

# 2021 Michigan Child Support Formula Manual

Effective: January 1, 2021



State Court Administrative Office  
Friend of the Court Bureau  
Lansing, Michigan

# **2021 Michigan Child Support Formula Manual**

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State Court Administrative Office  
Michigan Hall of Justice  
P.O. Box 30048  
Lansing, MI 48909

<http://courts.mi.gov/mcsf>

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**List of Major Changes**

<b>MCSF Section</b>	<b>Change</b>
1.04(E)	Deleted incarceration deviation reason due to addition of incapacitation section.
1.04(E)	Increased administrative cost deviation threshold to \$20.
2.01(C)(6)	Clarified handling of capital gains.
2.01(E)(4) (e)	Clarified use of straightline depreciation.
2.01(G)	Updated potential income language to include new federal regulation requirements, and to follow existing caselaw.
2.01(I),(J),(K)	Clarified handling of dependent benefits.
2.07(A)	Updated Alimony/Spousal Support for Tax Cuts and Jobs Act changes.
2.08	Increased adjustment for Additional Children.
3.03(B)	Clarified parental time offset does not apply to nonparent custodian calculations.
3.04	Added two new exceptions when a court may permit handling all medical expenses as “additional medical expenses.”
3.05	Updated Health Care Coverage for statutory changes.
3.05	Clarified Dependent Benefit Credit limited to benefits counted as payer income.
4.01(D)	Clarified parental time offset does not apply to nonparent custodian calculations.
4.02	Added new Incapacitated Parent section.
<b>Supplement</b>	Update tables and schedules for economic changes.
S-3.01	Added incapacitated parent as a substantial change warranting a support review.
S-3.02	Updated section on determining which parent should be ordered to maintain coverage.
S-3.04	Added new Adjusting Incapacitated Parents’ Obligations section.
S-3.05	Added new Crediting Government Insurance Program Dependent Benefits section.

## 1. BACKGROUND

### 1.01 Statewide Child Support Guideline

- 1.01(A) Michigan’s child support guideline (also known as the “formula”) consists of this manual and its most current supplement.
- 1.01(B) Except as otherwise permitted by [MCL 552.605](#), courts must order child support in the amount determined by applying this formula. Unless rebutted by facts in a specific case, the law presumes that this formula (or “guideline”) sets appropriate levels of support.
- 1.01(C) The periodically updated supplement to this manual contains the most current economic figures and materials related to the formula.
- 1.01(D) To verify that you have the most current materials, or to find additional guidance on using this manual, please check the Michigan Child Support Formula’s official website at <http://courts.mi.gov/mcsf>.

### 1.02 Support

- 1.02(A) A child support obligation includes payment for the general care and needs of a child (base support calculated in §3.02 – §3.03), medical support (§3.04– §3.05), and child care expenses (§3.06).
- 1.02(B) Support amounts should be rounded to the nearest whole dollar.
- 1.02(C) To avoid recalculating support each time the number of children for whom support is paid changes, support provisions for multiple children must include tiered amounts for fewer children. When a support order is for several children, unless it specifies an amount for a particular child, each child’s share of the support obligation is that child’s per capita share of the ordered amount.
- 1.02(D) The formula establishes the support obligations for both parents:
  - (1) A paying parent’s contribution for a child’s expenses will be established in a support order.
  - (2) A recipient-parent is presumed to contribute directly to a child’s support.

### 1.03 Citation

- 1.03(A) References to this manual should include the manual year cited, and the specific provision being referenced. The manual’s title may be abbreviated as “MCSF.” For example, this subsection could be cited as “2021 MCSF 1.03(A).”
- 1.03(B) References to material contained in the supplement to this manual should specify the year of the supplement cited and the provision being referenced. The supplement may be abbreviated as “MCSF-S.”

### 1.04 Deviation from the Formula

- 1.04(A) When applying the formula would lead to an unjust or inappropriate result, the court may exercise its discretion, and, on a case-by-case basis, deviate from the formula and determine a more appropriate support amount. Deviations cannot be based solely on disagreement with the policies embodied in the formula.

See: [MCL 552.605](#), *Ghidotti v Barber*, 459 Mich 189 (1998), and *Burba v Burba*, 461 Mich 637 (2000).

1.04(B) When a court decides to deviate, it should still follow the formula except for the provisions that create an unjust or inappropriate result in that case.

- (1) When entering an order that deviates from the child support formula, the court must record (a) its reasons for finding that the formula would produce an unjust or inappropriate result, as well as (b) the information required by [MCL 552.605\(2\)](#). *Burba v Burba*, 461 Mich 637, 644-45 (2000).
- (2) Friend of the court recommendations that deviate from the formula must comply with the requirements in [MCL 552.505\(1\)\(h\)](#).

1.04(C) Agreements to Deviate

[MCL 552.605\(3\)](#) permits the court to enter orders that deviate from the formula based on an agreement of the parties, so long as the court also satisfies all the requirements of [MCL 552.605\(2\)](#).

1.04(D) In exercising its discretion to deviate, the court may consider any factor that it determines is relevant.

1.04(E) Deviation Factors

Strict application of the formula may produce an unjust or inappropriate result in a case when any of the following situations occur:

- (1) The child has special needs.
- (2) The child has extraordinary educational expenses.
- (3) A parent is a minor.
- (4) The child's residence income is below the threshold to qualify for public assistance, and at least one parent has sufficient income to pay additional support that will raise the child's standard of living above the public assistance threshold.
- (5) A parent has a reduction in the income available to support a child due to extraordinary levels of jointly accumulated debt.
- (6) The court awards property in lieu of support for the benefit of the child (§4.04).
- (7) A parent has incurred, or is likely to incur, extraordinary medical expenses for either that parent or a dependent.
- (8) A parent receives bonus income in varying amounts or at irregular intervals.
- (9) Someone other than the parent can supply reasonable and appropriate health care coverage.
- (10) A parent provides substantially all the support for a stepchild, and the stepchild's parents earn no income and are unable to earn income.
- (11) A child earns an extraordinary income.
- (12) The court orders a parent to pay taxes, mortgage installments, home insurance premiums, telephone or utility bills, etc., before entry of a final judgment or order.

- (13) A parent must pay significant amounts of restitution, fines, fees, or costs associated with that parent's conviction or incarceration for a crime other than those related to failing to support children, or a crime against a child in the current case or that child's sibling, other parent, or custodian.
- (14) A parent makes payments to a bankruptcy plan or has debt discharged, when either significantly impacts the monies that parent has available to pay support.
- (15) A parent provides a substantial amount of a child's day-time care and directly contributes toward a significantly greater share of the child's costs than those reflected by the overnights used to calculate the offset for parental time.
- (16) A child in the custody of a nonparent-recipient spends a significant number of overnights with the payer that causes a significant savings in the nonparent-custodian's expenses.
- (17) The court ordered nonmodifiable spousal support paid between the parents before October 2004.
- (18) When a parent's share of net child care expenses exceeds 50 percent of that parent's base support obligation calculated under §3.02 before applying the parental time offset.
- (19) When the amount calculated does not exceed \$20, and the administrative cost to enforce and process payments outweighs the benefit of the minimal amounts.
- (20) Any other factor the court deems relevant to the best interests of a child.

## 2. DETERMINING INCOME

The first step in figuring each parent’s support obligation is to determine both parents’ individual incomes.

