benefits:

(i) the lump sum payment should not be treated as income of the parent; and

(ii) the lump sum should be credited to that parent's child support obligation for each month a payment accumulated for the child's benefit.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2017 MAR p. 2441, Eff. 12/23/17.

Rule 22: Support Guidelines Tables / Forms (ARM 37.62.148)

(1) The Child Support Services Division (CSSD) has developed a child support calculation worksheet. Copies of this worksheet may be obtained from the Department of Public Health and Human Services, Child Support Services Division, P.O. Box 202943, Helena, MT 59620 or any regional office. The worksheet is also available on the department's web site at <https://dphhs.mt.gov/cssd/forms>.

(2) Included for use with the worksheet are a financial affidavit, necessary tables, and information for completion of the guidelines calculation. To assure that these tables are current, the Child Support Services Division will republish the tables annually as soon as practical after release of information upon which tables are based. The tables will be identified by the year of publication or republication.

(3) The child support guidelines worksheets, or a replica of those forms with a similar format and containing the same information, must be used in all child support calculations under the guidelines and a copy must be attached to the support order.

History: 40-5-203, MCA; IMP, 40-5-209, MCA; NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2020 MAR p. 966, Eff. 5/30/20.

ADDENDUM G.

Frequently Asked Questions (2002)

NOTES

This material—reformatted here for ADA compliance—is not posted publicly; it was developed in conjunction with a 2002 survey of relevant parties (e.g., legal professionals, case participants, DPHHS workers, etc.) to gather input on proposed changes to the guidelines around that time.

Frequently Asked Questions Re: Proposal for Changes to Montana's Child Support Guidelines

#1: Taxes and Tax Credits

Reason: Simplify the programming and user knowledge required to complete the child support worksheet; put parents on an equal footing regarding taxes; ignore the children's exemptions and tax credits, which can be claimed by either parent and can change frequently.

Q. Don't we need to reflect the reality of people's financial situations regarding the number of exemptions and filing status?

A. Montana statute requires that we consider the standard of living the child would have enjoyed had the family remained together. By considering each parent to be single, with one exemption, we remain closer to that requirement than if we consider new marriages, stepchildren, etc.

Parents should not pay more or less child support due only to the other parents' tax status. Single with one exemption is approximately the situation when parents separate initially and changes to that status should not affect support. When a parent remarries, the parent and new spouse would file as married and include exemptions for the spouse's children. Those children are step-children (to our parent) and are not included in our calculation but we are considering the income the parent saves by claiming their exemptions. We include the income but not the expenses. We run into the same problem with other children in a CPs or NCPs home, who are not the subject of our calculation.

In mod cases, a parent may request a modification because he/she and new spouse have had a child. If we add the EITC to his/her income as we currently do, the effect is to increase that parent's child support due to the existence/increase in the EITC. Some parents do not think this is a fair outcome.

#2, #3: Increase in Primary Support Allowance and Minimum Contribution

Reason: We have discovered a new source of information regarding the minimum cost of raising children and it indicates a need for an increase in the primary support allowance. The minimum contribution must also increase to remain in line with obligations calculated by the formula.

Q. How can we establish/modify orders for low amounts when we know the cost of raising a child is higher?
Why do we want to increase the maximum minimum order from 12% to 14%?

A. We can establish orders at any level but that doesn't mean we can collect them. We must be realistic about parents' income and their ability to pay. It does a child no good to have a high order if the parent can't pay that amount.

Mirage debt is a problem we don't want to repeat. Our CS orders must be realistic or we will not be able to collect and we will lose incentive funding from the feds.

When parents separate, they must each pay for housing, utilities, transportation, etc. and cannot afford to pay large amounts of child support. We cannot change the fact that some parents cannot afford to have children, yet they do. Some are barely able to make it when they are together, and simply can't pay enough when they are separated.

If orders are set too high for low-income parents, they will quit their jobs and run because they will not have enough money left to live on. Then, we collect nothing.

CPs will still receive tax credits and lower taxes due to claiming children's exemptions and this income will be available to them to replace any loss of CS.

The maximum minimum order was increased to 14% because the cost of raising children and our Primary Support Amount (PSA) have increased and, in order to have a reasonable slope for the line representing the amount of support orders from low income to high income, it was necessary to increase the size of minimum orders for those parents who have insufficient income after meeting their own needs to support their children.

#4: Visitation Threshold and Offset of Days

Reason: Non-custodial parents incur costs when caring for their children less than 110 days per year and those costs must be recognized by the child support guidelines' formula.

Q. Why is this change being proposed?
What can we tell CPs who tell us that the other parent does not see the children and yet gets credit for the number of days in the parenting plan? Will orders be reduced if we adopt these changes?

A. Currently, the Montana guidelines do not recognize costs incurred while the children are in the care of the NCP due to a visitation/parenting threshold of 110 days per year. No consideration is given the NCP for the cost of meals, transportation, entertainment, etc. nor is there recognition of increased cost for additional bedrooms, utilities, and other fixed costs. There is no decrease in the amount paid to the CP when the children spend time with the other parent even though the CP saves on food, transportation, entertainment, and other child-related costs attributed to the children's presence. The offset of the parent's CS obligations will recognize both parents' costs and treat them both the same.

The problem is really no different than it is currently when we have parents who do not exercise visitation according to the parenting plan. We normally rely on the parenting plan and the parties need to get that changed if one or the other is not following it. Granted, many can't afford to hire an attorney and have the plan

modified in court but that is no different than the current situation. The caseworker must try to find a point on which the parties can agree, or the issue may have to go to hearing, as it does currently.

Whether orders will rise or fall depends on how much time the NCP spends with the children. Those parents who spend little or no time will probably pay more. Those who spend 90 days or more with the children will pay a little less at some income levels and a little more at other levels. The actual obligation depends on the days the children spend with the parents and the parent's income levels in relation to each other.

With these new guidelines, CPs will receive higher payments from those NCPs who rarely, or never see their children. This is something CPs have argued for years because they think a parent who doesn't ever care for the children should pay more than one who does.

The offset should encourage more parenting time for the children with both parents.

The increase in the Primary Support Allowance (PSA) will at least partially offset a reduction in the size of support orders due to the offset of obligations between parents; the reverse is also true.

#5: Long Distance Parenting Adjustment

Reason: This adjustment is not used a great deal according to a random selection of cases reviewed by the guidelines committee. It will remain as a possible reduction of income available for the Standard of Living Adjustment (SOLA), along with other reasons for a reduction, but will not have a separate line.

#6: Simplification

Reason: There are those in CSED, on the bench and in the bar, and others who believe the current child support guidelines are too complex and should be simplified for everyone.

Q. Will these new guidelines and worksheet be simpler for people to use?

A. While the entries to the worksheet will be mostly the same as they have been for the past at least 6 years, there are only two pages to this worksheet and it takes the place of both our current worksheets A and B, a total of seven pages. The change to tax deductions of single with one exemption will reduce the need for caseworkers to contact parties who don't provide tax returns and don't answer the question on the FA. Caseworkers must currently understand parents' and childrens' eligibility for each of the tax credits, which will no longer be necessary. The new worksheet will calculate split and shared custody cases without the necessity of a separate worksheet as we have now.

