



**Department of
Job and Family Services**

Ted Strickland, Governor
Douglas E. Lumpkin, Director

June 30, 2009

The Honorable Bill Harris
President, Ohio Senate
Statehouse, Room 201
Columbus, Ohio 43215

The Honorable Armond Budish
Speaker, Ohio House of Representatives
77 South High Street, 14th Floor
Columbus, Ohio 43215

Dear President Harris and Speaker Budish:

I am pleased to present to you the final report of the fifth Child Support Guidelines Advisory Council. The Ohio Department of Job and Family Services convened the Council in accordance with Section 3119.024 of the Ohio Revised Code. The Council assisted the Department in reviewing whether the guidelines adequately provide for the needs of children subject to Ohio child support orders.

An interim report of the Council with seven recommendations was issued in March of this year. The final report contains the same seven recommendations, six additional recommendations, and the results of an economic study.

During the review the Council and the Department confronted several significant issues: consumer prices have increased 50% since the basic child support schedule was last updated fifteen years ago; noncustodial parents have consistently advocated for a parenting time adjustment; and the implementation of new federal medical support regulations has proven to be a challenge for CSEAs and courts. The Department relied heavily upon the Council members' professional experiences and observations, public input at the Council forums, research and analysis of economic data, as well as a review of the work of previous Guidelines Advisory Councils.

I wish to thank the members of the Council for their time and dedication in assisting the Department with this review.

Sincerely,

Douglas E. Lumpkin, Director

30 East Broad Street
Columbus, Ohio 43215
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Ohio

**Department of
Job and Family Services**

Report to the General Assembly

Ohio's Child Support Guidelines

Presented by:

Douglas E. Lumpkin, Director
Ohio Department of Job and Family Services

Respectfully Submitted to:

The Honorable Bill Harris, President
Ohio Senate

and

The Honorable Armond Budish, Speaker
Ohio House of Representatives

June 2009

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Ohio

Department of Job and Family Services

Ted Strickland, Governor

Douglas E. Lumpkin, Director

June 30, 2009

Mr. Douglas E. Lumpkin, Director
Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
Columbus, Ohio 43215

Dear Director Lumpkin:

Ohio is required to review the basic child support schedule every four years to determine whether child support orders issued in accordance with the schedule and associated worksheets adequately provide for the needs of children. Ohio convenes a Child Support Guidelines Advisory Council to assist with this review.

With great respect, the fifth Ohio Child Support Guidelines Advisory Council submits this final report. This report incorporates the recommendations and findings of the interim report submitted in March 2009.

The Council's report contains a comprehensive set of recommendations to address complex, challenging issues facing the child support program. Members of the Council included legislators, judges, magistrates, attorneys, county professionals, association members, those who pay child support, and those who receive child support. The group invested countless hours into the project, and their dedication to the children and families of Ohio is much appreciated. We believe that the networks developed within the Council will continue to be valuable, even now, after the Council has completed its work.

The Council believes that the recommendations, if implemented, will result in an improved system that meets the needs of children who are subject to child support orders.

Again, we thank the members of the Council for their work and thank the Department for the opportunity to assist in the review. We are honored to have contributed to this effort.

Sincerely,



Carri Brown, Co-Chair

2009 Child Support Guidelines Advisory Council



David Fleischman, Co-Chair

2009 Child Support Guidelines Advisory Council

Introduction

2009 Child Support Guidelines Advisory Council

Members, Alternates, and Contributors Roster

Benjamin Anderson – Ohio Department of Job and Family Services, Office of Child Support
Carri Brown * – Ohio Department of Job and Family Services, Office of Child Support
Dan Cade * – Hamilton County Child Support Enforcement Agency
Sarah Fields – Montgomery County Child Support Enforcement Agency
Phyllis Carlson-Riehm – Action Ohio Coalition for Battered Women
David Fleischman * – Ohio Department of Job and Family Services, Office of Child Support
Valerie Fletcher - Ohio Department of Job and Family Services, Office of Child Support
Elisa Geig – Ohio Department of Job and Family Services, Office of Legislation
Elaine Hagen – Ohio General Assembly, Representative Harwood's Office
Rod Hamilton * – Warren County Child Support Enforcement Agency
Representative Sandra Harwood * – Ohio General Assembly
Lakeisha Hilton * – Ohio Department of Job and Family Services, Office of Legislation
Senator Jim Hughes * – Ohio General Assembly
The Honorable Jim James – Stark County Family Court
Steve Killpack * – Community Endeavors Foundation
Debbie Kline * – Association for Children for Enforcement of Support (ACES)
Magistrate Odella Lampkin-Crafter * – Franklin County Court of Common Pleas
Kelly Malone – Legal Aid Society of Southeast Ohio
Ashley McDonald – Ohio General Assembly, Senator Joy Padgett's Office
James McDonald – Six County, Inc.
Laura Morgan – Family Law Consulting
Kim Newsom-Bridges * – Ohio CSEA Directors' Association
David Nist – Stark County Family Court
Senator Joy Padgett * – Ohio General Assembly
Pat Pekar * – Scioto County Child Support Enforcement Agency
Trudy Rammon – Ohio Department of Job and Family Services, Office of Legislation

