

CHANGES IN CHILD SUPPORT GUIDELINES

POLK COUNTY BAR ASSOCIATION SUMMER GENERAL PRACTICE SEMINAR

June 21, 2013
Des Moines, Iowa

**The Honorable Eliza Ovrom
Judge, 5th Judicial District of Iowa
Polk County Courthouse
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CHILD SUPPORT GUIDELINES – UPDATES AND REVISION

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I. Introduction

- A. Mandatory review every four years.
- B. Iowa Supreme Court established committee in June of 2012.
 - 1. Compare Iowa child support obligation to surrounding states.
 - 2. Analyze data on number of deviations.
 - 3. Consider economic data which measures child-rearing expenditures in relation to family income.

PRACTICE POINTER: The report of the Iowa Child Support Guidelines Review Committee (2012) can be found on the Iowa Judicial Branch web site (www.iowacourt.gov) under “Reports.” This report discusses the changes to the Child Support Guidelines, and gives examples of scenarios where the guidelines amendments would apply.

II. Support Amounts

- A. Schedule of Basic Support Obligations. Rule 9.26.
 - 1. Updated using Betson-Rothbarth updated measurements. (BR-3)
 - 2. Updated to 2012 price levels.
 - 3. Assumes 2012 Federal poverty levels.
 - 4. Reflects 2012 Iowa minimum wage.
- B. Expanded low income adjustments – Rule 9.3(2).
 - 1. Policy decision.
 - 2. Self support reserve = shaded area of schedule. Use only payor’s income.
 - 3. Adjusted to reflect 2012 federal poverty level of \$931 per month net income for one person.
- C. The “Notch Effect” – Rule 9.3(2)(a).
 - 1. The problem: precipitous drops in child support amounts when transitioning out of the shaded area to area where combined income.

- a. someone with lower income pays more child support than someone with higher income.
- b. example:
NCP \$1,550 per month
CP \$4,150 per month
CS \$320

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But if:

Combine Incomes: \$5,700
Basic support obligation of \$1,072
NCP 27.19 percent or \$291

2. Recommendations.

- a. Two shaded areas – A and B.
- b. Do one calculation of income in area A.
- c. Do two calculations if income in area B.
 - i. One calculation using NCP's income.
 - ii. One calculation combining incomes of both.
- d. Compare the two figures. Lower amount is used.

D. High Income Parents.

- 1. Increase maximum amount of combined monthly incomes from \$20,000 to \$25,000.
- 2. Combined incomes above \$25,000 – sound discretion of court or agency but no less than support amount for combined incomes of \$25,000.

E. Minimum Support Obligation.

- 1. Consensus that \$10 too low.
- 2. Recommended increasing to \$30 for one and \$50 for two or more.

III. Income.

A. Imputing income – Rule 9.11(4).

- 1. Current language: “The court shall not use earning capacity rather than actual earnings unless a written determination is made that, if actual earnings were used, substantial injustice would occur or adjustments would be necessary to provide for the needs of the child or to do justice between the parties.”
- 2. Recommended including factors to consider regarding voluntary unemployment or underemployment without good cause when deciding whether to impute or use earning capacity.
- 3. Determining earning capacity.
 - a. employment potential/probable earning level.
 - b. work history.

- c. occupational qualifications.
 - d. prevailing job opportunities.
 - e. earning levels in the community.
 - f. other relevant factors.
4. Report includes a non-exclusive list of “other relevant factors.”

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- B. Overtime and second job income.
- 1. Issue: whether to limit the inclusion of this type of income.
 - 2. Recommended no changes to guidelines.
- IV. Deductions from Gross Income.
- A. Child care – Rule 9.5(10).
- 1. Retained actual child care expense deductions.
 - 2. Amended Rule 9.11(2) as follows:
“Adjustments may also be made based on the parties’ child care expenses necessitated by employment or education.”
- B. Student Loan Payments.
- 1. Most states do not specifically address student loans.
 - 2. Seen as voluntary payments akin to voluntary savings or payment of indebtedness - Rule 9.4.
 - 3. Not added as deduction.
- C. Mandatory Pensions and Occupational License Fees Rule 9.5(3) and (4).
- 1. Issue: is it fair to deduct mandatory pensions but not voluntary retirement plan contributions?
 - 2. Recommendation:
 - a. don’t eliminate but
 - b. limit deduction to current Social Security rate *and*
 - c. make available only to employees who do not contribute to Social Security.
 - 3. Occupational license fees added as a deduction.
- V. Medical Support – Rule 9.12 and 9.14.
- A. Recommended no change.
- 1. Except to make consistent with other changes to low income/shaded areas of schedule.
 - 2. New medical support table. Attached
- B. Step-parent provided health insurance.
- 1. Lack of uniformity when health insurance is provided by step-parent:

- a. prorated; or
 - b. ignored and cash medical support ordered; or
 - c. treated as satisfying obligation but not prorated.
2. Recommendation: if ordered to provide health insurance, may do so via a step-parent and no cash medical support ordered.

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3. Premium cost of step-parent provided insurance will be prorated unless a parent objects.

- C. Health insurance premium cost proration – Rule 9.14(5)(c).
 1. Issue: should a low-income parent have to pay a portion of the health insurance premium if his or her income falls in the low-income area of the chart?
 2. Recommended: changing the rule to clarify that there shall be no proration if the support obligation is in Area A of the schedule.

VI. Shared Parenting and Extraordinary Visitation Credit.

- A. Recommended: keeping the joint physical care calculation the same as in the current guidelines rather than using it in less than 50/50 shared cases.
- B. Extraordinary visitation credit – Rule 9.9.
 1. New minimum support order amount of \$30 and \$50.
 2. EVC shall not reduce support below these minimums.
- C. Uncovered medical expenses in joint physical care.
 1. Current rule (9.12(5)) does not address the “first \$250 of uncovered medical expenses” in joint physical care cases.
 2. Recommendation: eliminate the threshold and require parents to shall all uncovered medical expenses in proportion to their respective incomes.

VII. Miscellaneous.

- A. Grids.
 1. Adjusted monthly income grid - Rule 9.14(1). Attached
 2. Basic and joint physical care computation grids – Rule 9.14(2) and (3). Attached
- B. Worksheets – Rule 9.27. Form 1 Attached
- C. Outreach activities.
 1. Public comments suggested the court provide public education on the guidelines.

2. Recommendation: Supreme Court consult with stakeholders to develop a pamphlet or brochure on the theory behind the child support guidelines to be distributed:
 - a. Children in the Middle courses.
 - b. posted online on the Iowa Judicial Branch website.