

# Michigan Judicial Institute and Friend of the Court Bureau Webinar

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## 2021 Michigan Child Support Formula Update: A Formula for Better Customer Outcomes

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# 2021 MICHIGAN CHILD SUPPORT FORMULA MANUAL CHANGES

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[www.courts.mi.gov/mcsf](http://www.courts.mi.gov/mcsf)

[Temporary Link to MCSF](#)

[Temporary Link to MCSF Supplement](#)

## Changes and Clarifications

- Clarifications – rules already effective, just explained better
- Changes – new rules that take effect in orders entered beginning Jan. 1, 2021

### 2021 Clarifications

Economic  
Updates

Capital Gains

Depreciation

Potential  
Income

Dependent  
Child  
Benefits

Parenting  
Time in Non-  
Parent  
Custodian  
Cases

Spousal  
Support

# ECONOMIC UPDATES – SUPPL.

## General Care Tables

- Cost-of-living update

## Low Income Threshold

- Increased to \$1,063

## Annual Ordinary Medical

- Increased to \$454 for one child

General Care Support Table:		One Child				
Income Amount	Base Percentage	Base Support	&	Marginal Percentage		
\$1,318	25.5%	\$336.09	+	24.17%	over	\$1,318
\$2,116	25.0%	\$529.00	+	17.50%	over	\$2,116
\$2,886	23.0%	\$663.78	+	16.65%	over	\$2,886
\$3,703	21.6%	\$799.85	+	14.65%	over	\$3,703
\$4,810	20.0%	\$962.00	+	13.91%	over	\$4,810
\$6,830	18.2%	\$1,243.06	+	12.37%	over	\$6,830
\$8,417	17.1%	\$1,439.31	+	11.23%	over	\$8,417
\$10,581	15.9%	\$1,682.38	+	10.00%	over	\$10,581 or at the court's discretion

Ordinary Medical Expense Averages		
Children	Annual	Monthly
1	\$454.00	\$37.83
2	\$908.00	\$75.67
3	\$1,362.00	\$113.50
4	\$1,816.00	\$151.33
5 or more	\$2,269.00	\$189.08

## Clarified Capital Gains 2.01(C)(6)

Net gains *are* income

Single year or event, or cash not immediately available = consider as income over several years

*Exclude* portions considered in property division between the same parties

# Clarified Depreciation

Allowable Deductions for Straight-line depreciation  
2.01(E)(4)(e)

Home offices and personal vehicles = added back as  
income

Accelerated depreciation *added back as income*, but a  
parent may be given credit for straight-line amount *if*  
*they prove* what it would have been

## POTENTIAL INCOME 2.01(G)

Updated for  
new Fed Reg  
Requirements

- Added terms
  - Earnings History
  - Literacy
  - Age, Health, Residence
- Clarified – inferring that incarceration is voluntary unemployment is improper (without evidence that the crime was committed with *intent* to reduce income or avoid support).

# DEPENDENT CHILD BENEFITS

Clarified how benefits are counted as income

- SSR, SSD, RR, VA
- 2.01(I), (J), (K)

Added clarification to crediting benefits

- Credit is only given for benefits counted as payer's income
- 3.07(A)(4)

# DEPENDENT CHILD BENEFIT

Added  
Supplement  
section

- MCSF-S 3.05
- Added to provide additional clarification
- Also provides examples for different benefit scenarios

3.04(D) It is often difficult to predict the time it will take a person to recover when the parent is involved in an accident and suffers a serious injury or broken bones. That parent may be unable to work for several months, or be permanently disabled. Consider a parent to be incapacitated if it appears likely that the condition will cause the parent to be unable to earn an income for a period that will likely last 180 days or longer due to disability, mental incompetency, serious injury, debilitating illness, etc.

3.04(E) To avoid retroactive modification and to reduce the need to review and modify an order, the court may include prospective language that abates support when a support payer is incapacitated that is similar to the following.

When friend of the court becomes aware that payer's condition that meets the definition of incapacitation as defined in the current or subsequent Michigan Child Support Formula, monthly support charges shall abate and are temporarily reduced to zero effective the date the friend of the court office provides notice of the abatement to the parties and to the court. Support charges shall be reinstated effective 60 days after the incapacitation ends. The office shall provide notice of reinstatement to the parties and to the court that specifies the date charges will be effective.

Either party may object to the abatement or reinstatement by filing a written objection with the court within 21 days following when the notice was filed, or by filing a motion. If a timely objection is received, the friend of the court shall either set the objection for hearing or complete a support review with an effective date no earlier than the date of filing of that notice.