#7: Health Insurance as Deduction from Income

Reason: The possible change includes a proposal to allow a deduction from income of the entire health insurance premium paid by the parent as long as it covers the children of the calculation. If that change is approved, we could no longer treat the premium as an addition to child support, which is divided between the parents; the premium would then have to be a deduction from income.

#8: Day Care Expense as Deduction from Income

Reason: Day care is allowed entry to the child support calculation as an expense required for employment and should be treated as other employment costs, which are deductions from income of the parent incurring the expense.

Q. Will this method provide sufficient funds to the CP to help pay for day care?

A. While this proposed method reduces the amount of the day care expense paid by the NCP, the CP will have tax savings and tax credit income available to pay the expense because those amounts are not considered income in the guidelines calculation.

Some believe that, because much of the savings from lower taxes and tax credits is realized only when the income tax refund is received, custodial parents will not have sufficient income on a month to month basis to pay the cost of day care.

#9: Subsequent child designation in modification cases

Reason: The designation of a "subsequent child" in a modification case is intended to protect the amount of support due to the "first family" and not allow that amount to be reduced based on the existence of children born to one or both of the parents subsequent to the first family support order.

Q. Should children receive support according to their birth order?

A. Some feel that parents who cannot afford to pay support for multiple families should not continue having children and the "subsequent child" designation is a means of enforcing that opinion.

On the other hand, CSED's or the State of Montana's opinion regarding the number of children a parent can afford does not appear to have any affect on a particular parent's decision to have additional children. If the rule does not act as a deterrent to having more children, then what is its purpose and does the state have the right to exclude some children from consideration in the child support calculation?

Miscellaneous

Q. Will this change in guidelines cause more modifications for CSED?

What about getting more people to go back to court to modify orders?

A. If there is a large enough change in the parties circumstances, it may, but the parties must still meet the criteria for a mod. A small change in the number of days will not make a big enough difference in the monthly obligation to meet the test for a mod.

Some other states have developed a pro se process for child support orders in which the parties can go to the courthouse and, in some cases, a kiosk, where they can complete the CS calculation and petition forms, service forms, etc. which can be filed in court. Peggy P. suggested we work with the Pro Se Committee of the state bar to get a process out on the net where people can use it and maybe cut down the number of CSED mod requests.

Q. Are Montana CS orders lower than surrounding states?

A. Montana's child support orders are lower than at least some of the surrounding states. The proposal to increase the Primary Support Allowance will narrow that gap, somewhat. Montana's income is very close to the lowest in the nation. Montana's child support orders reflect that fact and our guidelines can't change it.

Q. Have we determined the time/costs for programming these changes?

A. We have not determined those costs but there will be savings in programming once the new worksheet is programmed because we will not be updating tax credits every year as we currently do. The child tax credit, alone, requires a 27-line worksheet to program the requirements and it has changed every year since its inception and in the middle of the year in 2003. If we can have the programmers finish the guidelines instead of being pulled off for another project before guidelines is finished, we can have Jean T. update the tax tables each year as she does now and that should take care of it.

The current EZ worksheet is programmed almost entirely in EXCEL and, with some help from someone with more EXCEL experience, we should be able to put the worksheet out on our web site for people to use on their own. (this connects with the pro se project)

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ADDENDUM H.
Case Analyses (2019):
200% Of Poverty / Default Status

NOTES

This material—reformatted here for ADA compliance—is not posted publicly; it is used to show scenarios with father obligor, mother obligor, and both combined.

**CASE ANALYSIS 1 - Father and Mother Combined:
Review of Child Support Orders Entered in 2019 - 200% of Poverty / Default Status**

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	OBLIGOR										ANALYSIS				
				Gross Inc (line 1i)	Other Children Ordered Support (line 2a)	Allowance (line 2b)	Inc After Deductions (line 3)	Work Sheet C	Line 7	Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Mo Recent Pmt	Total Arrears			
2019	252368	1	\$16,237	\$11,952	8%	\$0	\$0	\$11,952	8%	0.74	\$956	100%	\$956	S/1	N	Y	21-Aug	406
2019	171515	2	\$16,237	\$15,080	5%	\$0	\$2,436	\$10,804	7%	0.67	\$756	100%	\$756	S/1	N	Y	20-Aug	2,475
2019	263603	1	\$15,782	\$15,080	8%	\$0	\$0	\$13,240	9%	0.84	\$1,192	100%	\$1,192	S/1	N	Y	21-Jul	5,290
2019	218437	1	\$16,237	\$15,080	8%	\$0	\$0	\$13,240	9%	0.82	\$1,192	100%	\$1,192	S/1	N	Y	21-Aug	10,263
2019	249997	1	\$16,237	\$16,536	6%	\$1,644	\$0	\$12,731	8%	0.78	\$1,018	100%	\$1,018	S/1	N	Y	21-Jun	1075
2019	264054	1	\$16,237	\$17,510	9%	\$0	\$0	\$15,161	10%	0.93	\$1,516	100%	\$1,516	S/1	N	N	21-Aug	63
2019	260436	3	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	N	21-Jun	846
2019	260636	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	N	21-Aug	2,784
2019	200064	2	\$15,782	\$17,680	9%	\$0	\$0	\$15,254	11%	0.97	\$1,678	100%	\$1,678	S/1	N	N	21-Jul	5458
2019	222580	2	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	187
2019	250359	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	291
2019	235141	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	367
2019	260780	1	\$16,237	\$17,680	8%	\$1,428	\$0	\$13,826	10%	0.85	\$1,383	100%	\$1,383	S/1	N	Y	21-Jun	474
2019	260070	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-May	796
2019	219572	1	\$16,237	\$17,680	6%	\$2,808	\$0	\$12,446	8%	0.77	\$996	100%	\$996	S/1	N	Y	21-Aug	1,075
2019	260071	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Mar	1,251
2019	248239	3	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	20-Jul	1,355
2019	253280	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	20-Jun	1934
2019	261139	2	\$16,237	\$17,680	7%	\$1,524	\$0	\$13,730	9%	0.85	\$1,236	100%	\$1,236	S/1	N	Y	21-Jul	2201
2019	262874	1	\$16,237	\$17,680	6%	\$2,376	\$0	\$12,878	8%	0.79	\$1,030	100%	\$1,030	S/1	N	Y	19-Sep	2,580
2019	220128	1	\$16,237	\$17,680	8%	\$648	\$0	\$14,606	10%	0.90	\$1,461	100%	\$1,461	S/1	N	Y	20-Apr	2,718
2019	225758	1	\$16,237	\$17,680	7%	\$1,800	\$0	\$13,454	9%	0.83	\$1,211	100%	\$1,211	S/1	N	Y	20-Nov	4,032
2019	254931	1	\$16,237	\$17,680	4%	\$0	\$4,060	\$11,194	7%	0.69	\$784	100%	\$784	S/1	N	Y	N/A	C
2019	221784	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Apr	C
2019	260192	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Apr	C