### 2.01 Income

- 2.01(A) The term “net income” means all income minus the deductions and adjustments permitted by this manual. A parent’s “net income” used to calculate support will not be the same as that person’s take home pay, net taxable income, or similar terms that describe income for other purposes.
- 2.01(B) The objective of determining net income is to establish, as accurately as possible, how much money a parent should have available for support. All relevant aspects of a parent’s financial status are open for consideration when determining support.
- 2.01(C) Income includes, but is not limited to, the following:
- (1) Wages, overtime pay, commissions, bonuses, or other monies from all employers or as a result of any employment (usually, as reported in the Medicare, wages, and tips section of the parent’s W-2).
  - (2) Earnings generated from a business, partnership, contract, self-employment, or other similar arrangement, or from rentals. §2.01(E).
    - (a) Income (or losses) from a corporation should be carefully examined to determine the extent to which they were historically passed on to the parent or used merely as a tax strategy.
  - (3) Distributed profits or payments from profit-sharing, a pension or retirement, an insurance contract, an annuity, trust fund, deferred compensation, retirement account, social security, unemployment compensation, supplemental unemployment benefits, disability insurance or benefits, or worker’s compensation.
    - (a) Consider insurance or other similar payments received as compensation for lost earnings, but do not count payments that compensate for actual medical bills or for property loss or damage.
    - (b) If a retired parent receives payments from an IRA, defined contribution, or deferred compensation plan, income does not include contributions to that account that were previously considered as the parent’s income used to calculate an earlier child support obligation for a child in this case.
  - (4) Military specialty pay, allowance for quarters and rations, housing, veterans’ administration benefits, G.I. benefits (other than education allotment), or drill pay.
    - (a) If the servicemember receives housing pay and supports another home (i.e. second residence), housing pay is not considered income to the individual.
  - (5) Tips, gratuities, royalties, interest, dividends, fees, or gambling or lottery winnings to the extent that they represent regular income or may be used to generate regular income.



- (6) Net capital gains are included as income. When attributable to a single event or year, or when cash may not be immediately available to the parent, consider them to the extent they can be used to represent income over several years. To the extent that a party proves that a portion of the capital gain was considered in the property division of the judgment of divorce between the parties, that portion should not be included as income.
  - (7) The standard (basic needs) portion of adoption subsidies for children in the case under consideration (do not consider the medical needs and intensive rate portion of the subsidy, nor the family support subsidy as income).
  - (8) Any money or income due or owed by another individual, source of income, government, or other legal entity. Income considered should usually meet the statutory definition found at [MCL 552.602\(o\)](#).
- 2.01(D) Income also includes the market value of perquisites (perks) received as goods, services, or other noncash benefit for which the parent did not pay, if they reduce personal expenses, and have significant value or are received regularly.
- (1) Common forms of perquisites (perks) or goods and services received in-kind include, but are not limited to: housing, meals, or room and board, personal use of a company business vehicle or mileage reimbursement, including use between home and primary worksite, and other goods or services.
  - (2) Perquisites (perks) do not include money paid by an employer for benefits like tuition reimbursement, educational cost reimbursement, uniforms, and health savings account (HSA) contributions.
- 2.01(E) Self-Employed Individuals, Business Owners, Executives, and Others
- (1) Difficulty in determining income for self-employed individuals, business owners, and others occurs for several reasons.
    - (a) These individuals often have types of income and expenses not frequently encountered when determining income for most people.
    - (b) Taxation rules, business records, and forms associated with business ownership and self-employment differ from those that apply to individuals employed by others. Common business documents reflect policies unrelated to an obligation to support one's child.
    - (c) Due to the control that business owners or executives exercise over the form and manner of their compensation, a parent, or a parent with the cooperation of a business owner or executive, may be able to arrange compensation to reduce the amount visible to others looking for common forms of income.
  - (2) In order to determine the monies that a parent has available for support, it may be necessary to examine business tax returns, balance sheets, accounting or banking records, and other business documents to identify any additional monies a parent has available for support that were not included as personal income.
  - (3) Whether organized informally, or as a corporation, a partnership, a sole proprietorship, or any other arrangement, these considerations apply to all forms

of self-employment and business ownership, as well as to business executives and others who may receive similar forms of compensation.

- (4) For purposes of this subsection, income includes amounts that were not otherwise included as income elsewhere in this chapter. Pay special attention to the following forms of compensation:
- (a) Distributed profits, profit sharing, officers' fees and other compensation, management or consulting fees, commissions, and bonuses.
  - (b) In-kind income or perquisites (§2.01(D)), gifts, free admission to entertainment, or personal use of business property. (Determine the value based on a fair market price, i.e., the price a person not affiliated with the business would pay).
  - (c) Redirected income, or amounts treated by the business or company as if the redirected amounts were something other than the parent's income. Amounts include, but are not limited to:
    - (i) Personal loans. Presume personal loans from a business are in fact redirected income, unless all the following are true: (1) the parent signed a contract or promissory note outlining the terms of the loan, (2) the business maintains records showing the loan owed as a receivable, (3) the parent makes installment payments and the present loan is paid current, and (4) the interest earned and repayment rate appear to be a reasonable business practice. Unless the presumption is overcome, a parent's income includes the difference between the amount the parent repays and a repayment amount for a similar commercially available unsecured personal loan.
    - (ii) Payments made to friends or relatives of the parent. If the business cannot demonstrate that the payments are equivalent to a fair market value payment for the work or services the friend or relative actually performs, include any amount that exceeds the fair market value as the parent's income.
  - (d) Reduced or deferred income. Because a parent's compensation can be rearranged to hide income, determine whether unnecessary reductions in salaries, fees, or distributed profits have occurred by comparing amounts and rates to historical patterns.
    - (i) Unless the business can demonstrate legitimate reasons for a substantial reduction in the percentage of distributed profits, use a three-year average to determine the amount to include as a parent's income.
    - (ii) Unless a business can demonstrate legitimate reasons for reductions (as a percentage of gross business income) in salaries, bonuses, management fees, or other amounts paid to a parent, use a three-year average to determine the amount to include as a parent's income.
  - (e) Deductions for Tax Purposes. For a variety of historical and policy reasons, the government allows considerable deductions for business-related expenses before taxes are calculated. Those same considerations are not

always relevant to monies a parent should have available for child support. Therefore, some deductions should be added back into a parent's income for purposes of determining child support, including:

- (i) Rent paid by the business to the parent, if it is not counted as income on that parent's personal tax return.
- (ii) Real estate depreciation should always be added back into a parent's income when calculating support.
- (iii) Depreciation on home offices and personal vehicles should be added back into a parent's income. Accelerated depreciation should be added back into a parent's income except that any parent who uses accelerated depreciation may deduct the value of the straight-line depreciation amount if the parent proves what the straightline amounts would have been.
- (iv) Home office expenses, including rent, hazard insurance, utilities, repairs, and maintenance.
- (v) Entertainment expenses spent by the parent. Legitimate expenses for customer's entertainment are allowable as deductions.
- (vi) Travel expense reimbursements, except where such expenses are inherent in the nature of the business or occupation (e.g., a traveling salesperson), and do not exceed the standard rates allowed by the state of Michigan for employee travel.
- (vii) Personal automobile repair and maintenance expenses.

