



Department of Public Health and Human Services

CSSD ♦ PO Box 202943 ♦ Helena, MT 59620 ♦ (406) 444-6856 ♦ Fax: (406) 444-1370
www.childsupport.mt.gov

Greg Gianforte, Governor
Adam Meier, Director

To: Temple McLean, Guidelines Coordinator
Re. Guidelines Review and Oversight Committee (GROC) Meetings
For Department of Public Health and Human Services (DPHHS) / Child Support Services Division (CSSD)

Cc: All GROC members...

Name	Initials	Role	Phone	Email	Site
Chaffey, Casse	(CC)	Compliance Specialist	406-329-7915	cchaffey@mt.gov	Missoula
Helman, Dena	(DH)	Compliance Specialist	406-497-6623	dhelman2@mt.gov	Butte
Hochhalter, Priscilla	(PH)	Writer / Recorder	406-444-2581	priscilla.hochhalter@mt.gov	Helena
McLean, Temple	(TM)	Guidelines Coordinator	406-655-5531	tmclean@mt.gov	Billings
Probasco, Peg	(PP)	Attorney, Staff (Retired)	406-490-6835	chefdog1@icloud.com	Butte
Quinn, Patrick	(PQ)	Attorney, OLA / DIR	406-329-5460	pquinn@mt.gov	Missoula
Rohrdanz, Vaughn	(VR)	Investigators Supervisor	406-655-5522	vrohrdanz@mt.gov	Billings
Strandell, Lori	(LS)	Bureau Chief, Field Services	406-444-3338	lori.strandell@mt.gov	Helena
Watne, Kim	(KW)	Compliance Specialist	406-444-7753	kwatne@mt.gov	Helena
Wigen, Micheale	(MW)	Regional Manager	406-454-7754	mwigen@mt.gov	Great Falls

From: Priscilla Hochhalter, Writer / Recorder
Re. GROC Meetings
For DPHHS / CSSD

Re: 2021 May 11 Tue. – GROC Meeting – MINUTES

Date: 2021 May 26

Text: For the above-noted meeting – please see the attached minutes.

Abbreviations used in this document may include...

- GROC members' initials (see above)
- State names: Delaware (DE), Georgia (GA), Alaska (AK), Oregon (OR), New Hampshire (NH), North Dakota (ND)
- University names: Montana State University (MSU), University of Montana (UM)
- Montana abbreviations: Administrative Rules of Montana (ARM), Montana Code Annotated (MCA)
- ...and various other entities – for example, state and federal agencies and organizations.

Guidelines Review and Oversight Committee (GROC)

Mission: "The State must review, and revise, if appropriate, the child support guidelines...at least once every four years to ensure that their application results in the determination of appropriate child support order amounts." ~From Electronic Code of Federal Regulations (ECFR), Title 45, Subtitle B, Chapter III, Part 302, §302.56, "Guidelines for setting child support orders," (e) (<https://ecfr.federalregister.gov/current/title-45/subtitle-B/chapter-III/part-302/section-302.56>).

MINUTES – Guidelines Review & Oversight Committee (GROC)
Regular Meeting (currently on second Tues. of Feb., May, Aug., Nov.)
2021 May 11, 1:00–4:00p (U.S. Mountain Time) – via Zoom videoconference

I Call to order / General business

The meeting was called to order.

II Montana Child Support (MTCS) software

Status notes:

- Version 21.2 was deployed on 2021May04 to caseworkers who perform calculations and prefer MTCS over SEARCHS.
- This version includes updated Poverty Index Guidelines (PIG) values in CS404.2 tables at <https://dphhs.mt.gov/assets/cssd/PolicyManual/cs404-2.pdf>.
- Reminder: SEARCHS still has issues with tax calculations; our 2020 JIRA request for resolution is suspended until SEARCHS Transformation is done. Thus, the following instruction remains in force: CSSD users should use MTCS, not SEARCHS, for non-standard income types / combinations (i.e., self-employment; "other" income, taxable or not; or anything else other than standard wages alone).

III 2020 Quadrennial Review / Report

Status notes:

- See federal requirements in resource [1](#) [(ECFR, Section 302.56), items (c)(2), (c)(3), and (e)].
- Under the Stafford Act, MT received an extension (from 2020Dec31 to 2021Dec31) and is addressing the below issues based on input from Chad Edinger (program specialist) and Diane Degenhart (regional program manager) in the Office of Child Support Enforcement (OCSE) under the U.S. Department of Health and Human Services (DHHS). Diane has federal oversight of MT's State Plan, including this Quadrennial Review of Child Support report.