Based on a motion by either party or a recommendation following a review by the friend of the court, the amount abated may be later corrected based on the parties' incomes or ability to pay during the abatement period.

### **3.05 Crediting Government Insurance Program Dependent Benefits**

3.05(A) A parent's income includes dependent benefits from government insurance programs as provided in 2021 MCSF 2.01(I)-(K). Only the children's dependent benefits paid to the support recipient based on the support payer's earnings record that were counted as the payer's income may be used to reduce the payer's support obligation as outlined in 2021 MCSF 3.07. A payer may not receive credit for benefits paid for the children based on another person's earnings record, or that are not counted as the payer's income.

3.05(B) Dependent benefits paid for the care of additional children not in common with the other parent are not considered as a parent's income.

3.05(C) Benefits Paid on a Support Payer's Earnings Record.

- (1) When calculating a support obligation, the payer's income includes that parent's disability or retirement benefits, as well as any dependent benefits paid for the children-in-common based on the payer's earnings record.
- (2) After the payer's total support obligation is calculated, subtract the monthly benefit amount that the recipient receives for the children based on the payer's earnings record. If the benefit exceeds the support obligation, no additional amount should be ordered paid as child support. If the obligation exceeds the dependent benefit, the payer should be ordered to pay the difference as child support.

- (3) Support Payer's Record Example. Based on his own earnings records, Parent A receives \$1,850 each month Social Security benefits. Based on Parent A's records, \$1,100 in dependent benefits are paid for the two children-in-common with Parent B in the case being calculated.

Parent A's income includes his benefit of \$1,850 as well as \$1,100 in dependent benefit paid on his behalf. The result of the total support calculation is that Parent A would pay \$960 to Parent B.

- (a) If Parent B, the support recipient, is the representative payee for the children's benefits based Parent A's earnings record, the \$1,100 of children's benefits are subtracted from \$960 total support amount owed by the payer. Because the children's benefits exceeds the calculated support amount, no additional amount is ordered.
- (b) If Parent A, the support payer, is the representative payee for the children's benefit based on his own earnings record, because the support recipient does not receive the payment, no benefits are deducted from the support obligation. Parent A should be ordered to pay \$960 as child support to Parent B.

3.05(D) Benefits Paid on a Support Recipient's Earnings Record.

- (1) When calculating a support obligation, the support recipient's income includes that parent's disability or retirement benefits, as well as any dependent benefits paid for the children-in-common based on the recipient's earnings record.
- (2) After the support obligation is calculated, nothing is credited against the payer's obligation because the children's benefits are not based on the payer's earnings record. The payer will owe the full amount calculated.
- (3) Support Recipient's Record Example. Based on his own earnings records, Parent A receives \$1,420 each month Social Security benefits. Based on Parent A's records, \$900 in dependent benefits is paid for the child-in-common with Parent B in the case being calculated.

Parent A's income includes his benefit of \$1,420 as well as \$900 in dependent benefit paid on his behalf. The result of the total support calculation is that Parent B would pay \$546 to Parent A.

- (a) If Parent A, the support recipient, is the representative payee for the children's benefits based on his own earnings record, Parent B would be ordered to pay \$546 because the child's benefits are not based on Parent B's earnings record.
- (b) If Parent B, the support payer, is the representative payee for the children's benefits based Parent A's earnings record, Parent B would be ordered to pay \$546 because the child's benefits are not based on the support payer's earnings record.
- (i) Despite the payer's calculated obligation of \$546 is substantially less than the \$900 in benefits that payer receives for the children based on the recipient's earnings record, Parent B cannot be ordered to pay additional support to try to return a greater amount of the benefit to the support recipient. Federal law clearly bars alienating a child's benefits from the representative payee selected by the administering agency.

3.05(E) Benefits Paid on Both Parent's Earnings Record.

- (1) When children-in-common receive dependent benefits based on multiple adults' earnings records, the amount is determined based on the adult's record that results in the highest benefit for the children. Before amounts can be attributed to more than one person, a party must provide sufficient documentation to distinguish on whose behalf the benefits are paid. When both parents receive benefits from the same government insurance program (e.g., Social Security Administration) and the children receive dependent benefits based on a parent's earnings record, 2021 MCSF 2.01(K) specifies how the dependent benefits are considered parent income.
  - (a) Include any portion of the children's benefit that can be attributed to the payer's earnings record as the payer's income first.
  - (b) Any amount of the children's dependent benefit based on the other parent's earnings record that exceeds the amount attributed to the payer is included as the other parent's income.
  - (c) After the payer's total support obligation is calculated, subtract the monthly benefit amount that the recipient receives for the children based on the payer's earnings record. If the benefit exceeds the support obligation, no additional amount should be ordered paid as child support. If the obligation exceeds the dependent benefit, the payer should be ordered to pay the difference as child support.
- (2) Both Parents Record Example. Based on Parent A's earnings records, she receives \$1,930 each month in Social Security benefits. Based on Parent A's records, \$1,110 in dependent benefits are paid for the child-in-common with Parent B in the case being calculated. Parent B receives \$1,986 each month in Social Security Benefits based on his own earnings record. Parent B has one additional child for whom he receives \$568 in dependent benefits. Parent B provides documentation from the Social Security Administration that shows the child in this case would also be eligible to receive \$568 in dependent benefits based on his work record. Because Parent B only exercises 90 overnights of parenting time and will owe health care premiums to Parent A, Parent B will be the support payer.