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2019	262358	1	\$16,237	\$17,724	10%	\$0	\$0	\$15,942	11%	0.98	\$1,754		100%	\$1,754				
2019	263649	2	\$15,782	\$17,731	9%	\$0	\$0	\$15,305	11%	0.97	\$1,684	100%	\$1,684	S/1	N	Y	20-Aug	1,942
2019	188321	3	\$16,237	\$18,033	9%	\$0	\$0	\$15,524	11%	0.96	\$1,708	100%	\$1,708	S/1	N	Y	21-Mar	1,588
2019	263064	3	\$16,237	\$18,054	10%	\$0	\$0	\$15,628	11%	0.96	\$1,719	100%	\$1,719	S/1	N	Y	21-Aug	1102
2019	243529	1	\$16,237	\$18,209	10%	\$0	\$0	\$15,783	11%	0.97	\$1,736	100%	\$1,736	S/1	N	N	21-Aug	0
2019	257666	1	\$16,237	\$19,300	6%	\$3,384	\$0	\$13,108	9%	0.81	\$1,180	100%	\$1,180	S/1	N	Y	20-Sep	4,731
2019	218370	1	\$16,237	\$19,760	10%	\$0	\$0	\$16,842	12%	1.04	\$2,021	100%	\$2,021	S/1	N	N	21-Aug	0
2019	221618	4	\$16,237	\$19,802	7%	\$0	\$2,436	\$14,473	10%	0.89	\$1,447	100%	\$1,447	S/1	N	N		C
2019	257515	2	\$16,237	\$20,195	10%	\$0	\$0	\$17,277	12%	1.06	\$2,073	100%	\$2,073	S/1	N	Y	21-May	636
2019	239893	1	\$16,237	\$20,443	10%	\$0	\$0	\$17,476	12%	1.08	\$2,097	100%	\$2,097	S/1	N	Y	21-Jun	535
2019	245866	1	\$16,237	\$21,840	10%	\$0	\$0	\$18,431	12%	1.14	\$2,212	100%	\$2,212	S/1	N	Y	20-Dec	C
2019	258824	1	\$16,237	\$22,880	13%	\$0	\$0	\$19,205	15%	1.18	\$2,968	100%	\$2,968	S/1	N	Y	20-Sep	1,862
2019	235692	2	\$16,237	\$23,196	13%	\$384	\$0	\$19,137	15%	1.18	\$2,900	100%	\$2,900	S/1	N	N	21-Apr	94
2019	263119	2	\$16,237	\$24,850	18%	\$0	\$0	\$20,670	21%	1.27	\$4,433	100%	\$4,433	S/1	N	Y	20-May	7,695
2019	226697	2	\$16,237	\$25,408	14%	\$1,200	\$0	\$19,885	18%	1.22	\$3,648	100%	\$3,648	S/1	N	Y	20-May	C
2019	262655	1	\$16,237	\$8,400	4%	\$0	\$0	\$8,400	4%	0.52	\$336	100%	\$336	S/1	Y	N	2021 Aug	5
2019	163159	2	\$16,237	\$8,989	5%	\$0	\$0	\$8,859	5%	0.55	\$443	100%	\$443	S/1	Y	N	2021 Aug	29,183
2019	240127	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	N	21-Aug	245
2019	262470	1	\$16,237	\$17,680	2%	\$7,452	\$0	\$7,802	4%	0.48	\$312	100%	\$312	S/1	Y	Y		101
2019	251403	3	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	2021 Aug	646
2019	256129	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	2020 May	1,636
2019	260793	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	2021-Jul	1,823
2019	253652	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	2020 Jun	3,206
2019	258060	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	None	4,699
2019	264152	2	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	21-Apr	C
2019	243053	1	\$16,237	\$18,970	10%	\$0	\$0	\$16,240	12%	1.00	\$1,949	100%	\$1,949	S1	Y	y	2021 Jun	1,262
2019	212276	1	\$16,237	\$20,280	10%	\$0	\$0	\$17,240	12%	1.06	\$2,069	100%	\$2,069	S/1	Y	N	2021 Aug	3,628
2019	263472	1	\$16,237	\$20,800	10%	\$0	\$0	\$17,637	12%	1.09	\$2,116	100%	\$2,116	S/1	Y	N	2021 Jun	1,628
2019	183611	1	\$16,237	\$20,800	10%	\$0	\$0	\$17,637	12%	1.09	\$2,116	100%	\$2,116	S/1	Y	N	2021 Aug	4,612