A Discuss the term "residence": See resource [5](#) (Federal Register excerpts that mention "residence") from Chad Edinger.

- TM: Per 2016 federal regulations, MT's rules on imputed income must refer to an obligor's "residence" – not just the general area or part of town where they live. So if a "residence" address is in, say, a run-down trailer park, this fact must be considered in determining a reasonable imputed income.
- With the 2021 legislative session over, OCSE *might* (but no guarantees) be satisfied by a proposed emergency rule change – well before the 2021Dec31 deadline – asking to add the word "Residence" at the start of ARM 37.62.106(3)(c), <http://www.mtrules.org/gateway/ruleno.asp?RN=37%2E62%2E106>:

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;

- Given the recent passing of SB227, the GROC recommends this request for rule change begins this summer at the latest, to allow time for completion.
- PQ: I see some issues: 1) Address "quality" can vary greatly; a trailer park in MT may be far less deprived than one in a big city. 2) "Residence" can differ from, say, "domicile"; a person may have a legal residence in one town and even vote there, but actually live and work in another.
- TM: But then, clearly, that person does have a job. We're talking about imputation.
- PP: We can add "residence" and tell legislators that we had to do so for compliance, but that the issue arose too late to get it submitted this session.
- TM: We can clarify to legislators that if we don't make this change, we'll lose federal funding – including TANF.
- LS: PQ, have you spoken with Chad Dexter about this at all? Is there any value in presenting this issue in the interim?
- PQ: Not yet, and there may be. This legislature is so new. We may as well continue as usual unless told otherwise.

* Recommendation: For 2020 compliance by the 2021Dec31 deadline, propose by this summer the above emergency rule change to add the term "residence".

** Task-LS/PQ: Discuss with Chad Dexter the above recommendation for (before the 2021Dec31 deadline) attaining compliance for the 2020 report.

B Discuss variances and default orders.

This dialog covered programming case events to enable data extraction and analysis. Key details:

- 302.56(h)(2) requires such analysis to determine, e.g., whether an order is "by default, based upon imputed income or determined using the low income adjustment required under paragraph (c)(1)(ii)" to "ensure that deviations...are limited and guideline amounts are appropriate" under paragraph (g); see also ARM 37.62, subchapter 1 (<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=37%2E62.1>).