Parent A receives \$1,110 monthly as the child's dependent benefit. The amount of the dependent benefit that is attributed to Parent B is \$568, and the remaining \$542 is attributed to Parent A.

Parent A's income includes her benefit of \$1,930 as well as \$542 in dependent benefits paid on her behalf. Parent B's income includes his benefits of \$1,986 and \$586 paid for the child in this case. The additional child's benefits are not counted as Parent B's income. The result of the total support calculation is that Parent B would pay \$638 to Parent A.

- (a) Parent A is the representative payee for the children's benefits. Because Parent B owes \$638 in child support to Parent A, subtract \$586 dependent benefit paid based on Parent B's earnings record. Parent B should be ordered to pay the \$52 difference.

## Non-Parent Custodian and Parenting Time Offset

- 3.03(B) and 4.01(D)
- Clarified that PTO does *not apply* to nonparent custodian calculations

## SPOUSAL SUPPORT

### Spousal Support 2.07(A)

- Clarified alimony/spousal support to align with 2017 tax law changes

### 2021 MCSF Language

- 2.07(A): slight language change in recognition of changing tax treatment – but basic tenets did not change

### Child Support Application

- Spousal support paid is *only* deducted from income for child support purposes if it is paid in a case other than the one under consideration
- Spousal support received is only included in income for child support purposes if it is received in a case other than the case under consideration

# CHANGES

## Changed Deviation Reasons

- Removed Incarceration
- Changed administrative efficiency threshold

## Added reasons for removing Ordinary Medical Expenses

- Removed "In rare circumstances" Incapacitation
- Out-of-pocket costs covered by employer-paid benefits (e.g., HRA)

## Health Care Changes

- Coverage types
- "Accessible" defined

## Incapacitated Section

- Defines
- Use of prospective language

# ADDITIONAL CHILDREN 2.08(B)

## Increased the additional child adjustment

- In order to preserve funds to support additional kids, the adjustment was increased 2%-6% depending on the # of additional kids

Additional Children		
Number of Children	New Percentage	Old Pct
1	83%	85%
2	75%	77%
3	68%	72%
4	64%	69%
5 or more	60%	66%

## DEVIATION REASONS

Removed  
Incarceration  
as reason to  
deviate

- 1.04(E)(7)
- Removed because of later additions related to incapacitation

Changed  
Administrative  
Cost Threshold

- 1.04(E)(19)
- Increased threshold to \$20
- (Not a minimum order)

## ADDITIONAL MEDICAL EXPENSE EXCEPTIONS 3.04(B)(3)

Two *new* exceptions when a court may order all medical expenses as “additional” and removed “in rare circumstances” language from application

An incapacitated payer’s base support obligation is set at zero (4.02)

Recipient has employer-paid benefit (e.g., health reimbursement arrangement) that pays the recipient’s initial out-of-pocket expenses for the children

## Health Care Coverage Updated for Statutory Change MCSF 3.05

Public coverage is an alternative means to meet the requirement to provide coverage

“Accessible” coverage defined 3.05(A)(3)

Clarifies when *both parties* may be ordered to provide coverage 3.05(B)(1)(b)