2.01(F) Alimony and Spousal Support

- (1) Income includes alimony/spousal support paid by someone who is not the other parent in the case under consideration.
- (2) Alimony/spousal support paid between the parents in the case under consideration does not get deducted from its payer's income.

2.01(G) Potential Income

When a parent is voluntarily unemployed or underemployed, or has an unexercised ability to earn, income includes the potential income that parent could earn, subject to that parent's actual ability. Generally, do not consider incarceration as voluntary unemployment.

- (1) The amount of potential income imputed should be sufficient to bring that parent's income up to the level it would have been if the parent had not reduced or waived income.
  - (a) The amount of potential income imputed (1) should not exceed the level it would have been if there was no reduction in income, (2) not be based on more than a 40 hour work week, and (3) not include potential overtime or shift premiums.

- (b) Imputation is not appropriate where an individual is employed full time (35 hours per week or more, but has chosen to cease working additional hours (such as leaving a second job or refusing overtime). Actual earnings for overtime, second job, and shift premiums are considered income. §2.01(C)(1).
- (2) Use relevant factors both to determine whether the parent in question has an actual ability to earn and a reasonable likelihood of earning the potential income. To figure the amount of potential income that parent could earn, consider the following when imputing an income:
    - (a) Prior employment experience and history, including earnings history, and reasons for any termination or changes in employment.
    - (b) Educational level, literacy, and any special skills or training.
    - (c) Physical and mental disabilities that may affect a parent's ability to work, or to obtain or maintain gainful employment.
    - (d) Availability for work (exclude periods when a parent could not work or seek work, e.g., hospitalization, incarceration, debilitating illness, etc.).
    - (e) Availability of opportunities to work in the local geographical area.
    - (f) The prevailing wage rates and number of hours of available work in the local geographical area.
    - (g) Diligence exercised in seeking appropriate employment.
    - (h) Evidence that the parent in question is able to earn the imputed income.
    - (i) Personal history, including present marital status, age, health, residence, means of support, criminal record, ability to drive, and access to transportation, etc.
    - (j) The presence of the parties' children in the parent's home and its impact on that parent's earnings.
    - (k) Whether there has been a significant reduction in income compared to the period that preceded the filing of the initial complaint or the motion for modification.
  - (3) Imputation of potential income should account for the additional costs associated with earning the potential income such as child care and taxes that a parent would pay on the imputed income.
  - (4) Imputing an income to a parent to determine a support obligation by using any of the following violates case law and does not comply with this section. See: *Ghidotti v. Barber*, 459 Mich 189; 586 NW2d 883 (1998) and *Stallworth v Stallworth*, 275 Mich App 282 (2007).
    - (a) Inferring based on generalized assumptions that parents should be earning an income based on a standardized calculation (such as minimum wage and full time employment, median income, etc.), rather than an individual's actual ability and likelihood.

- (b) Absent any information or indication concerning a parent’s ability, assuming that an individual has an unexercised ability to earn an income.
  - (c) Failing to articulate information about how each factor in §2.01(G)(2) applies to a parent having the actual ability and a reasonable likelihood of earning the imputed potential income, or failing to state that a specific factor does not apply.
  - (d) Inferring that commission of a crime is voluntary unemployment, without evidence that the parent committed the crime with the intent to reduce income or to avoid paying support.
- (5) The court makes the final determination whether imputing a potential income is appropriate in a particular case.
- 2.01(H) Interest earned or potentially earned on inheritances and gifts (§2.05(B)) should be considered as income. Impute a reasonable rate when determining the potential investment return that could be earned.
- 2.01(I) Except as provided in §2.01(K), attribute all dependent benefits from government insurance programs that are based on the earnings record of a parent and paid for the children-in-common as the earning parent’s income. Benefits include amounts paid from insurance programs like social security, veteran’s administration, or railroad retirement.
- 2.01(J) Custodial parent income includes all retirement, survivor’s, or disability dependent benefits from government insurance programs like social security, veteran’s administration, or railroad retirement that are received for the children-in-common based on the earnings record of someone other than a parent.
- 2.01(K) When a parent receives retirement, survivor’s, or disability benefits from a government insurance program like social security, veteran’s administration, or railroad retirement and the children-in-common qualify to receive dependent benefits based on multiple adults’ earnings records and a party provides sufficient documentation to distinguish on whose behalf amounts are paid, attribute the children’s benefits as income between the parents as follows:
- (1) Because dependent benefits are paid based on the adult’s earnings record that results in the highest benefit for the children, include the amount of dependent benefits for the children-in-common that would be attributable to the support payer’s earnings record as that parent’s income because it is credited against the payer’s obligation under §3.07.
  - (2) If the children-in-common’s remaining benefits are paid based on the other parent’s earnings record, include any benefit amounts that exceed amounts considered as the support payer’s income under this subsection as the other parent’s income.
- 2.01(L) Do not consider any monies (e.g., social security or other similar dependent benefits, child support, etc.) that a parent receives for the care of additional children not in common with the other parent in this case, nor any dependent benefits paid on a parent’s behalf for those children.

- 2.01(M) Income includes reimbursements (including per diem) from an employer for travel or other expenses that exceed actual costs incurred.
- (1) Absent documentation or other proof of the parent's actual costs, presume that the costs incurred were at the standard rates allowed by the state of Michigan for employee travel (including per diem and mileage).

## **2.02 Seasonal and Annual Variation**

- 2.02(A) Where monthly income varies due to seasonal factors (e.g., overtime, second jobs, bonuses, or profit sharing) calculate income using information from at least the preceding twelve months.
- 2.02(B) Where income varies considerably year-to-year due to the nature of the parent's work, use three years' information to determine that parent's income.
- 2.02(C) Evidence showing that overtime, second job, or other types of income will vary in the future may be considered.

## **2.03 Children's Income**

- 2.03(A) A child's income should not ordinarily be considered in calculating child support.
- 2.03(B) A child's Supplemental Security Income (SSI) benefits cannot be considered as income, nor used to reduce a parent's support obligation.

## **2.04 Means Tested Income**

- 2.04(A) Income does not include the value of benefits from means tested sources such as Temporary Assistance to Needy Families (TANF), food stamps, the federal Earned Income Credit, and Supplemental Security Income (SSI).

## **2.05 Inheritances and Gifts**

- 2.05(A) Income generally does not include property or principal from an inheritance or one-time gift.
- 2.05(B) Income includes the interest as well as potential interest (§2.01(H)) earned on inherited property, and gifts.
- 2.05(C) Income may include the value of gifts or gratuities such as money, food, shelter, transportation, or other goods or services that a parent receives from relatives (other than a spouse), friends, or others, to the extent it:
- (1) Is significant and regularly reduces personal expenses, or
  - (2) Replaces or supplements employment income.

## **2.06 Low Income Producing Assets**

- 2.06(A) To the extent a parent's assets could be (but are not) used to generate regular income, a parent's income includes an imputed reasonable and regular investment return on those assets, except a home and its reasonable furnishings, an automobile, and other small items of personal property.

**2.07 Allowable Deductions from Income**

2.07(A) Alimony/Spousal Support

- (1) Deduct alimony/spousal support paid to someone other than the other parent in the case under consideration from its payer's income after deducting federal, state, and local income taxes, and deducting other mandatory federal taxes (e.g., FICA).
- (2) Alimony/spousal support paid between the parents in the case under consideration is not included as its recipient's income, but remains its payer's income.