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	OBLIGOR										ANALYSIS				
				Gross Inc (line 1i)	Other Children Ordered Support (line 2a)	Allowance (line 2b)	Inc After Deductions (line 3)	Work Sheet C	Line 7	Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Mo Recent Pmt	Total Arrears			
2019	253087	1	\$16,237	\$21,190	10%	\$0	\$0	\$17,935	12%	1.10	\$2,152	100%	\$2,152	S/1	Y	Y	2021 Jul	1,406
2019	263355	1	\$16,237	\$21,206	17%	\$0	\$0	\$20,077	18%	1.24	\$3,840	93%	\$3,554	S/1	Y	N	2021 Aug	84
2019	256845	1	\$16,237	\$21,673	10%	\$0	\$0	\$18,304	12%	1.13	\$2,196	100%	\$2,196	S/1	Y	N	2020 Feb	366
2019	263657	1	\$16,237	\$22,381	10%	\$0	\$0	\$18,834	12%	1.16	\$2,597	87%	\$2,260	S/1	Y	Y	2020 May	3,154
2019	220049	1	\$16,237	\$22,690	9%	\$0	\$4,060	\$19,385	10%	1.19	\$3,148	64%	\$2,018	M/4	Y	Y	21-Aug	535
2019	264145	1	\$16,237	\$22,880	10%	\$0	\$0	\$19,205	12%	1.18	\$2,968	78%	\$2,305	S/1	Y	N	2021 Aug	0
2019	246166	1	\$15,782	\$23,059	11%	\$0	\$0	\$21,235	12%	1.35	\$5,453	47%	\$2,548	S/2	Y	Y	20-Aug	1449
2019	210158	1	\$16,237	\$23,685	7%	\$0	\$4,060	\$15,744	11%	0.97	\$1,732	100%	\$1,732	S/1	Y	N	2021 Jul	276
2019	263724	2	\$16,237	\$24,357	11%	\$0	\$0	\$20,304	14%	1.25	\$4,067	68%	\$2,778	S/1	Y	Y	20-Jul	C
2019	260712	1	\$16,237	\$24,445	10%	\$0	\$0	\$19,645	12%	1.21	\$34,080	7%	\$2,357	S/1	Y	N	2021 Jul	176
2019	263060	1	\$16,237	\$24,480	10%	\$3,564	\$0	\$19,744	12%	1.22	\$3,507	68%	\$2,369	S/2	Y	N	2021 Jun	0
2019	263634	3	\$16,237	\$24,756	10%	\$0	\$0	\$20,600	12%	1.27	\$4,363	57%	\$2,472	S/1	Y	N	2021-Jul	900
2019	263694	1	\$16,237	\$24,760	10%	\$0	\$0	\$20,603	12%	1.27	\$4,366	57%	\$2,472	S/1	Y	N	2020-Aug	0
2019	263826	1	\$16,237	\$26,000	10%	\$0	\$0	\$21,525	12%	1.33	\$5,288	50%	\$2,625	S/1	Y	N	21-Apr	3,319
2019	263255	1	\$16,237	\$26,000	15%	\$0	\$0	\$21,525	18%	1.33	\$5,288	73%	\$3,882	S/1	Y	Y	21-Aug	1,491
2019	262885	1	\$16,237	\$26,312	15%	\$0	\$4,060	\$21,603	18%	1.33	\$5,366	73%	\$3,893	S/3	Y	N	21-Aug	290
2019	237678	1	\$16,237	\$26,710	16%	\$0	\$0	\$22,053	19%	1.36	\$5,816	74%	\$4,291	S/1	Y	N	21-Aug	110
2019	262228	1	\$16,237	\$26,754	8%	\$0	\$2,436	\$18,047	12%	1.11	\$2,166	100%	\$2,166	S/1	Y	N	20-Nov	C
2019	260933	2	\$16,237	\$27,300	18%	\$0	\$0	\$26,942	18%	1.66	\$10,705	46%	\$4,942	M4	Y	N	20-May	C
2019	264010	1	\$16,237	\$27,864	17%	\$0	\$0	\$22,910	21%	1.41	\$6,673	72%	\$4,788	S/1	Y	Y	21-May	8,026
2019	261210	1	\$16,237	\$28,080	10%	\$0	\$0	\$23,071	12%	1.42	\$6,834	41%	\$2,769	S/1	Y	N	21-Aug	1,576
2019	261774	1	\$16,237	\$28,496	10%	\$0	\$0	\$23,380	12%	1.44	\$7,143	39%	\$2,806	S/1	Y	N	21-Aug	608
2019	201034	1	\$16,237	\$28,568	15%	\$0	\$0	\$23,435	19%	1.44	\$7,198	61%	\$4,359	S/1	Y	Y	21-Aug	133
2019	252149	1	\$16,237	\$29,102	9%	\$0	\$2,436	\$21,439	12%	1.32	\$5,202	49%	\$2,573	S/1	Y	Y	21-Aug	7,836
2019	260535	2	\$16,237	\$29,120	23%	\$0	\$0	\$23,845	28%	1.47	\$7,608	89%	\$6,793	S/1	Y	Y	20-Mar	0
2019	250760	1	\$16,237	\$29,120	10%	\$0	\$0	\$23,845	12%	1.47	\$7,608	38%	\$2,861	S/1	Y	Y	21-Jul	2,732
2019	216810	2	\$16,237	\$29,401	12%	\$0	\$0	\$24,054	15%	1.48	\$7,817	45%	\$3,502	S/1	Y	Y	21-Apr	234
2019	264093	2	\$16,237	\$30,160	10%	\$0	\$0	\$23,718	13%	1.46	\$7,481	41%	\$3,046	S/1	Y	N	21-Aug	279
2019	261046	1	\$16,237	\$30,160	10%	\$0	\$0	\$24,618	12%	1.52	\$8,381	36%	\$3,058	S/1	Y	Y	21-Aug	0

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	OBLIGOR											ANALYSIS			
				Gross Inc (line 1i)		Other Children Ordered Support (line 2a)		Allowance (line 2b)		Inc After Deductions (line 3)		Work Sheet C	Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)
2019	263568	2	\$16,237	\$30,537	23%	\$0	\$0	\$24,899	29%	1.53	\$8,662	82%	\$7,143	S/1	Y	N	21-Aug	2,766
2019	225499	1	\$16,237	\$30,938	21%	\$0	\$0	\$25,196	25%	1.55	\$8,959	72%	\$6,418	S/1	Y	N	21-Aug	0
2019	208845	2	\$16,237	\$31,200	23%	\$0	\$0	\$26,629	27%	1.64	\$10,392	69%	\$7,185	S/2	Y	N	21-Aug	0
2019	261865	1	\$16,237	\$31,200	11%	\$0	\$0	\$25,391	13%	1.56	\$9,154	37%	\$3,367	S/1	Y	N	21-Aug	652
2019	229028	3	\$16,237	\$31,200	14%	\$1,728	\$0	\$23,663	18%	1.46	\$7,426	57%	\$4,262	S/1	Y	N	21-Jun	2,513
2019	262106	1	\$16,237	\$31,946	16%	\$0	\$0	\$25,945	19%	1.60	\$9,708	51%	\$4,962	S/1	Y	Y	21-Mau	245
2019	261167	1	\$16,237	\$32,070	9%	\$0	\$0	\$25,138	12%	1.55	\$8,901	34%	\$3,017	S/1	Y	Y	21-Jul	4,230
2019	263499	1	\$16,237	\$32,112	17%	\$0	\$2,436	\$25,560	21%	1.57	\$9,323	57%	\$5,357	M/3	Y	N	21-Aug	1,646
2019	263690	1	\$15,782	\$32,498	13%	\$0	\$0	\$26,356	16%	1.67	\$10,574	40%	\$4,209	S/1	Y	N	21-Aug	11
2019	250762	4	\$16,237	\$32,867	16%	\$0	\$0	\$26,631	20%	1.64	\$10,394	50%	\$5,217	S/1	Y	N	21-Aug	0
2019	261706	2	\$16,237	\$33,280	22%	\$0	\$0	\$24,812	29%	1.53	\$8,575	85%	\$7,253	S/1	Y	N	21-Aug	101
2019	254969	1	\$16,237	\$33,280	10%	\$0	\$0	\$26,937	12%	1.66	\$10,700	30%	\$3,232	S/1	Y	N	21-Aug	243
2019	242316	1	\$16,237	\$33,280	15%	\$0	\$0	\$26,937	18%	1.66	\$10,700	46%	\$4,933	S/1	Y	Y	20-Dec	3,288
2019	262090	1	\$16,237	\$33,288	7%	\$0	\$0	\$26,943	8%	1.66	\$10,706	21%	\$2,254	S/1	Y	Y	21-Aug	281
2019	260478	2	\$16,237	\$33,658	21%	\$0	\$0	\$24,483	29%	1.51	\$8,246	86%	\$7,119	S/3	Y	Y	21-Aug	0
2019	262796	1	\$16,237	\$34,015	10%	\$0	\$0	\$27,944	12%	1.72	\$11,707	29%	\$3,353	S/1	Y	Y	21-Feb	1116
2019	257031	4	\$16,237	\$34,278	24%	\$1,476	\$0	\$26,204	31%	1.61	\$9,967	81%	\$8,109	S/1	Y	N	21-Aug	446
2019	263469	2	\$16,237	\$34,320	23%	\$0	\$0	\$27,712	29%	1.71	\$11,475	70%	\$7,990	S/1	Y	N	21-Aug	51
2019	192343	1	\$16,237	\$34,412	11%	\$0	\$4,060	\$27,755	13%	1.71	\$11,518	32%	\$3,665	M/4	Y	Y	21-Aug	1,069
2019	207055	1	\$16,237	\$34,596	10%	\$0	\$0	\$27,915	13%	1.72	\$11,678	30%	\$3,520	S/1	Y	Y	21-Jul	238

**CASE ANALYSIS 2 - Father and Mother Combined:
Review of Child Support Orders Entered in 2019 - 200% of Poverty / Default Status**

