

Michigan Judicial Institute and Friend of the Court Bureau Webinar

February 22-25, 2021

Child Support Formula Overview

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MJI: New Employee Training – Child Support, the Formula

I. Basic Information

- A. A child has an inherent right to the support of its natural parents. *Ebel v Brown*, 70 Mich App 705 (1976).
- B. Both parents are obligated to support a minor child, even if one parent is capable of supporting the child alone, the other is not relieved of the obligation to contribute. *Beverly v Beverly*, 112 Mich App 657 (1981).

II. Determining Child Support

- A. Child support is determined by applying both parents' net incomes to the Michigan Child Support Formula.
 1. "Income": wide variety (commissions, earnings, salaries, wages, profit-sharing, pension, insurance, annuity, bonuses, social security disability, unemployment, worker's compensation, etc.)
 2. Overtime income: if the household were together, the household would benefit from the overtime income.
 3. Child's income: not included unless a child is a professional and/or is involved in some activity earning a large sum of money.
- B. Dependent Benefit Credit [need to read 2.01(K) and 3.07]
 1. If the non-custodial parent receives the benefit (i.e. social security), the amount of grant monies received by the child is included in the non-custodial parent's income, but also offsets the support obligation.
 2. If the custodial parent receives the benefit, the amount of grant monies received by the child is included in the custodial parent's income.
- C. Means Tested Sources
 1. Public assistance, Earned Income Credit, and Social Security Supplemental Income (SSI) are not considered income.
 2. Receipt of means tested income does not prohibit the assignment of potential income.
- D. Potential Income.
 1. Treating a party as having income or resources that the party does not actually have.
 2. When a party is voluntarily unemployed or underemployed or has the unexercised ability to earn.
 3. Criteria: [acknowledge each one in some form]
 - a. prior employment experience and history
 - b. education level, literacy and any special skills/training
 - c. physical and mental disabilities
 - d. availability for work
 - e. availability of opportunity to work in local area
 - f. prevailing wage rates and number of hours in local area
 - g. diligence exercised in seeking employment
 - h. evidence of ability to earn potential income
 - i. personal history-marital status, age, health, residence, criminal record, transportation, etc.
 - j. presence of children and impact on earnings

- k. significant reduction in income compared to period preceding the filing of the complaint/motion
- E. Allowable Deductions
 - 1. Normal
 - a. spousal support paid to a different party
 - b. taxes
 - c. FICA
 - d. mandatory withholdings (union dues, retirement, tools)
 - e. life insurance where child is beneficiary
 - 2. Additional
 - a. credit for additional children [not other support orders]
 - b. special considerations for self-employment [2.01(E)]
- F. The Obligation
 - 1. Base support, adjusted for parenting time (PTO)
 - 2. Medical Support
 - a. Ordinary Medical Expense amount (OME)
 - b. Health Care Premium
 - c. Uninsured health care percentage
 - 3. Child care – continues until August 31st following child's 12th birthday
 - 4. Incapacitated Parent: read 4.02
- G. Deviation [1.04(E)]
 - 1. Strict application may be unjust or inappropriate
 - 2. Factors include: special needs child; extraordinary educational expenses; parent is a minor; standard of living; property awarded; parent incarcerated; parent has incurred extraordinary medical expense; payment of restitution, fines, costs associated with a criminal conviction; payments to bankruptcy; parent provides substantial amount of day-time care and directly contributes to the child's costs (other than reflected by overnights used to calculate support).
 - 3. Child with a nonparent custodian but spends a significant number of overnights with the payer that causes a significant savings in expenses
 - 4. Court ordered non-modifiable spousal support paid between the parents prior to October 2004.
 - 5. Child care that exceed 50% of the base support obligation.

III. Miscellaneous provisions

- A. Different custody arrangements
 - 1. Split custodial time (different parenting time periods for each child and the averaging of the time periods)
 - 2. Nonparent custodian: determine each parent's base support according to that parent's individual income.
- B. Arrearage Guideline
 - 1. If current support, 2% of total arrearage, but not less than \$50 nor more than half of the current support amount.
 - 2. If no current support, then last ordered charge amount.
- C. Minimum Threshold for Modification
 - 1. 10% of current ordered support or \$50, whichever is greater.
 - 2. If difference between recommended amount and current amount exceeds the minimum threshold, then FOC must petition.