2.07(B) Income and FICA/Medicare Taxes

- (1) Deduct a parent's actual income taxes from income.
- (2) If tax returns are not made available, taxes should be estimated based on the best available information and the estimation procedures described below.
- (3) In the absence of an explicit written agreement or order to the contrary, presume that the person with whom the child resides for the majority of a calendar year claims the dependent tax exemption for that child.
  - (a) In determining filing status (Single or Married), presume the status most consistent with each parent's situation.
  - (b) Use income tax guides to determine the taxes deducted from gross earnings for a parent's actual number of dependent exemptions.
  - (c) To the extent possible, estimate taxes at rates that the parent would likely pay for the income types attributed to that parent.

2.07(C) Deduct any mandatory payments as a condition of employment (e.g., required union dues and nondiscretionary retirement contributions).

2.07(D) Deduct life insurance policy premiums when children-in-common with the other parent are the beneficiaries.

- (1) Only deduct term life insurance premiums paid on coverage ordered by the court.
- (2) With whole life insurance policies that provide coverage ordered by the court, only deduct an amount equivalent to the cost of the same amount of term life insurance.

2.07(E) Deduct the cost of care or services paid by a parent to comply with case service or permanency plan requirements in child protective or juvenile delinquency proceedings.

2.07(F) Deduct a parent's net actual cost of providing mandatory health care coverage for himself or herself. Calculate this deduction by figuring the net health care premiums [costs minus any reimbursements, subsidies, or credits] paid by the parent and dividing by the number of individuals covered (including the parent).

2.07(G) Do not include employer reimbursements for the actual costs incurred for travel (subject to §2.01(M)), tuition, educational costs, and uniforms as income.

**2.08 Additional Children from Other Relationships**

2.08(A) Additional (biological or adopted) minor children include:

- (1) Those from a relationship with someone other than the other parent in the case under consideration.
- (2) Those in common with the other parent in this case who live in a nonparent’s custody, when determining support for children living with either parent.
- (3) Those in common with the other parent in this case who live with either parent, when determining support for other children-in-common who live in a nonparent’s custody.

2.08(B) When a parent has additional minor children (whether living in that parent’s household or for whom the parent pays child support), net income for calculating support in the present case does not include monies for children not in common with the other parent in the case under consideration (§2.01(L)), nor the portion of that parent’s income reserved for supporting additional children calculated according to both of the following steps:

- (1) Deduct from a parent’s income dollar-for-dollar the portion of that parent’s health insurance premiums used to cover qualifying additional children. Calculate the premium deduction by dividing the premium by the number of individuals covered (including the parent) and multiply by the number of qualifying additional children covered.
- (2) After subtracting qualifying additional children’s health care coverage costs, multiply that parent’s remaining net income by the Additional Children table’s Adjustment Multiplier to determine net income to use for the present case.

<b>Additional Children</b>	
Number of Children	Adjustment Multiplier
1	83%
2	75%
3	68%
4	64%
5 or more	60%

**2.09 Low Income Threshold and Family Net Income**

2.09(A) “Low Income Threshold” is the individual income level specified in the current supplement to this manual.

2.09(B) When one parent’s net income does not exceed the Low Income Threshold, do not include that parent’s income in the monthly net family income used to calculate the other parent’s general care support obligation. §3.02(B).



### 3. CALCULATING EACH PARENT'S OBLIGATION

The next step in determining each parent's child support obligation is to calculate the components of each parent's support obligation based on their net income as determined in Chapter 2.

#### 3.01 Child Support Obligations

3.01(A) A parent's child support obligation consists of

- (1) a base support obligation (§3.02) adjusted for parenting time (§3.03);
- (2) medical support obligations that include ordinary and additional (extra-ordinary) medical expenses (§3.04), health care coverage and division of premiums (§3.05); and
- (3) child care expense obligations (§3.06).

3.01(B) Generally, support obligations should be apportioned between the parents based on each parent's percentage share of their combined net incomes.

- (1) When figuring the percentage to use to apportion the base support obligation using the General Care Equation (§3.02(B)), only include a parent's net income if it exceeds the Low Income Threshold (§2.09(A)), and round the resulting percentages to the nearest hundredth percent.
- (2) The medical support and child care obligations' percentages should be based on both parents' net incomes and rounded to the nearest whole percent, but each parent's share cannot be less than 10 percent or more than 90 percent.

#### 3.02 Base Support Obligation

3.02(A) To even out support amounts for children of the same parents, whether ordered in one case or multiple cases, calculate base support using the total number of children-in-common.

- (1) If less than all of the children-in-common are included, then the present case's base support and the parental time offset (§3.03) is its children's per capita share of what the amount would be if all of the children-in-common were included on one case.
- (2) When some of the children-in-common are in a nonparent's custody, calculate the base support for the children in a parent's custody separately from the base support for those who live with a nonparent-custodian. §2.08(A) and §4.01.

3.02(B) General Care Equation

- (1) Determine the monthly family income by combining the parents' net incomes. Only include a parent's net income if it exceeds the Low Income Threshold (§2.09).
- (2) Solve the following equation using the General Care Support Table (found in the supplement) for the appropriate number of children that the parents have in common and its amounts and percentages from the highest monthly income level that does not exceed the family's net monthly income.

$$\{A + [B \times (C - D)]\} \times E = G$$

- A = Base Support (General Care Support table, column 3)
- B = Marginal Percentage (General Care Support table, column 4)
- C = Monthly Net Family Income (§3.02(B)(1))
- D = Monthly Income Level (General Care Support table, first column)
- E = Parent's Percentage Share of Family Income (§3.02(B)(1))
- G = Base Support obligation using the General Care Equation (round to the nearest whole dollar)

- (3) Subject to §3.02(D), when a parent's net income exceeds the Low Income Threshold (§2.09(A)), that parent's base support obligation is the amount determined using the General Care Equation.
- (4) In most instances when a family's net monthly income exceeds the highest income level in the current supplement's General Care Support Tables, the parents' base support obligations will be determined using the General Care Equation. However when a family's net income greatly exceeds the highest income level, the court may exercise discretion as provided in §3.02(E).

**3.02(C) Low Income Equation**

When a parent's monthly net income does not exceed the Low Income Threshold, the parent's base support obligation is 10 percent of that parent's income. The Low Income Equation is designed to retain funds for the parent's subsistence.

$$F \times 10\% = L$$

- F = Parent's Monthly Net Income, when below the Low Income Threshold (§2.09(A))
- 10% = Percentage for Income below the threshold
- L = Base Support (round to the nearest whole dollar)

**3.02(D) Low Income Transition Equation**

When a parent's net income exceeds the Low Income Threshold, that parent's base support obligation will generally be determined using the General Care Equation. However, if the following equation's result is lower than the amount calculated using the General Care Equation, a parent's base support obligation is the amount determined by applying this equation. The Low Income Transition Equation is designed to balance a parent's subsistence needs with the costs of raising children in another household.

$$(H \times 10\%) + [(I - H) \times P] = T$$

- H = Low Income Threshold (§2.09(A))
- 10% = Percentage for Income below the threshold (§3.02(C))
- I = Parent's Monthly Net Income
- P = Percentage Multiplier for the appropriate number of children from the Transition Adjustment table
- T = Base Support obligation using the Low Income Transition Equation

<b><u>Transition Adjustment</u></b>	
<b>Number of Children-in-Common</b>	<b>Percentage Multiplier</b>
1	50%
2	55%
3	60%
4	65%
5 or more	70%

**3.02(E) Extremely High Family Incomes**

- (1) The court should exercise discretion when a family’s income used to calculate support greatly exceeds the highest “Income Amount” in the General Care Support Tables found in the current supplement to this manual.
- (2) When exercising discretion and trying to arrive at an appropriate result in an extremely high-income case, provided the result meets each child’s needs, the court may calculate the child support amounts by using the “Base Support” from the appropriate General Care Support Table and other marginal percentages, or choose to fashion another outcome that financially benefits the children and protects each child’s interests in the inherent obligation each parent owes to the child. See 2021 MCSF-S 2.03(B).)