Bill Rickrich – Licking County Domestic Relations Court

Amy Roehrenbeck – Ohio CSEA Directors' Association

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Senator Shirley Smith * – Ohio General Assembly

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Tom Taggart * – Ohio State Bar Association

Todd Thatcher – Ohio General Assembly, Representative Jeff Wagner's Office

Representative Jeff Wagner * – Ohio General Assembly

** Indicates voting member*

Summary

On March 1, 2009, the 2009 Child Support Guidelines Advisory Council submitted an interim report to the Director of the Ohio Department of Job and Family Services (ODJFS). The interim report contained seven recommendations, all of which are incorporated into this final report of the Council. The final report also includes the results of the economic study which was completed after submission of the interim report.

The statutorily mandated make-up of the Council resulted in a wide ranging analysis of the child support guidelines and related matters. The Council includes not just child support professionals, judges, and legislators, but also child support obligees and obligors. Each constituent representative brings a unique perspective to the Council and necessarily drives the Council to a holistic view of the guidelines; conversely, no single issue brought to the Council is viewed through the eyes of a sole interest group. Therefore, the support for any one council recommendation was often predicated on the passage of another, and the success of one recommendation is often dependent on the success of another. Ultimately, the discussions and negotiations of the Council have resulted in a series of inter-connected recommendations which, if fully adopted and implemented as a whole, will have a greater impact than the sum of the constituent parts.

The 2009 Council confronted several significant issues: consumer prices have increased 50% since the basic child support schedule was last updated fifteen years ago; noncustodial parents have consistently advocated for a parenting time adjustment; and the implementation of new federal medical support regulations has proven to be a challenge for CSEAs and courts. The Council addressed these and other issues based on members' professional experiences and observations, public input, research and analysis of economic data, as well as a review of the work of previous Guidelines Advisory Councils.

History

Effective October 1, 1987, federal regulations required each state to establish guidelines for child support awards as a condition of approval of the state's child support program plan. As a result of the federal mandate, on October 1, 1987, the Ohio Supreme Court issued the state's first child support guidelines in Supreme Court Superintendence Rule 75.

The Federal Family Support Act of 1988 expanded the federal child support guidelines requirement. Effective October 1, 1989, any child support obligation calculated pursuant to the child support guidelines is rebuttably presumed to be the correct amount of child support due. The Federal Family Support Act of 1988 also mandated that every four years, each state must conduct a review of its child support guidelines to ensure that application of the guidelines continues to result in appropriate child support award amounts.

On April 12, 1990, the Ohio Supreme Court repealed Rule 75 to coincide with the effective date of Amended Substitute House Bill 591, which was passed by the 118th General Assembly. The child support guidelines became law as part of section 3113.215 of the Revised Code; later recodified in Chapter 3119 of the Revised Code.

Mission

In accordance with section 3119.024 of the Revised Code, ODJFS is required to review Ohio's basic child support schedule every four years to determine whether child support orders issued in accordance with the schedule and worksheets adequately provide for the needs of the children who are subject to the child support orders. For each review, ODJFS is required to establish a Child Support Guideline Advisory Council to assist in the completion of the review and a subsequent report which is submitted to both houses of the General Assembly.