Year of Calc	CSED/DC Case No.	INCOME/OBLIGATION						ANALYSIS					
		Inc After Deductions (line 3)		Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Monthly Oblig	Months Delinq	Mo Recent Pmt	Total Arrears
2019	171515	\$10,804	7%	\$756	100%	\$756	S/1	N	Y	\$63	39	20-Aug	2,475
2019	252368	\$11,952	8%	\$956	100%	\$956	S/1	N	Y	\$80	5	21-Aug	406
2019	219572	\$12,446	8%	\$996	100%	\$996	S/1	N	Y	\$83	13	21-Aug	1,075
2019	249997	\$12,731	8%	\$1,018	100%	\$1,018	S/1	N	Y	\$85	13	21-Jun	1075
2019	262874	\$12,878	8%	\$1,030	100%	\$1,030	S/1	N	Y	\$86	30	19-Sep	2,580
2019	257666	\$13,108	9%	\$1,180	100%	\$1,180	S/1	N	Y	\$98	48	20-Sep	4,731
2019	263603	\$13,240	9%	\$1,192	100%	\$1,192	S/1	N	Y	\$99	53	21-Jul	5,290
2019	218437	\$13,240	9%	\$1,192	100%	\$1,192	S/1	N	Y	\$99	103	21-Aug	10,263
2019	225758	\$13,454	9%	\$1,211	100%	\$1,211	S/1	N	Y	\$101	40	20-Nov	4,032
2019	261139	\$13,730	9%	\$1,236	100%	\$1,236	S/1	N	Y	\$103	21	21-Jul	2201
2019	260780	\$13,826	10%	\$1,383	100%	\$1,383	S/1	N	Y	\$115	4	21-Jun	474
2019	220128	\$14,606	10%	\$1,461	100%	\$1,461	S/1	N	Y	\$122	22	20-Apr	2,718
2019	222580	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	1	21-Jul	187
2019	250359	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	2	21-Jul	291
2019	235141	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	3	21-Jul	367
2019	260070	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	6	21-May	796
2019	260071	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	10	21-Mar	1,251
2019	248239	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	11	20-Jul	1,355
2019	253280	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	15	20-Jun	1934
2019	263649	\$15,305	11%	\$1,684	100%	\$1,684	S/1	N	Y	\$140	14	20-Aug	1,942
2019	188321	\$15,524	11%	\$1,708	100%	\$1,708	S/1	N	Y	\$142	11	21-Mar	1,588
2019	263064	\$15,628	11%	\$1,719	100%	\$1,719	S/1	N	Y	\$143	8	21-Aug	1102
2019	262358	\$15,942	11%	\$1,754	100%	\$1,754	S/2	N	Y	\$146	15	20-May	2151
2019	257515	\$17,277	12%	\$2,073	100%	\$2,073	S/1	N	Y	\$173	4	21-May	636
2019	239893	\$17,476	12%	\$2,097	100%	\$2,097	S/1	N	Y	\$175	3	21-Jun	535
2019	258824	\$19,205	15%	\$2,968	100%	\$2,968	S/1	N	Y	\$247	8	20-Sep	1,862
2019	263119	\$20,670	21%	\$4,433	100%	\$4,433	S/1	N	Y	\$369	21	20-May	7,695

Year of Calc	CSED/DC Case No.	INCOME/OBLIGATION						ANALYSIS					
		Inc After Deductions (line 3)		Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Monthly Oblig	Months Delinq	Mo Recent Pmt	Total Arrears
2019	264054	\$15,161	10%	\$1,516	100%	\$1,516	S/1	N	N	\$126	0	21-Aug	63
2019	260436	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	N	\$127	7	21-Jun	846
2019	260636	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	N	\$127	22	21-Aug	2,784
2019	200064	\$15,254	11%	\$1,678	100%	\$1,678	S/1	N	N	\$140	39	21-Jul	5458
2019	243529	\$15,783	11%	\$1,736	100%	\$1,736	S/1	N	N	\$145	0	21-Aug	0
2019	218370	\$16,842	12%	\$2,021	100%	\$2,021	S/1	N	N	\$168	0	21-Aug	0
2019	235692	\$19,137	15%	\$2,900	100%	\$2,900	S/1	N	N	\$242	0	21-Apr	94
2019	254931	\$11,194	7%	\$784	100%	\$784	S/1	N	Y	\$65	#VALUE!	N/A	C
2019	221784	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	#VALUE!	21-Apr	C
2019	260192	\$15,254	10%	\$1,525	100%	\$1,525	S/1	N	Y	\$127	#VALUE!	21-Apr	C
2019	221618	\$14,473	10%	\$1,447	100%	\$1,447	S/1	N	N	\$121	#VALUE!		C
2019	245866	\$18,431	12%	\$2,212	100%	\$2,212	S/1	N	Y	\$184	#VALUE!	20-Dec	C
2019	226697	\$19,885	18%	\$3,648	100%	\$3,648	S/1	N	Y	\$304	#VALUE!	20-May	C

**CASE ANALYSIS 3 - Father and Mother Combined:
Review of Child Support Orders Entered in 2019 - 200% of Poverty / Default Status**

Year of Calc	CSED/DC Case No.	INCOME/OBLIGATION						ANALYSIS					
		Inc After Deductions (line 3)		Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Monthly Oblig	Months Delinq	Mo Recent Pmt	Total Arrears
2019	262470	\$7,802	4%	\$312	100%	\$312	S/1	Y	Y	\$26	4		101
2019	251403	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	5	2021 Aug	646
2019	256129	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	13	2020 May	1,636
2019	260793	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	14	2021-Jul	1,823
2019	253652	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	25	2020 Jun	3,206
2019	258060	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	37	None	4,699
2019	243053	\$16,240	12%	\$1,949	100%	\$1,949	S1	Y	y	\$162	8	2021 Jun	1,262
2019	220049	\$19,385	10%	\$3,148	64%	\$2,018	M/4	Y	Y	\$168	3	21-Aug	535
2019	253087	\$17,935	12%	\$2,152	100%	\$2,152	S/1	Y	Y	\$179	8	2021 Jul	1,406
2019	262090	\$26,943	8%	\$10,706	21%	\$2,254	S/1	Y	Y	\$188	1	21-Aug	281
2019	263657	\$18,834	12%	\$2,597	87%	\$2,260	S/1	Y	Y	\$188	17	2020 May	3,154
2019	246166	\$21,235	12%	\$5,453	47%	\$2,548	S/2	Y	Y	\$212	7	20-Aug	1449
2019	252149	\$21,439	12%	\$5,202	49%	\$2,573	S/1	Y	Y	\$214	37	21-Aug	7,836
2019	250760	\$23,845	12%	\$7,608	38%	\$2,861	S/1	Y	Y	\$238	11	21-Jul	2,732
2019	261167	\$25,138	12%	\$8,901	34%	\$3,017	S/1	Y	Y	\$251	17	21-Jul	4,230
2019	261046	\$24,618	12%	\$8,381	36%	\$3,058	S/1	Y	Y	\$255	0	21-Aug	0
2019	262796	\$27,944	12%	\$11,707	29%	\$3,353	S/1	Y	Y	\$279	4	21-Feb	1116
2019	216810	\$24,054	15%	\$7,817	45%	\$3,502	S/1	Y	Y	\$292	1	21-Apr	234
2019	207055	\$27,915	13%	\$11,678	30%	\$3,520	S/1	Y	Y	\$293	1	21-Jul	238
2019	192343	\$27,755	13%	\$11,518	32%	\$3,665	M/4	Y	Y	\$305	4	21-Aug	1,069
2019	263255	\$21,525	18%	\$5,288	73%	\$3,882	S/1	Y	Y	\$324	5	21-Aug	1,491
2019	201034	\$23,435	19%	\$7,198	61%	\$4,359	S/1	Y	Y	\$363	0	21-Aug	133
2019	264010	\$22,910	21%	\$6,673	72%	\$4,788	S/1	Y	Y	\$399	20	21-May	8,026
2019	242316	\$26,937	18%	\$10,700	46%	\$4,933	S/1	Y	Y	\$411	8	20-Dec	3,288
2019	262106	\$25,945	19%	\$9,708	51%	\$4,962	S/1	Y	Y	\$414	1	21-Mau	245
2019	260535	\$23,845	28%	\$7,608	89%	\$6,793	S/1	Y	Y	\$566	0	20-Mar	0