**3.03 Adjusting Base Obligation with the Parental Time Offset**

**3.03(A)** Presuming that as parents spend more time with their children they will directly contribute a greater share of the children’s expenses, a base support obligation needs to offset some of the costs and savings associated with time spent with each parent. (The supplement to this manual contains a graph and other information about adjusting support payments for parenting time.)

- (1) Base support mainly considers the cost of supporting a child who lives in one household. When a parent cares for a child overnight, that parent should cover many of the child’s unduplicated costs, while the other parent will not have to spend as much money for food, utility, and other costs for the child.
- (2) Apply the following Parental Time Offset Equation to adjust base support to reflect some of the cost shifts and savings associated with the child spending time with both parents:

$$\frac{(A_o)^{2.5} \cdot (B_s) - (B_o)^{2.5} \cdot (A_s)}{(A_o)^{2.5} + (B_o)^{2.5}}$$

- $A_o$  = Approximate annual number of overnights the children will likely spend with parent A  
 $B_o$  = Approximate annual number of overnights the children will likely spend with parent B  
 $A_s$  = Parent A's base support obligation  
 $B_s$  = Parent B's base support obligation

**Note:** A negative result means that parent A pays and a positive result means parent B pays.

3.03(B) Application

- (1) An offset for parental time generally applies to every support determination whether in an initial determination or subsequent modification, whether or not previously given.
- (2) The parental time offset does not apply when a nonparent has custody of a child. (§1.04(E)(16) and (§4.01(A)).

3.03(C) Apply the parental time offset to adjust a base support obligation whenever the approximate annual number of overnights that each parent will likely provide care for the children-in-common can be determined. When possible, determine the approximate number based on past practice.

- (1) When different children spend different numbers of overnights with the parents, use the average of the children's overnights.
- (2) Absent credible evidence of changed practices, presume the same approximate number that was used in determining the most recent support order.
- (3) In cases without a past determination or other credible evidence, presume the approximate number of overnights granted in the terms of the current custody or parenting time order.
- (4) Credit a parent for overnights a child lawfully and actually spends with that parent including those exercised outside the terms of the currently effective order. This may happen by agreement, or when one parent voluntarily foregoes time granted in the order. Do not consider overnights exercised in violation of an order.
  - (a) If a parent produces credible evidence that the approximate number exercised differs from the number granted by the custody or parenting time order, credit the number according to the evidence without requiring someone to formally petition to modify the custody or parenting time order.
  - (b) When the most recent support order deviated based on an agreement to use a number of overnights that differed from actual practice, absent some other change warranting modification, credible evidence of changed practices only includes an order changing the custody or parenting time schedule.

3.03(D) If a substantial difference occurs in the number of overnights used to set the order and those actually exercised (at least 21 overnights or that causes a change of circumstances exceeding the modification threshold (§4.05)), either parent or a support recipient may seek adjustment by filing a motion to modify the order.

3.03(E) So the court can know if circumstances have changed at the time of a subsequent determination, every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation.

### 3.04 Medical (Health Care) Obligations

#### 3.04(A) Obligations Generally

- (1) The term “medical” includes treatments, services, equipment, medicines, preventative care, similar goods and services associated with oral, visual, psychological, medical, and other related care, provided or prescribed by health care professionals for the children.
- (2) Routine remedial care costs for children (e.g., first-aid supplies, cough syrup, and vitamins) do not qualify as medical expenses.
- (3) Ordinary medical expenses include the support recipient’s co-payments and deductibles, and uninsured medical-related costs for all children in this case. Ordinary medical expenses presume that the recipient is the individual who typically obtains medical care for the children for whom support is paid, and therefore normally has out-of-pocket expenses needing reimbursement.
- (4) Additional (extra-ordinary) medical expenses consist of the support recipient’s out-of-pocket expenses that exceed the children’s ordered annual ordinary medical expense amount and any uninsured medical expense paid by the support payer.
- (5) Every support order should specify the medical expense percentage based on each parent’s share of the family income (§3.01(B)(2)) for uninsured medical expenses for which each parent is responsible.
- (6) A parent’s or custodian’s qualifying medical expenses include those paid with monies from a health savings account or flexible benefit account, provided that account is funded, in whole or part, with monies reported as that individual’s income.

#### 3.04(B) Ordinary Medical Expense Obligations

- (1) In order to reimburse the support recipient’s qualifying medical expenditures for the children within the same calendar year, almost every support order should set an appropriate annual ordinary medical expense amount for the children and apportion payment of the annual amount between the parents according to each parent’s percentage share of family income.
- (2) When setting the annual amount, presume that the amount listed for the appropriate number of children in Ordinary Medical Expense Average Table (found in the supplement) is the amount that will be spent on ordinary medical expenses. Amounts may be added to the Table amounts to compensate for higher uninsured expenses that can be predicted in advance (e.g., orthodontia, special medical needs, or ongoing treatments).
- (3) The court may determine that no ordinary medical expense amount is appropriate and treat all qualifying medical expenses as additional medical expenses (§3.04(A)(4)) when any following circumstance exists: (a) both parents routinely take one or more children-in-common for medical care and incur qualifying medical expenses, (b) the support payer will likely incur most qualifying out-of-pocket costs for the children, (c) an incapacitated payer’s base support obligation is set at zero (§4.02), or (d) the recipient has an employer-paid benefit (e.g., health

reimbursement arrangement) that pays the recipient's initial out-of-pocket expenses for the children.

(4) Ordinary Expense Payments

(a) The annual ordinary medical expense amount restarts every calendar year and remains in effect with the rest of the support obligation or until further order of the court.

(i) The support payer's apportioned share of ordinary medical expenses should be ordered paid as part of the monthly support obligation and maintained by the support recipient.

(ii) The support recipient's apportioned share of ordinary expenses is directly contributed by the recipient as expenses occur.

(b) Ordinary Medical Expense Accounting

(i) All qualifying expenditures are considered made in proportion to each parent's medical expense percentage established in the order.

(ii) Presume that the annual amount will be spent. The recipient does not have to routinely provide proof of its expenditure.

(iii) In order for a support recipient to seek reimbursement of additional medical expenses, the recipient needs to show that the ordered total annual ordinary medical expense amount for all children was exceeded.

(c) Prorate ordinary medical expense amounts for partial periods during which they are in effect.

3.04(C) Additional (Extra-ordinary) Medical Expenses

Additional expenses should be apportioned between the parents according to the medical expense percentages established in the support order.