Membership

Ohio law requires the Child Support Guidelines Advisory Council to consist of:

- Child support obligors
- Child support obligees
- Judges of courts of common pleas who have jurisdiction over domestic relations cases
- Attorneys whose practice includes a significant number of domestic relations cases
- Representatives of child support enforcement agencies
- Other persons interested in the welfare of children
- Three members of the Senate appointed by the President of the Senate (no more than 2 from the same party)
- Three members of the House of Representatives appointed by the Speaker of the House (no more than 2 from the same party)

ODJFS recruited members for the 2009 Child Support Guidelines Advisory Council consistent with the statutory requirement found in section 3119.024 of the Revised Code. Unlike previous years, the Council had the most trouble recruiting child support obligees for the Council. The Council made every attempt to solicit input from obligees and routinely sent materials to an obligee advocacy organization.

Public Feedback Efforts

The Guidelines Advisory Council sought feedback and input from the community at large by conducting public forums across the state, by providing a website for public comments, and by inviting interested individuals to address the Council. During each community forum, the Council provided an overview of the guidelines, the history of the child support program, and the overall purpose of the Council. There were numerous issues discussed during the community forums. These issues were often linked with the child support guidelines, such as how child support is calculated when there are multiple families with children involved, how the credit for child care costs is calculated, the need for adjustments to the child support obligation based on parenting time, the treatment of low income obligors, and the imputation of income, taking into account estimated or potential income. Participants were asked to provide input or feedback in any way they felt comfortable. Formal testimony was accepted, as were suggestions placed in a private suggestion box. In addition to the community forums, parents and stakeholders had the opportunity to provide input and feedback on-line. A website was available for written comments for four months. The Council's report includes the input and feedback received from the community forums.

Deviation Study

The Council initiated a study to determine how frequently courts are deviating from the basic child support schedule and identify statewide trends utilizing the deviation criteria described in the section 3119.23 of the Revised Code. Nine child support enforcement agencies participated in the study by completing a review of every new or modified child support order received within a four week period. The results of the deviation study can be found in Appendix B.

Economic Study

As part of the State's guidelines, the State must consider economic data on the cost of raising children and analyze case data on the application of, and deviations from, the guidelines. The guidelines (per 45 CFR 302.56) must, at a minimum:

- Take into consideration all earnings and income of the non-custodial parent;
- Be based on specific descriptive and numeric criteria and result in a computation of the support obligation;
- Provide for the child(ren)'s health care needs through health insurance or other means.

In July of 2008, ODJFS issued a Request for Proposals for an economic study and no responses were received. An additional Request was issued in August of 2008 and no responses were received. A single source contract was then pursued with an independent contractor who had previous experience in conducting the study. The contract with the economist was finalized in January 2009, and the Council was presented with a final report from the economist in April 2009.

At the request of the Council, the economist calculated a new basic child support schedule using US Department of Agriculture methodology utilizing the most current economic data available. The economic study contains a comparison of the economic assumptions that underlie the existing basic child support schedule and the assumptions provided by the Council for creating a new schedule; a comparison of methodologies for calculating the basic child support schedule; a justification for adjusting the housing expenditure figures; and an updated basic child support schedule.

Recommendations

The final report of the Council contains the recommendations that were part of the interim report, as well as new recommendations that were approved after submission of the interim report. The final report contains a set of comprehensive and interconnected recommendations, all of which are intended to ensure that Ohio's child support guidelines adequately provide for the needs of the children who are subject to child support orders. The recommendations made by the Council are closely related, and support for any one recommendation was often predicated on the passage of another. For example: The Council had concerns about the impact of higher support obligations resulting from an updated basic child support schedule. Support for the update was dependent upon the passage of two other recommendations: the parenting time adjustment and the self support reserve. The 8.75% standard parenting time adjustment will offset a portion of the increase in the schedule amounts, and the self-support reserve test will prevent obligors that are at or near the poverty level from being disproportionately impacted by the increase. Thus, the "sticker shock" of updating the schedule is offset by other recommendations made by the Council.

In a few instances below the Department has included comments based on the review within the Department of the substance of the recommendations.

Executive Summary of Approved Recommendations

Local Tax Adjustment and Work Related Deductions

The adjustment for local taxes has a negligible effect on the final obligation and should be removed. Work-related deductions should be extraordinary in nature and should be identified as a potential reason for a deviation from the presumptive child support obligation.

Imputing Income

Clarify what income should be excluded from the support calculation and under what circumstances the court or support enforcement agency may not impute income to an individual.

Deviation Factors

Improve the application of deviations in child support cases by clarifying the existing deviation factors and simplifying the standard for granting a deviation.