Year of Calc	CSED/DC Case No.	INCOME/OBLIGATION						ANALYSIS					
		Inc After Deductions (line 3)		Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Monthly Oblig	Months Delinq	Mo Recent Pmt	Total Arrears
2019	260478	\$24,483	29%	\$8,246	86%	\$7,119	S/3	Y	Y	\$593	0	21-Aug	0
2019	262655	\$8,400	4%	\$336	100%	\$336	S/1	Y	N	\$28	0	2021 Aug	5
2019	163159	\$8,859	5%	\$443	100%	\$443	S/1	Y	N	\$37	791	2021 Aug	29,183
2019	240127	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	N	\$127	2	21-Aug	245
2019	210158	\$15,744	11%	\$1,732	100%	\$1,732	S/1	Y	N	\$144	2	2021 Jul	276
2019	212276	\$17,240	12%	\$2,069	100%	\$2,069	S/1	Y	N	\$172	21	2021 Aug	3,628
2019	263472	\$17,637	12%	\$2,116	100%	\$2,116	S/1	Y	N	\$176	9	2021 Jun	1,628
2019	183611	\$17,637	12%	\$2,116	100%	\$2,116	S/1	Y	N	\$176	26	2021 Aug	4,612
2019	256845	\$18,304	12%	\$2,196	100%	\$2,196	S/1	Y	N	\$183	2	2020 Feb	366
2019	264145	\$19,205	12%	\$2,968	78%	\$2,305	S/1	Y	N	\$192	0	2021 Aug	0
2019	260712	\$19,645	12%	\$34,080	7%	\$2,357	S/1	Y	N	\$196	1	2021 Jul	176
2019	263060	\$19,744	12%	\$3,507	68%	\$2,369	S/2	Y	N	\$197	0	2021 Jun?	0
2019	263694	\$20,603	12%	\$4,366	57%	\$2,472	S/1	Y	N	\$206	0	2020-Aug	0
2019	263634	\$20,600	12%	\$4,363	57%	\$2,472	S/1	Y	N	\$206	4	2021-Jul?	900
2019	263826	\$21,525	12%	\$5,288	50%	\$2,625	S/1	Y	N	\$219	15	21-Apr	3,319
2019	261210	\$23,071	12%	\$6,834	41%	\$2,769	S/1	Y	N	\$231	7	21-Aug	1,576
2019	261774	\$23,380	12%	\$7,143	39%	\$2,806	S/1	Y	N	\$234	3	21-Aug	608
2019	264093	\$23,718	13%	\$7,481	41%	\$3,046	S/1	Y	N	\$254	1	21-Aug	279
2019	254969	\$26,937	12%	\$10,700	30%	\$3,232	S/1	Y	N	\$269	1	21-Aug	243
2019	261865	\$25,391	13%	\$9,154	37%	\$3,367	S/1	Y	N	\$281	2	21-Aug	652
2019	263355	\$20,077	18%	\$3,840	93%	\$3,554	S/1	Y	N	\$296	0	2021 Aug	84
2019	262885	\$21,603	18%	\$5,366	73%	\$3,893	S/3	Y	N	\$324	1	21-Aug	290
2019	263690	\$26,356	16%	\$10,574	40%	\$4,209	S/1	Y	N	\$351	0	21-Aug	11
2019	229028	\$23,663	18%	\$7,426	57%	\$4,262	S/1	Y	N	\$355	7	21-Jun	2,513
2019	237678	\$22,053	19%	\$5,816	74%	\$4,291	S/1	Y	N	\$358	0	21-Aug	110
2019	250762	\$26,631	20%	\$10,394	50%	\$5,217	S/1	Y	N	\$435	0	21-Aug	0
2019	263499	\$25,560	21%	\$9,323	57%	\$5,357	M/3	Y	N	\$446	4	21-Aug	1,646
2019	225499	\$25,196	25%	\$8,959	72%	\$6,418	S/1	Y	N	\$535	0	21-Aug	0
2019	263568	\$24,899	29%	\$8,662	82%	\$7,143	S/1	Y	N	\$595	5	21-Aug	2,766
2019	208845	\$26,629	27%	\$10,392	69%	\$7,185	S/2	Y	N	\$599	0	21-Aug	0
2019	261706	\$24,812	29%	\$8,575	85%	\$7,253	S/1	Y	N	\$604	0	21-Aug	101

Year of Calc	CSED/DC Case No.	INCOME/OBLIGATION						ANALYSIS					
		Inc After Deductions (line 3)		Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Monthly Oblig	Months Delinq	Mo Recent Pmt	Total Arrears
2019	263469	\$27,712	29%	\$11,475	70%	\$7,990	S/1	Y	N	\$666	0	21-Aug	51
2019	257031	\$26,204	31%	\$9,967	81%	\$8,109	S/1	Y	N	\$676	1	21-Aug	446
2019	264152	\$15,254	10%	\$1,525	100%	\$1,525	S/1	Y	Y	\$127	#VALUE!	21-Apr	C
2019	263724	\$20,304	14%	\$4,067	68%	\$2,778	S/1	Y	Y	\$232	#VALUE!	20-Jul	C
2019	262228	\$18,047	12%	\$2,166	100%	\$2,166	S/1	Y	N	\$181	#VALUE!	20-Nov	C
2019	260933	\$26,942	18%	\$10,705	46%	\$4,942	M4	Y	N	\$412	#VALUE!	20-May	C