3.04(D) Unreimbursed Medical Expense Minimum Enforcement Threshold

(1) State law establishes that complaints seeking enforcement of unreimbursed additional medical expenses (§3.04(A)(4)) must meet a minimum threshold before a friend of the court office is required to act on that complaint. [MCL 552.511a](#).

(2) The "minimum enforcement threshold" under [MCL 552.511a\(1\)\(b\)](#) for additional medical expenses is \$100 per child each calendar year, or a lower amount set by the court. If unreimbursed additional expenses do not exceed the threshold before a year ends, those expenses may be submitted to the FOC for enforcement before the deadline under [MCL 552.511a\(1\)\(c\)](#).

**3.05 Health Care Coverage Obligation and Premiums**

3.05(A) Health Care Coverage, Accessibility, and Cost

(1) The Support and Parenting Time Enforcement Act defines health care coverage as "a fee for service, health maintenance organization, preferred provider

organization, or other type of private health care coverage or public health care coverage.” [MCL 552.602\(n\)](#)

- (a) Private coverage means health care coverage obtained through an employer or purchased by an individual from an insurer.
- (b) Public coverage means health care coverage that is established or maintained by a local, state, or federal government like Medicaid or SCHIP.

(2) Reasonable Cost of Coverage

Except as otherwise ordered by the court, a reasonable cost to a parent for providing health care coverage for the children does not exceed 6 percent of the providing parent’s gross income. In applying this standard, the cost of providing health care coverage is the parent’s net cost of adding the children to the parent’s coverage (e.g., difference between self-only and family coverage) or adding the children to the existing coverage.

- (a) Parents with a net income below 133 percent of the federal poverty level or whose child is covered by Medicaid based on that parent’s income should not be ordered to contribute toward or provide coverage, unless coverage is obtainable without any financial contribution by that parent.
- (b) A parent’s cost for providing health care coverage is unreasonable if the parent’s total current obligation for support, child care expenses, ordinary health care expenses, plus the parent’s net share of health care insurance exceeds 50 percent of the parent’s regular aggregate disposable earnings.

(3) Accessible to the Child

Health care coverage is presumed accessible if primary care services are covered within 30 miles or 30 minutes from any of a child’s residences. Coverage may be considered at greater times and distances in areas where residents normally travel longer to access primary care services.

3.05(B) Responsibility to Insure

- (1) When ordering child support, the court must order one of the parents to maintain health care coverage that is accessible to the children and available to the parent at a reasonable cost. [MCL 552.605a\(2\)](#) requires the presumptive use of this manual to determine whether coverage is accessible and available at a reasonable cost, and also permits the court to exercise discretion when ordering coverage.
  - (a) To prevent duplicate coverage, extra costs, and avoid unnecessary enforcement actions, only one parent should be ordered to maintain coverage.
  - (b) The court should avoid routinely requiring both parties to provide coverage. [MCL 552.605a\(2\)](#) allows ordering both parents to maintain coverage when both parents already provide coverage or both agree to provide coverage.
- (2) Many factors may be used to determine which parent should maintain employer, group, individual, or public coverage for their children. When comparing plans, consider factors like: the accessibility and comprehensiveness of covered services, likely continuation of coverage, affordability of deductibles and co-payments, and

reasonableness of the premiums. (The supplement to this manual contains a guide to determine which parent should be ordered to maintain health care coverage. 2021 MCSF-S 3.02.)

- (3) The court may permit a parent to provide required coverage through alternative means, such as a spouse's or other household member's coverage or coverage provided by a nonparent-custodian (§4.01(D)(6)), provided that a parent is required to purchase coverage immediately should the alternative coverage stop.

### 3.05(C) Health Care Premium Allocation

- (1) The children's net determinable portion of health insurance premiums paid by the parents to cover the children should be apportioned according to each parent's percentage share of family income. §3.01(B)(2).
  - (a) The difference between the parents' shares of the net determinable amounts should be included (as an addition or subtraction) as part of the support payment.
  - (b) Adjust base support by adding the net health care premium attributable to the children (whether positive or negative) to the base support obligation after applying the parental time offset formula.
  - (c) If the parent provides insurance for the children-in-common using a spouse's or household member's benefits, consider amounts paid by the parent's household as the parent's premiums paid to insure the children.
- (2) Subject to §4.01(D)(5), allocate the children's net health care premiums for parent-provided insurance between the parents according to the following steps.
  - (a) Determine each parent's monthly net health care premium attributable to the children by dividing the net premium (actual cost to the parent after subtracting any tax credits, subsidies, other reimbursements, and amount deducted for self-coverage under §2.07(F)) by the number of individuals covered and multiply by the number of children covered in this case.
  - (b) Prorate each parent's monthly health care premium attributable to the children by multiplying it and the other parent's percentage of family income.
  - (c) Offset the prorated premiums attributable to the children by subtracting the support recipient's share of the support payer's premium from the payer's share of the recipient's premium, and round to the nearest cent. (Note: A positive net result means an additional amount must be paid to cover the payer's share of the support recipient's premium, while a negative result means a reduction in base support to offset the support recipient's share of the payer's premium).

## 3.06 Child Care Support Obligations

- 3.06(A) Based on each parent's percentage share of family income, allocate the actual child care expenses for the children in the case under consideration which allow a parent or nonparent-custodian to look for employment, retain employment, or to attend an educational program to improve employment opportunities.



- (1) When custodians or parents have an established child care pattern and can verify that they have actual, predictable and reasonable child care expenses, use the actual costs in the calculation.
  - (2) When no established pattern of child care expenses exists, base the expenses on estimates of the community's average child care costs or several written quotations from local child care providers.
  - (3) In calculating child care expenses, presume that the court's orders for specific parenting time and custody will be followed. However, if a child care provider requires payment to retain a slot for a child without regard to whether the child actually attends, include those additional costs.
- 3.06(B) Figure the actual cost of child care by deducting any child care subsidies, credits (including federal tax credit), or similar public or private reimbursements from the gross cost of child care.
- 3.06(C) The support payer's net portion of the actual child care expenses should be ordered paid as a monthly child care support obligation. The support recipient's share of child care expenses is directly contributed by the support recipient as expenses occur. Allocate net child care costs according to the following steps.
- (1) Determine each individual's actual monthly child care.
    - (a) Calculate each individual's gross annual child care expenditures.
    - (b) Figure the actual cost by deducting any child care subsidies, credits (including tax credits), or reimbursements from the gross cost of child care and convert to a monthly amount.
  - (2) Allocate the actual monthly costs by multiplying by the other parent's percentage share of family income. §3.01(B)(2).
  - (3) Offset the two prorated amounts by subtracting the other parent's share of the support payer's monthly costs from the payer's share of the other parent's monthly costs.
- 3.06(D) Presume that the need for child care continues until August 31 following the child's twelfth birthday, and unless otherwise stated in the order the total child care reduces by the child's pro rata share upon that date. At the court's discretion, the child care support obligation may continue beyond that date as a child's health or safety needs require.
- 3.06(E) Since child care support obligations accrue based on the assumed continuation of the net expenses used to set the currently effective order, custodians and parents need to notify each other of changes in costs, and must notify the friend of the court when they stop incurring child care expenses for a child.
- 3.06(F) When parents or custodians do not have an established pattern of child care expenses, the court can order a reasonable amount for future child care expenses conditioned upon the support recipient providing to the other parent and the friend of the court (1) proof of the recipient's employment or enrollment in a qualifying educational or training program, (2) proof of the recipient's actual out-of-pocket child care expenses, (3) a written request to the friend of the court asking for implementation of the conditional

child care provision, and (4) proof that the support payer was provided copies of items (1)-(3).