Multiple Support Orders for the Same Family

When multiple child support orders exist for children of the same parents, the aggregate child support order amount should not exceed the amount that would have been ordered if all children had been addressed in the same child support order and at the same time.

2% Processing Charge

Clarify that the processing charge is to be imposed upon the child support order and should not be part of the child support worksheet.

Administrative Review of Court Ordered Deviations

During an administrative review and adjustment of a child support order, the support enforcement agency should assume that the grounds for any previously granted deviations are ongoing and do

not require an adjustment. Parties wishing to object to the findings may appeal directly to the court.

Amendments to Credits for Other Support Obligations

Each parent should be given a credit equal to one-half of the federal income tax exemption for each child the parent has a duty to support.

ODJFS Comment

Currently, the Revised Code provides for a credit for child support paid on one case when support is being established on another. The rationale is that an individual's existing child support obligation has a significant impact on the obligor's income and ability to pay on another case. The Council raised issues of fairness with the credit: Why a credit for support paid and not support owed? Does the credit harm the second child by reducing the obligor's income? Will the courts see an increase in the number of requests for deviations based on the change to the credits? In response to these concerns, the Council recommended removing the credit altogether.

In addition to removing the child support credit, the Council has made a recommendation concerning the amount of the standard credit for each child that the parent has the duty to support. Currently, there is a credit for the entire income tax exemption amount for each child the parent has a duty to support. The Council has recommended reducing the credit to one-half of the income tax reduction amount.

While the intent of the Council is to bring equity in the allocation of income credits, the reduction and removal of credits could have the effect of overstating an individuals actual ability to pay all of their support obligations. As noted below in the discussion of actual versus estimated health insurance costs, ODJFS believes that when actual cost data can be gathered without undue burden, and the use of the actual data will result in an obligation crafted to the actual circumstances of the parents, actual data should be used.

Update the Methodology and Economic Assumptions of the Basic Child Support Schedule

The basic child support schedule should be updated with the most current economic data using the USDA methodology for estimating actual expenditures.

ODJFS Comment

The Department recognizes the interdependence of the recommendations for the schedule update, the self-support reserve, minimum support obligations, and parenting time adjustments. Each of these recommendations should be considered in light of the others.

Periodic Updates of the Basic Child Support Schedule via Rule

The updated basic child support schedule should be adopted into the Ohio Revised Code and ODJFS should be given rule-making authority to update the schedule every four years using US Department of Agriculture methodology.

Minimum Child Support Orders

The statutory minimum child support order should be adjusted to reflect an amount consistent with the increase in the federal poverty level, and child support enforcement agencies should be authorized to issue minimum child support orders.

ODJFS Comment

The recommendation for an increase in minimum child support orders to keep pace with price level changes is consistent with the other recommendations of the Council.

Medical Support

Medical support obligations should be based on a separate schedule of medical support obligations which are based on USDA estimates for health care expenditures.

ODJFS Comment

Federal law requires that the cost of health care for children be incorporated into any support obligation. To accomplish this, Ohio's child support guidelines produce three ordered payments: two ordered child support payments (one that is only paid when health insurance is provided with a credit for that cost, the other that is only paid when it is not provided) and one cash medical support payment. Cash medical support is only actually paid when health insurance is not provided for the child. Implementation of this policy (which began in Summer 2008) has proven challenging for all concerned largely because of the complexity resulting from the three obligation amounts.

Although the Council intended to simplify the current process by adopting a methodology that will produce only two ordered payments, the recommendation of the Council will actually result in three ordered payments: one for child support, one for the ongoing monthly health care costs other than insurance (estimated uninsured expenses); and another to cover the costs of health insurance premiums when health insurance is not provided by the obligor (estimated health insurance expenses). From the State's perspective, the method recommended by the Council will be costly to implement and difficult to administer. Significant resources would have to be committed to handling both medical support obligations in SETS. **ODJFS does not support the recommendation of the Council without revisions similar to those described below.**

ODJFS has determined that compliance with federal law can be achieved with two ordered payments: one for child support, and one for cash medical support that covers only the estimated costs of health insurance. This result is achieved by limiting cash medical support to the payment of estimated health insurance expenses. Estimated uninsured expenses are addressed in the basic child support obligation which contains \$100 annually for these expenses. Therefore, revisions similar to the following should be made to the first paragraph of the Cost Estimates section of the Council's recommendation:

A second method for simplifying the worksheets and arriving at two ordered payments is to adopt a second schedule based on the US Department of Agriculture (USDA) health care expenditure estimates. The individual carrying health insurance will receive a 50% credit equal to 50% of the for combined medical support obligation ~~USDA estimated health care expenditures~~ when

providing health insurance coverage. A single child support obligation amount would be paid when health insurance is being provided. When health insurance is not being provided there is no credit and the obligor would pay their proportionate share of the amount estimated health insurance costs drawn from the basic child medical support Schedule C. Using USDA estimates for health care expenditures in this way is analogous to the manner in which other expenditures (except day care) are currently estimated and rolled into the basic child support schedule. The guidelines would result in a child support figure and a medical support figure representing the obligor's proportionate share of the estimated health insurance costs ~~portion and the total medical support portion of the estimated medical support figure~~ from the medical support schedule.

The Department also has concerns about the effect of the Council's decision to rely solely on estimated health care expenditures in the calculation of the support obligation, and to no longer provide credit for *actual* health insurance costs. The actual information is still relevant to the process. Parties will have to continue to provide proof of actual health insurance costs so that the court or CSEA may determine whether or not it is reasonable to order a party to carry health insurance. Since the actual cost information will have to be made available it seems counter-intuitive to use an estimate.

Currently, an obligor's child support is adjusted downward when that individual's actual health insurance costs exceed his or her proportional share of the cost of the insurance. The reliance on estimated data will result in some obligors experiencing a reduction in net pay whenever the actual cost exceeds estimated cost because the health insurance premiums will continue to be deducted from the obligor's paycheck and the child support obligation will not have been reduced to reflect a credit for the actual insurance cost.

The Department will continue to work with stakeholders to exchange ideas about options for improving the medical support process. At the same time it is important to move forward with other recommendations made by the Council which directly impact families. As noted in the introduction to this section of the Report it appears that the council successfully negotiated a consensus based on the adoption of four interdependent issues: updating the basic child support schedule, creation of a self-support reserve for low income obligors, updating the minimum child support obligation, and the creation of a parenting time adjustment.

Self Support Reserve

There should be a test to determine the noncustodial parent's ability to meet the support obligation and maintain their ability to support themselves. When the obligor's gross income is at or below the federal poverty level, the child support obligation should be adjusted downward.

ODJFS Comment

The Department, along with the Council, has actively listened to concerns expressed at various public forums by parents regarding the ability of low-income noncustodial parents to pay child support. A noncustodial parent should be able to meet basic necessities of life or retain income at a subsistence level of support, equal to 100% of the federal poverty guidelines. Child support orders that are set too high relative to low-income obligors' ability to pay contribute to child support arrears and, unfortunately, child

support debt can drive a wedge between a parent and child. There is a national trend for states' guideline formulas to rely on a "self-support reserve" to meet basic living expenses of a noncustodial parent before a child support obligation is determined. It is important that the basic child support schedule be updated to reflect price changes since 1992 (the last time the tables were updated) and we must also ensure that low income families are not disproportionately impacted by the change. **The recommendation of the Council is a reasonable approach and is supported by the Department.**

Parenting Time Adjustment

The noncustodial parent should retain a portion of the annual obligation when exercising court ordered parenting time. There should be a standard adjustment for those cases with standard parenting time orders and a more significant adjustment for those cases that involve a shared parenting order.

ODJFS Comment

The recommendation has two components: an 8.75% adjustment for cases where there is a standard parenting-time order (the noncustodial parent has the child less than 40% of the time) and a more significant adjustment for those cases that involve a shared parenting order (the noncustodial parent has the child between 40-60% of the time).

Obligor advocacy groups have taken a particular interest in the adjustment for shared parenting orders. Some obligors question the methodology used to determine the adjustment in shared parenting cases. The Council heard presentations from the obligors before passing a recommendation and reconsidered part of the approved methodology based on obligor feedback. Nevertheless, there is still concern within the obligor community about the recommendation of the Council. It was suggested that the Council should implement a methodology that explicitly ties expenses to parenting time. The Council did not feel there was sufficient evidence to substantiate this action. In spite of the issues some have, the methodology proposed by the Council will achieve the goal of allowing the noncustodial parent to retain a portion of the support obligation when exercising court ordered parenting time.