**CASE ANALYSIS 4 - Father Obligor:
Review of Child Support Orders Entered in 2019 - 200% of Poverty / Default Status**

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	FATHER/OBLIGOR										ANALYSIS				
				Gross Inc (line 1i)	Other Children Ordered Support	Allowance (line 2b)	Inc After Deductions (line 3)	Work Sheet C	Line 7	Per YR Oblig (line 22)	Taxes : S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Mo Recent Pmt	Total Arrears			
2019	243529	1	\$16,237	\$18,209	10%	\$0	\$0	\$15,783	11%	0.97	\$1,736	100%	\$1,736	S/1	N	N	21-Aug	0
2019	218370	1	\$16,237	\$19,760	10%	\$0	\$0	\$16,842	12%	1.04	\$2,021	100%	\$2,021	S/1	N	N	21-Aug	0
2019	264054	1	\$16,237	\$17,510	9%	\$0	\$0	\$15,161	10%	0.93	\$1,516	100%	\$1,516	S/1	N	N	21-Aug	63
2019	235692	2	\$16,237	\$23,196	13%	\$384	\$0	\$19,137	15%	1.18	\$2,900	100%	\$2,900	S/1	N	N	21-Apr	94
2019	260636	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	N	21-Aug	2,784
2019	221618	4	\$16,237	\$19,802	7%	\$0	\$2,436	\$14,473	10%	0.89	\$1,447	100%	\$1,447	S/1	N	N		C
2019	222580	2	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	187
2019	250359	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	291
2019	252368	1	\$16,237	\$11,952	8%	\$0	\$0	\$11,952	8%	0.74	\$956	100%	\$956	S/1	N	Y	21-Aug	406
2019	260780	1	\$16,237	\$17,680	8%	\$1,428	\$0	\$13,826	10%	0.85	\$1,383	100%	\$1,383	S/1	N	Y	21-Jun	474
2019	219572	1	\$16,237	\$17,680	6%	\$2,808	\$0	\$12,446	8%	0.77	\$996	100%	\$996	S/1	N	Y	21-Aug	1,075
2019	260071	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Mar	1,251
2019	248239	3	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	20-Jul	1,355
2019	188321	3	\$16,237	\$18,033	9%	\$0	\$0	\$15,524	11%	0.96	\$1,708	100%	\$1,708	S/1	N	Y	21-Mar	1,588
2019	258824	1	\$16,237	\$22,880	13%	\$0	\$0	\$19,205	15%	1.18	\$2,968	100%	\$2,968	S/1	N	Y	20-Sep	1,862
2019	263649	2	\$15,782	\$17,731	9%	\$0	\$0	\$15,305	11%	0.97	\$1,684	100%	\$1,684	S/1	N	Y	20-Aug	1,942
2019	171515	2	\$16,237	\$15,080	5%	\$0	\$2,436	\$10,804	7%	0.67	\$756	100%	\$756	S/1	N	Y	20-Aug	2,475
2019	262874	1	\$16,237	\$17,680	6%	\$2,376	\$0	\$12,878	8%	0.79	\$1,030	100%	\$1,030	S/1	N	Y	19-Sep	2,580
2019	220128	1	\$16,237	\$17,680	8%	\$648	\$0	\$14,606	10%	0.90	\$1,461	100%	\$1,461	S/1	N	Y	20-Apr	2,718
2019	225758	1	\$16,237	\$17,680	7%	\$1,800	\$0	\$13,454	9%	0.83	\$1,211	100%	\$1,211	S/1	N	Y	20-Nov	4,032
2019	257666	1	\$16,237	\$19,300	6%	\$3,384	\$0	\$13,108	9%	0.81	\$1,180	100%	\$1,180	S/1	N	Y	20-Sep	4,731
2019	263603	1	\$15,782	\$15,080	8%	\$0	\$0	\$13,240	9%	0.84	\$1,192	100%	\$1,192	S/1	N	Y	21-Jul	5,290
2019	263119	2	\$16,237	\$24,850	18%	\$0	\$0	\$20,670	21%	1.27	\$4,433	100%	\$4,433	S/1	N	Y	20-May	7,695
2019	218437	1	\$16,237	\$15,080	8%	\$0	\$0	\$13,240	9%	0.82	\$1,192	100%	\$1,192	S/1	N	Y	21-Aug	10,263
2019	245866	1	\$16,237	\$21,840	10%	\$0	\$0	\$18,431	12%	1.14	\$2,212	100%	\$2,212	S/1	N	Y	20-Dec	C
2019	226697	2	\$16,237	\$25,408	14%	\$1,200	\$0	\$19,885	18%	1.22	\$3,648	100%	\$3,648	S/1	N	Y	20-May	C

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	FATHER/OBLIGOR										ANALYSIS				
				Gross Inc (line 1i)		Other Children		Inc After Deductions (line 3)		Work Sheet C	Line 7		Per YR Oblig (line 22)	Taxes : S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Mo Recent Pmt	Total Arrears
Ordered Support (line 2a)	Allowance (line 2b)																	
2019	264145	1	\$16,237	\$22,880	10%	\$0	\$0	\$19,205	12%	1.18	\$2,968	78%	\$2,305	S/1	Y	N	2021 Aug	0
2019	263060	1	\$16,237	\$24,480	10%	\$3,564	\$0	\$19,744	12%	1.22	\$3,507	68%	\$2,369	S/2	Y	N	2021 Jun	0
2019	263694	1	\$16,237	\$24,760	10%	\$0	\$0	\$20,603	12%	1.27	\$4,366	57%	\$2,472	S/1	Y	N	2020-Aug	0
2019	225499	1	\$16,237	\$30,938	21%	\$0	\$0	\$25,196	25%	1.55	\$8,959	72%	\$6,418	S/1	Y	N	21-Aug	0
2019	208845	2	\$16,237	\$31,200	23%	\$0	\$0	\$26,629	27%	1.64	\$10,392	69%	\$7,185	S/2	Y	N	21-Aug	0
2019	250762	4	\$16,237	\$32,867	16%	\$0	\$0	\$26,631	20%	1.64	\$10,394	50%	\$5,217	S/1	Y	N	21-Aug	0
2019	262655	1	\$16,237	\$8,400	4%	\$0	\$0	\$8,400	4%	0.52	\$336	100%	\$336	S/1	Y	N	2021 Aug	5
2019	263690	1	\$15,782	\$32,498	13%	\$0	\$0	\$26,356	16%	1.67	\$10,574	40%	\$4,209	S/1	Y	N	21-Aug	11
2019	263469	2	\$16,237	\$34,320	23%	\$0	\$0	\$27,712	29%	1.71	\$11,475	70%	\$7,990	S/1	Y	N	21-Aug	51
2019	263355	1	\$16,237	\$21,206	17%	\$0	\$0	\$20,077	18%	1.24	\$3,840	93%	\$3,554	S/1	Y	N	2021 Aug	84
2019	261706	2	\$16,237	\$33,280	22%	\$0	\$0	\$24,812	29%	1.53	\$8,575	85%	\$7,253	S/1	Y	N	21-Aug	101
2019	237678	1	\$16,237	\$26,710	16%	\$0	\$0	\$22,053	19%	1.36	\$5,816	74%	\$4,291	S/1	Y	N	21-Aug	110
2019	260712	1	\$16,237	\$24,445	10%	\$0	\$0	\$19,645	12%	1.21	\$34,080	7%	\$2,357	S/1	Y	N	2021 Jul	176
2019	210158	1	\$16,237	\$23,685	7%	\$0	\$4,060	\$15,744	11%	0.97	\$1,732	100%	\$1,732	S/1	Y	N	2021 Jul	276
2019	262885	1	\$16,237	\$26,312	15%	\$0	\$4,060	\$21,603	18%	1.33	\$5,366	73%	\$3,893	S/3	Y	N	21-Aug	290
2019	256845	1	\$16,237	\$21,673	10%	\$0	\$0	\$18,304	12%	1.13	\$2,196	100%	\$2,196	S/1	Y	N	2020 Feb	366
2019	261865	1	\$16,237	\$31,200	11%	\$0	\$0	\$25,391	13%	1.56	\$9,154	37%	\$3,367	S/1	Y	N	21-Aug	652
2019	263634	3	\$16,237	\$24,756	10%	\$0	\$0	\$20,600	12%	1.27	\$4,363	57%	\$2,472	S/1	Y	N	2021-Jul	900
2019	261210	1	\$16,237	\$28,080	10%	\$0	\$0	\$23,071	12%	1.42	\$6,834	41%	\$2,769	S/1	Y	N	21-Aug	1,576
2019	263472	1	\$16,237	\$20,800	10%	\$0	\$0	\$17,637	12%	1.09	\$2,116	100%	\$2,116	S/1	Y	N	2021 Jun	1,628
2019	263499	1	\$16,237	\$32,112	17%	\$0	\$2,436	\$25,560	21%	1.57	\$9,323	57%	\$5,357	M/3	Y	N	21-Aug	1,646
2019	229028	3	\$16,237	\$31,200	14%	\$1,728	\$0	\$23,663	18%	1.46	\$7,426	57%	\$4,262	S/1	Y	N	21-Jun	2,513
2019	263568	2	\$16,237	\$30,537	23%	\$0	\$0	\$24,899	29%	1.53	\$8,662	82%	\$7,143	S/1	Y	N	21-Aug	2,766
2019	263826	1	\$16,237	\$26,000	10%	\$0	\$0	\$21,525	12%	1.33	\$5,288	50%	\$2,625	S/1	Y	N	21-Apr	3,319
2019	212276	1	\$16,237	\$20,280	10%	\$0	\$0	\$17,240	12%	1.06	\$2,069	100%	\$2,069	S/1	Y	N	2021 Aug	3,628
2019	183611	1	\$16,237	\$20,800	10%	\$0	\$0	\$17,637	12%	1.09	\$2,116	100%	\$2,116	S/1	Y	N	2021 Aug	4,612
2019	163159	2	\$16,237	\$8,989	5%	\$0	\$0	\$8,859	5%	0.55	\$443	100%	\$443	S/1	Y	N	2021 Aug	29,183
2019	262228	1	\$16,237	\$26,754	8%	\$0	\$2,436	\$18,047	12%	1.11	\$2,166	100%	\$2,166	S/1	Y	N	20-Nov	C
2019	260933	2	\$16,237	\$27,300	18%	\$0	\$0	\$26,942	18%	1.66	\$10,705	46%	\$4,942	M4	Y	N	20-May	C
2019	260535	2	\$16,237	\$29,120	23%	\$0	\$0	\$23,845	28%	1.47	\$7,608	89%	\$6,793	S/1	Y	Y	20-Mar	0