### 3.07 Dependent Benefit Credit

3.07(A) Credit government insurance program retirement, survivor's, or disability benefits that were counted as the support payer's income under §2.01(I) or §2.01(K) against the payer's support obligation as follows:

- (1) Determine the total child support obligation.
- (2) Subtract the monthly benefit amount that the recipient receives for the children and that is attributable to the payer from the total child support obligation owed by the payer.
  - (a) If the children's payer-based benefit exceeds the total support amount, then no additional support amount should be ordered.
  - (b) If the children's payer-based benefits are less than the payer's total support amount, then the difference between the benefits received for the children and the total support amount becomes the ordered obligation.
- (3) Under federal law, the administering agency, like the Social Security Administration, holds the sole authority to designate the person who controls the benefits for a minor child (representative payee), therefore, a State's legal processes cannot be used to alienate federal benefits from a child's representative payee. A court should not use a child support order to transfer the children's benefits from a representative payee to a parent or another individual. Payer-based benefits that exceed the total child support obligation owed must remain under the control of the representative payee.
- (4) Because each parent has an individual obligation to provide for that parent's children, benefits based on another person's earnings record cannot be credited against or used to satisfy the payer's support obligation except as permitted under §2.01(K).

3.07(B) The following cases discuss how Social Security benefits affect support obligations: *Frens v Frens*, 191 Mich App 654 (1990); *Jenerou v Jenerou*, 200 Mich App 265 (1993); *Paulson v Paulson*, 254 Mich App 568 (2002); and *Fisher v Fisher*, 276 Mich App 424 (2007).

3.07(C) The supplement to this manual contains additional information and examples on crediting government insurance program dependent benefits. 2021 MCSF-S 3.05.

## 4. OTHER FACTORS

### 4.01 Nonparent-Custodians

- 4.01(A) When a nonparent has custody of a child, both parents should pay support. Determine each parent's base support obligation according to that parent's individual income.
- 4.01(B) Parents are responsible for all medical expenses, health care coverage premiums, and child care expenses for children in a nonparent-custodian's care. When possible, apportion those costs between the parents.
- 4.01(C) In determining a parent's net income amount that will be used to calculate support for children in the care of a nonparent, treat the parents' other children-in-common who are not in the nonparent's custody as additional children from other relationships (§2.08(A)).
- 4.01(D) When a child is in a nonparent's physical custody, calculate each parent's support obligation for that child based only on that parent's income, as follows:
- (1) Determine each parent's net income.
  - (2) Calculate each parent's base support obligation separately by treating the other parent's income as zero, and do not apply the Parental Time Offset Equation (§1.04(E)(16) and (§3.03(B)).
  - (3) Calculate medical expense and child care support obligations and require payment from only the parents. When possible, divide them between the parents based on each parent's percentage share of family income.
  - (4) Total a parent's base support, ordinary medical expense, and child care obligations to determine that parent's total support obligation payable to the nonparent.
  - (5) Do not reduce a parent's base support obligation paid to a nonparent-custodian for health care coverage premiums paid by a parent. Allocation of parent-paid premiums between the parents should be handled separately.
  - (6) If the nonparent-custodian purchases health care coverage for the children, add each parent's share of the children's net determinable portion of the premiums paid by the nonparent-custodian to that parent's support payment.

### 4.02 Incapacitated Parent

- 4.02(A) "Incapacitation" means 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 that is due to disability, mental incompetency, serious injury, debilitating illness, or incarceration. Beyond the financial impacts, incapacitation often limits the parent's ability to act in his or her own self-interests. At its onset, the exact duration and full impact of an incapacitating condition will often be uncertain.
- (1) Due to the statutory restriction to retroactively modifying a final judgment or order, an action to modify support should start as soon as possible.

- (2) The court may exercise discretion and grant relief when the actual duration is less than 180 days.
  - (3) Often, a parent's income does not immediately return to what it was before the parent became incapacitated.
  - (4) The court makes the final determination whether a parent is unable to earn an income or otherwise qualifies as incapacitated under this section.
- 4.02(B) The court may set an incapacitated payer's (§4.02(A)) child support obligation at zero for periods that a parent has an inability to pay due to a loss of income and insufficient assets from which to pay support.
- 4.02(C) The court should reduce the effect of the time needed to complete a review and avoid the bar on retroactive modification by including prospective language in support orders that abates support for periods when a payer is incapacitated.
- 4.02(D) It may take one or more years before a parent actually receives benefits or settles a lawsuit. Sometimes funds are paid retroactively to compensate the incapacitated parent for prior months when the parent was unable to work. When there is uncertainty regarding a future outcome or when the payer may receive retroactive compensation or benefits, the court may defer a final decision and preserve flexibility to set an appropriate amount for the period following notice to the parties by entering a temporary order that remains modifiable until uncertainty ends. *Fisher v Fisher*, 276 Mich App 424 (2007).
- 4.02(E) The supplement to this manual contains additional information on Adjusting Incapacitated Parents' Obligations. (2021 MCSF-S 3.04).

### **4.03 Arrearage Guideline**

- 4.03(A) State law requires that Michigan's formula include guidelines to figure payments for overdue support, and when support for a child terminates and arrearages are owed. [MCL 552.519\(3\)\(a\)\(vi\)](#).
- (1) Federal law requires states to have procedures to increase the amount of payments to include amounts for arrearages. 42 U.S.C. 666(c)(1)(H).
  - (2) State law requires friend of the court offices to use the Arrearage Guideline in setting or adjusting arrearage payments. [MCL 552.517e](#).
  - (3) This Arrearage Guideline is not intended to interfere with the enforcement of past-due support and its collection through concurrent means that do not rely on regular payments.
  - (4) This Arrearage Guideline is not intended to interfere with judicial discretion to set fair and equitable repayment amounts that deviate from the Guideline.
- 4.03(B) Arrearage Payment Calculation
- (1) Arrearages should be repaid as quickly as possible.
  - (2) If the entire arrearage cannot be paid immediately, the Arrearage Guideline should be used to set a repayment amount where support or fees are owed.