- 1 Variances
- Programming of case events on orders entered that contain variances
 - Reverter clauses
 - Default comparison to imputation
- 2 Default orders: Programming of case events for default orders with imputation
- 3 Mediation agreements (see below under V.A.2 re. mediation training)
- 4 Correlation of default orders (Note: In the 2020 report, see Attachment H, which needs more work, re. percentages on default orders in relation to payment.)
Summary: As default orders can lead to non-payment, we need to flag them, show we did all we could to avoid defaults, and see if payment is occurring. If it is, fine; if not, that's an issue. (Note: Iowa increased caseworkers' outreach to obligors, and doing so increased payments and decreased arrearages.)
- * Recommendation: Program a case event that, after a new or modified order is entered, prompts the caseworker to select from several options (e.g., imputed income used – obligor; imputed income used – obligee; imputed income used – both).
 - ** Task-MW/KW: Work with Kial Leach / Barb Delaney to implement the above recommendation.
- C Children's healthcare coverage
- For 2020, OCSE accepts our current verbiage with added definitions; however, for 2024 compliance we'll need to clarify healthcare terms and draft a proposed rule change for attention during the 2023 biennium.
 - * Recommendation: For 2024 compliance on healthcare terms, review and draft for the 2023 legislature a proposed rule change to meet OCSE requirements.
 - ** Task-TM: With attorneys as needed, work toward the above recommendation for compliance.
- D Incarcerated obligors
- Per federal regulations, incarceration cannot be considered voluntary unemployment.
 - To those sentenced to 180 or more days, we send postcards saying they can request a modification to show their income as zero.
 - LS approved extracting case data re. number of postcards that have resulted in requested and actual modifications. This data can help to assure OCSE and the legislature that the postcards give incarcerated obligors an adequate opportunity to request order modifications.
 - 2020 policy is accepted and the GROC recommends data analysis; for 2024 we'll likely need to draft a proposed rule change for the 2023 legislature.
 - * Recommendation: Via DocDirect requests, perform data extraction and analysis re. postcards sent, and the requested and actual modifications that resulted.
 - * Recommendation: For 2024 compliance on incarceration, analyze above data; if needed, consider drafting for the 2023 legislature a proposed rule change.
 - ** Task-TM: With attorneys as needed, work toward the above recommendations for compliance.
- IV 2024 Quadrennial Review / Report**
- A Excluding taxes**
- Status notes:
- MT needs a new calculation *without* taxes (to simplify it, and to avoid continual tax-law changes) that gives results similar to the current one *with* taxes.
 - Currently, only DE and GA exclude taxes; MT is like DE in having no sales tax (with AK, NH, OR), and like GA in having administrative oversight of the state guidelines granted by statute. DE also is helpful as they developed the Melson model (the basis of MT's "modified Melson") and removed taxation from their calculation in 2019. Only MT, DE, and HI use a Melson-type model; GA does not, but does use a low-income self-support reserve (<https://georgiacourts.gov/low-income-deviation-study/>).
 - In DE, unlike in MT, custodial parents file as "single" with 1 standard deduction per child; DE never took into account the Earned Income Credit (EIC).
 - TM is seeking a testing platform, maybe DE's, and—after SEARCHS Transformation—testers (who needn't be in the GROC) to test effects of excluding taxes, starting with the 2018–2019 tax changes. Per 2021Feb09 GROC meeting: LS, CC, PQ, and VR volunteered to test.
- Today's discussion
- TM spoke with Commissioner Andrew Southmayd on 2021Apr26. Commissioner Southmayd serves two roles for DE: He is DE's guidelines coordinator and an attorney. As commissioner, he also serves DE's family court, much like our administrative law judges do for CSSD. TM's goal was to gain guidance from, and to learn the approach taken in, DE's removal of taxation from its calculation. His testing on the issue proved to his committee how taxes could be removed from the calculation; he provided resources 3, 4, 6 (shown on resources page), 7, 8, and 9 (emailed to all, pre-meeting, by TM).
 - TM: Re. income for child support – does any statute specify or define "net income"? That is, could a new issue be created by removing the taxation factor?
 - PQ: I don't think so. My initial review of MT statutes shows no use of, and no requirement to use, the term or definition of "net" income; they just say the guidelines must be the same for everyone. So we can create a definition for income, as long as it works with MT's "modified Melson" guidelines.
 - TM: MCA 40-5-278 mentions net income vis-à-vis a "limited review" for modification (e.g., to delete daycare as a line item when a child outgrows it).
 - PQ: Yes; but if "income" (net or gross) has not been defined via statute, no change is needed.
 - LS: Does a limited review ever take into account a change in income?
 - PQ: No; it only takes into account a change in the supplemental needs of the child.
 - ** Task-TM et al: By 2024, create a viable new MT calculation that excludes taxes, in order to simplify it for all users and for CSSD.
 - ** Task-PQ: Develop a legal opinion re. excluding taxes and possibly defining income (ideally, for expediency, via administrative – not legislative – means).
DETAIL: New law #SB0227 empowers the legislature to repeal administrative actions taken between their sessions. So...can we use case data analysis to support the benefits of excluding taxes, and draft a proposed rule change for their 2023 session – with no need for a statutory / legislative change?
- B Budgeting for an economist. See resource 10, Vox article.**
- In 2006, the last significant rule changes were made re. economics in MT – 15 years ago – so it's time to address this topic again.
 - In 2009, GROC worked with Professor Christiana Stoddard in the MSU (Bozeman) agricultural economics department; she gave as much help as she could for free (her hourly rate is \$120) and wrote up a report. (Note: Per MSU's website, she is still there.)
 - We could get bids from her and/or from others. Possibilities: UM's "Bureau of Business and Economic Research" – TM has heard their radio spots (<http://www.bber.umt.edu/>); MSU's Office of Research, Economic Development, and Graduate Education (<https://www.montana.edu/research/>); MT's Department of Labor and Industry (DOLI) Research & Analysis Bureau (<https://lmi.mt.gov/>).
 - * Recommendation: Budget for an economist to study the current cost of raising a child in Montana.
 - ** Task-TM: Find the most viable low-cost way (see some options above) to get help in studying the current economics of raising a child in MT.
- C Allowance for scheduled work / data entry**
- As an alternative to GROC members, TM was granted several Helena staff workers to help out, and has been sending them calculations for data entry.
 - The baseline is 2018 vs. 2019; there are about 530 calculations from 2019 alone.