**CASE ANALYSIS 5 - Mother Obligor:
Review of Child Support Orders Entered in 2019 - 200% of Poverty / Default Status**

Year of Calc	CSED/DC Case No.	# of Children	Pers Allowance (line 4)	MOTHER/OBLIGOR										ANALYSIS				
				Gross Inc (line 1i)		Other Children Ordered Support (line 2a)	Allowance (line 2b)	Inc After Deductions (line 3)		Work Sheet C	Line 7		Per YR Oblig (line 22)	Taxes: S/M?	Amt on Line 17? Y/N	Default Order? (Y/N)	Mo Recent Pmt	Total Arrears
2019	260436	3	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	N	21-Jun	846
2019	200064	2	\$15,782	\$17,680	9%	\$0	\$0	\$15,254	11%	0.97	\$1,678	100%	\$1,678	S/1	N	N	21-Jul	5458
2019	254931	1	\$16,237	\$17,680	4%	\$0	\$4,060	\$11,194	7%	0.69	\$784	100%	\$784	S/1	N	Y	N/A	C
2019	221784	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Apr	C
2019	260192	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Apr	C
2019	235141	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-Jul	367
2019	239893	1	\$16,237	\$20,443	10%	\$0	\$0	\$17,476	12%	1.08	\$2,097	100%	\$2,097	S/1	N	Y	21-Jun	535
2019	257515	2	\$16,237	\$20,195	10%	\$0	\$0	\$17,277	12%	1.06	\$2,073	100%	\$2,073	S/1	N	Y	21-May	636
2019	260070	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	21-May	796
2019	249997	1	\$16,237	\$16,536	6%	\$1,644	\$0	\$12,731	8%	0.78	\$1,018	100%	\$1,018	S/1	N	Y	21-Jun	1075
2019	263064	3	\$16,237	\$18,054	10%	\$0	\$0	\$15,628	11%	0.96	\$1,719	100%	\$1,719	S/1	N	Y	21-Aug	1102
2019	253280	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	N	Y	20-Jun	1934
2019	262358	1	\$16,237	\$17,724	10%	\$0	\$0	\$15,942	11%	0.98	\$1,754	100%	\$1,754	S/2	N	Y	20-May	2151
2019	261139	2	\$16,237	\$17,680	7%	\$1,524	\$0	\$13,730	9%	0.85	\$1,236	100%	\$1,236	S/1	N	Y	21-Jul	2201
2019	254969	1	\$16,237	\$33,280	10%	\$0	\$0	\$26,937	12%	1.66	\$10,700	30%	\$3,232	S/1	Y	N	21-Aug	243
2019	240127	1	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	N	21-Aug	245
2019	264093	2	\$16,237	\$30,160	10%	\$0	\$0	\$23,718	13%	1.46	\$7,481	41%	\$3,046	S/1	Y	N	21-Aug	279
2019	257031	4	\$16,237	\$34,278	24%	\$1,476	\$0	\$26,204	31%	1.61	\$9,967	81%	\$8,109	S/1	Y	N	21-Aug	446
2019	261774	1	\$16,237	\$28,496	10%	\$0	\$0	\$23,380	12%	1.44	\$7,143	39%	\$2,806	S/1	Y	N	21-Aug	608
2019	264152	2	\$16,237	\$17,680	9%	\$0	\$0	\$15,254	10%	0.94	\$1,525	100%	\$1,525	S/1	Y	Y	21-Apr	C
2019	263724	2	\$16,237	\$24,357	11%	\$0	\$0	\$20,304	14%	1.25	\$4,067	68%	\$2,778	S/1	Y	Y	20-Jul	C
2019	220049	1	\$16,237	\$22,690	9%	\$0	\$4,060	\$19,385	10%	1.19	\$3,148	64%	\$2,018	M/4	Y	Y	21-Aug	535
2019	262796	1	\$16,237	\$34,015	10%	\$0	\$0	\$27,944	12%	1.72	\$11,707	29%	\$3,353	S/1	Y	Y	21-Feb	1116
2019	246166	1	\$15,782	\$23,059	11%	\$0	\$0	\$21,235	12%	1.35	\$5,453	47%	\$2,548	S/2	Y	Y	20-Aug	1449