Updated MCSF-S 3.02 for Determining Which Parent Should Provide Coverage

## INCAPACITATED PARENT

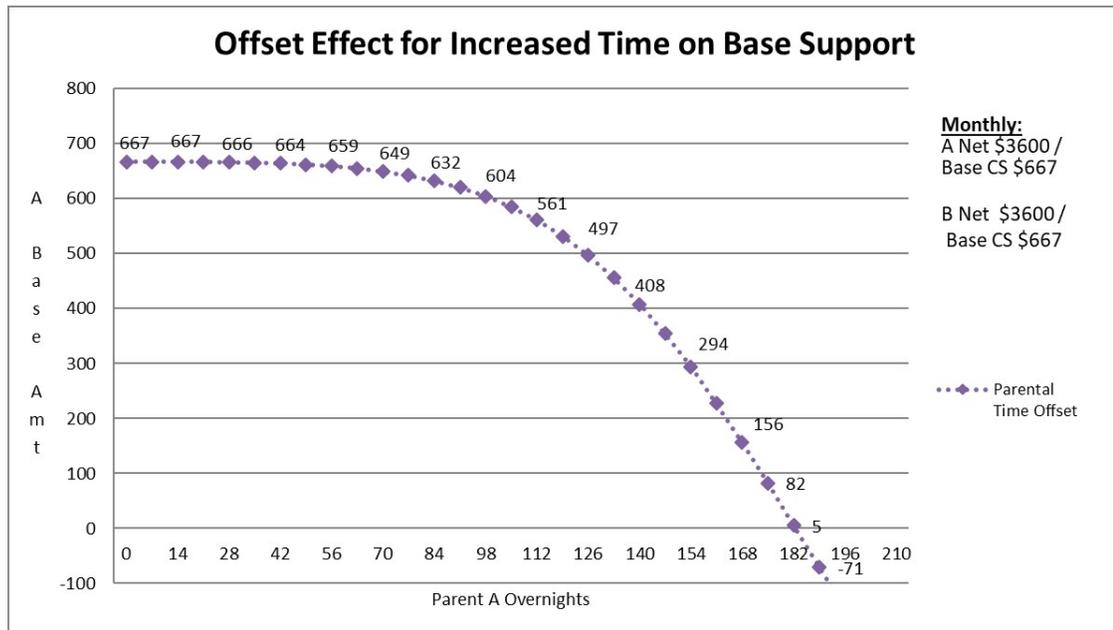
### New Section

- 4.02 added to cover incapacitated parent issues

### Defined

- The **inability to pay** the ordered support obligation **caused by** a parent being temporarily or permanently **unable to earn an income** for a **period that will likely last 180 days or longer** and **due to disability, mental incompetency, serious injury, debilitating illness, or incarceration.**

3.03(D) The following graph demonstrates the balancing effects the Parental Time Offset has on a parent’s base support obligation as the child spends more time with one parent.



### 3.04 Adjusting Incapacitated Parents’ Obligations

3.04(A) Temporary orders may set an appropriate payment amount based on the present ability to pay, and adjust the charges when a future outcome is known. 2021 MCSF 4.02.

3.04(B) Because incapacitation indicates that a parent’s ability to pay has substantially changed to the extent that the support order may need modification, the friend of the court office should quickly initiate a review of the child support obligations pursuant to [MCL 552.517\(1\)\(f\)](#). The FOC office may initiate a review when the incapacitation could last less than 180 days or when the length of incapacitation is difficult to determine.

(1) The office is not required to conduct a review when:

- (a) An incapacitated payer’s support order is set at zero,
- (b) The payer has documented assets or a source of income that could be used to comply with the order, or
- (c) The support order contains prospective language that abates support for periods when a payer is incapacitated.

(2) In addition to reviewing an order when a parent becomes incapacitated, the friend of the court office should conduct a review when the parent’s financial circumstances change (e.g., social security, insurance, settlements, proceeds from lawsuits, returns to work, etc.), or when a payer is released from incarceration.

3.04(C) A time when a payer is incarcerated does not depend on being sentenced to 180 days confinement or more. When a payer is arrested and held without bail in county jail, it is hard to know whether the payer will be released by posting bail, convicted and sentenced to many years in prison, or acquitted. Consider a parent to be incapacitated if the circumstances appear likely that the payer will be unable to earn an income for a period that will likely last 180 days or longer and due to incarceration.

3.04(D) It is often difficult to predict the time it will take a person to recover when the parent is involved in an accident and suffers a serious injury or broken bones. That parent may be unable to work for several months, or be permanently disabled. Consider a parent to be incapacitated if it appears likely that the condition will cause the parent to be unable to earn an income for a period that will likely last 180 days or longer due to disability, mental incompetency, serious injury, debilitating illness, etc.

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# Incapacitated Parent

<p>Court may set support obligation to zero for periods of incapacitation</p>	<p>Orders should include prospective language – allows for quicker relief if an incapacitating event occurs</p> <ul style="list-style-type: none"><li>• Suggested language available in MCSF-S</li></ul>	<p>Use temporary orders that remain modifiable during the period of uncertainty (i.e. retroactive benefits)</p>	<p>MCSF-S 3.04 added to provide additional context and examples to this issue</p> <ul style="list-style-type: none"><li>• Also added to MCSF-S 3.01 as substantial change in circumstance requiring a review</li></ul>
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## QUESTIONS