- D Meeting schedule. Increase meetings' frequency from quarterly (@ 3 hours) to bimonthly (@ 2 hours)?**
 - LS: For now, let's keep meeting quarterly as usual, to give everyone time to finish today's assignments before our next meeting.
 ** Task-All: In the meantime – everyone should watch your email and, if any input or decision is requested before the next meeting, please be responsive.
- E (Online) publishing of documentation. As of 2021, GROC publishes its meeting minutes per federal mandate (see resource 1) and its agendas voluntarily.**
 - See resource 11, North Dakota (ND) example webpage(s). Note that ND is additionally required to publish notice of their meetings (since their guidelines are managed judicially); whereas MT is not required to publish notice, and does not (since ours are managed administratively).
 - The Zoom link to join these meetings will not be publicly posted, as it is TM's personal Zoom account and recurring link.
- V Meaningful input from guidelines users**
 Status notes:
 - Per resource 1 [ECFR, Title 45, Subtitle B, Chapter III, Part 302, Section 302.56), (h)(3)]: CSSD is required to offer opportunities for input to be shared by guidelines users, ranging from legal professionals to low-income parents; input should be meaningful, and is especially needed from the latter group.
 - This input should be sought through avenues other than, and in addition to, public hearings on administrative rules of Montana (ARM) / statute changes.
 - This input is being sought by looking for non-CSSD members to join the GROC and by planning a future survey, to be based on the last one in 2002.
- A General outreach**
- 1 Invitations to join GROC: 1-2 select candidates from TM's "list" of all MT family-law attorneys who work with low-income clients**
 - TM/PP/PQ will select from "the list," and invite to join GROC, 1-2 interested and qualified candidates.
 - TM: I asked Audrey Cromwell (Bozeman attorney), who may be interested. Also, she has some questions that her clients commonly ask; those could be helpful in developing procedural FAQs for our website.
 - PP: We need attorneys who won't just say "yes" to pad their resumes but who will actually engage, and attend at least, say, 75% of GROC meetings. They should be invited by someone they know, and if they decline then we should ask them: Who else might you recommend?
 - TM: Good point. And the minutes should document all those we've invited, even if they decline, so we can show our attempts.
- ** Task-TM/PP/PQ: Work to select and invite 1-2 "list" candidates to join GROC, being sure to tell them joiners should attend at least 75% of meetings.
- 2 Training for Montana Mediation Association (MtMA) on CSSD services / variances: On 2021May20, by request, TM will present to MtMA (<https://mtmediation.org/>) on what mediators should know re. CSSD services, with a focus on variances and "perform calculation" language.**
- B Specific outreach – via presentations / surveys / etc.**
 ** Task-TM: Re. updating the 2002 survey, seek input from MT Legal Services Association (MLSA) at <https://www.mtlsa.org/>.
- VI [Item inactive for now:] Outreach / judicial conference(s)**
 - PQ/PP did not get on the agenda for (and thus did not attend) the May 12–14 judicial conference in Lewistown, MT. The goal is to get on such agendas to promote a Temporary Notice and Order Concerning Support (TNOCS) – which starts support for kids while other factors are pending.
- VII [Item inactive for now:] Ongoing training: How to treat self-employment (S-E) income in support calculations**
- A Basic video course, by Administrative Law Judge (ALJ) Robin Hall: Per the 2021Feb09 GROC meeting, LS and CSSD trainers are reviewing this video and TM is working on ADA captioning and Q&A; the latter may need to be in a different format, possibly PowerPoint or text transcription.**
- B Advanced video course, by TM: Per the 2021Feb09 GROC meeting, TM is working toward ADA compliance.**
- C Recruiting regional CSSD trainers: Each region needs "specialists" to help, or recruit others to help, with analysis and training re. S-E income. Per the 2021Feb09 GROC meeting: Vaughn volunteered for Region 3; Casse will ask Lance Oaas, given his experience and interest in self-employment.**
- D Peg's scenarios – when to implement? After S-E training "attendance," or...?**
- VIII [Item inactive for now:] Military basic allowance for housing (BAH)**
 Confirm policy in light of 2020 Yellowstone County District Court (YCDC) action finalized; Petition for Judicial Review (PJR) not final.
- IX [Item inactive for now:] Calculations audit**
 This audit may resume later.
- X Other**
 No additional agenda items were submitted.
- XI Adjournment / Next meeting**
 This meeting adjourned at 2:44 pm. The next one is scheduled as usual (second Tuesday of second month of the quarter) for Aug. 09, 1:00–4:00 pm.