- (3) Subject to (6)-(8) below, a monthly repayment amount is 2 percent of the total support arrearage at the time of the review, but not less than \$50, nor more than half of the current support amount. Or, if no current support charge exists, then the monthly repayment amount is the last ordered charge amount.
  - (a) When applying the Guideline, any monies held or retained by the friend of the court office or the State Disbursement Unit as payment of past due child support should be subtracted from the amount of arrearage used to calculate the repayment amount.
- (4) Payments set by this Guideline should be rounded to the nearest whole dollar amount.
- (5) The monthly birth-related expense repayment amount (i.e., payment for current month, not past due amounts) should not be less than \$25, nor more than the birth-related expenses' pro-rata share of the total amount of birth-related and arrearages owed. Statutes, regulations, and other policy determine how these amounts will be distributed on a specific case.
- (6) In order to repay arrearages as quickly as possible, the "total-payment-amount" (defined in §4.03(E)(4)) used for determining the repayment amount for collection must be the higher of: the most recent total-payment-amount, or the total-payment-amount presently figured using the arrearage payment calculation and current support charge.
  - (a) If the support charge is reduced because of a reduction in payer's income always refigure the repayment amount using the arrearage payment calculation (§4.03(B)(3)) and the current support charge.
- (7) If the most recent total-payment-amount is the payment amount chosen, the aggregate amount remains the same, but consists of a reduced support and an increased repayment amount (§4.03(B)(8)).
- (8) Adjustment of Payments When Current Support Obligations Terminate
  - (a) If arrearages exist when a current support obligation terminates or is reduced for reasons other than a reduction in the payer's income, there shall be no automatic reduction in the total-payment-amount unless ordered by the court.
  - (b) The reductions in the current support amount are added to the repayment amount and automatically become the new repayment amount.
  - (c) The total-payment-amount remains in effect until the arrearage has been paid in full or until modified or adjusted by the court or friend of the court.

4.03(C) Guideline Deviation and Exceptions

- (1) When application of this Guideline creates an unjust or inappropriate result, deviation may occur and an alternate repayment amount may be established.
- (2) The friend of the court office may deviate from the Guideline to increase the repayment amount if:

- (a) there has been no other significant change in circumstances (e.g., different source of income, higher income, etc.),
  - (b) the payer has made all of the payments for the entire period since the repayment amount was set, and
  - (c) the arrearage has nevertheless increased by an amount greater than one month's current support obligation solely because surcharge has periodically added to the arrearage.
- (3) The friend of the court should not routinely apply the Arrearage Guideline to administratively change repayment amounts in cases where:
- (a) The court has ordered a specific periodic arrearage payment, and since entry of that order, the arrearage has not increased by at least one month's support obligation based on the current support amount (if no current support charge use the last ordered charge amount) and the payer's support obligation has not decreased.
  - (b) The total arrearage has been reduced, but has not yet been paid in full since the repayment amount was set (because applying the Guideline to a decreased arrearage total would unnecessarily extend the repayment period).
  - (c) The court previously ordered or the friend of the court administratively set a repayment amount that deviated from the Guideline either to avoid an unjust or inappropriate result or because of a formal agreement between the parties, and circumstances have not significantly changed since then.
  - (d) In interstate cases where Michigan and another state's tribunal have entered an order regarding the same payer and child, and the support order and arrears accumulated under the Michigan order are being enforced by another jurisdiction.

4.03(D) Administrative Adjustment Records

- (1) Friend of the court offices should maintain records of: (a) administratively set repayment amounts, (b) repayment amounts that deviate from the Arrearage Guideline, and (c) the reasons for any such deviation.

4.03(E) Definitions for the purpose of the Arrearage Guideline:

- (1) Administrative adjustment means a change in an amount not ordered by the court.
- (2) Repayment amount means periodic amounts in addition to current support specifically designated to reduce the arrearage owed.
- (3) Birth-related expenses means the support payer's share of medical expenses connected to the pregnancy and the birth of the child that the circuit court orders repaid pursuant to [MCL 552.452](#) or [MCL 722.712](#).
- (4) Total-payment-amount means the sum of regular periodic current and past-due support obligation, fees, and other payments required by court order or statute (i.e., the total the court determined the parent could afford to pay) or administratively set by the friend of the court office.

**4.04 Agreements Related to Property**

4.04(A) When parents reach an agreement that the court should deviate from the formula and connect a property settlement with the child support obligation, the complete agreement must be clearly stated in the judgment of divorce to be given continued effect. [MCL 552.605](#) requires that any property award that is in lieu of child support required under the formula be recorded as a deviation from the formula.

**4.05 Minimum Threshold for Modification**

4.05(A) The “minimum threshold for modification” is 10 percent of the currently ordered support payment or \$50 per month, whichever is greater.

4.05(B) Following a child support review by the friend of the court office, if the difference between the recommended amount and the current order exceeds the minimum threshold for modification, the friend of the court office must petition the court to modify the order.

**4.06 Order Conversion, Prorating, and Rounding**

4.06(A) To convert support amounts to their monthly equivalents, multiply weekly amounts by 4.35 and biweekly amounts by 2.175. See [MCL 552.605c](#).

4.06(B) To convert monthly support obligations into daily amounts, multiply by .033.

4.06(C) Whenever it is necessary to prorate support amounts for partial months, apply the following equation:

$$C_b - ((C_b - C_n) \times .033 \times D_n)$$

$C_b$  = Beginning Monthly Charge

.033 = Daily Adjustment (4.05(B))

$D_n$  = Number of Days New Amount Effective

$C_n$  = New Monthly Charge Amount

## 5. SUPPLEMENT

### 5.01 MCSF Supplement

- 5.01(A) The Michigan Child Support Formula Supplement periodically updates economically fluctuating figures, schedules, and other explanatory materials.
- 5.01(B) The SCAO will publish updated supplements when required by changes in important economic data or the child support laws.

### 5.02 Schedules

- 5.02(A) The monthly support schedules found in the supplement provide base support amounts calculated by applying the formula to specified net incomes.
  - (1) These schedules do not include obligations for other kinds of support. Additional amounts need to be added to reflect ordinary medical expenses, health care coverage premium adjustment, and child care support obligations.
  - (2) The schedule amounts do not include any consideration of parental time.
- 5.02(B) The percentage of income schedules in the Supplement provide a parent's percentage of family income at the specified income levels, and incorporate the minimum and maximum limits explained in §3.01(B).



January 2021

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# Michigan Child Support Formula Supplement



State Court Administrative Office  
Friend of the Court Bureau  
Lansing, Michigan

# **2021 Michigan Child Support Formula Supplement**

**Effective: January 1, 2021**

State Court Administrative Office  
Friend of the Court Bureau  
P.O. Box 30048  
Lansing, MI 48909

<http://courts.mi.gov/mcsf>

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## 1. BACKGROUND

### 1.01 Supplemental Material

- 1.01(A) This supplement contains the Michigan Child Support Formula’s most current economic data and supporting materials. The supplement’s purpose is to update information without republishing the entire manual.
- 1.01(B) When using the Michigan Child Support Formula to calculate support, you need to use the most current supplement in effect.
- 1.01(C) To verify whether you have the most current materials, or to find additional information helpful in using the formula, please check the Michigan Child Support Formula’s official website at <http://courts.mi.gov/mcsf>.

### 1.02 Citing the Supplement

- 1.02(A) References to material contained in this supplement should contain the year it became effective, as well as the specific provision referenced. The supplement may be abbreviated as “MCSF-S.” This section should be cited as 2021 MCSF-S 1.02.

## 2. ECONOMIC UPDATES

### 2.01 Low Income Threshold

- 2.01(A) The Low Income Threshold is \$1,063.00 (2020 United States HHS Poverty Guideline).

### 2.02 Ordinary Medical Expense Amounts

- 2.02(A) On average, families spend \$454 for one child annually on ordinary medical expenses. The Ordinary Medical Expense Averages table states the amounts families are presumed to spend on ordinary medical expenses. Courts may add amounts to cover higher expenses. (2021 MCSF 3.04(B)).

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

### 2.03 General Care Support Tables

- 2.03(A) Based on the estimated costs of raising children, the General Care Equation (2021 MCSF 3.02(B)) uses variable percentages of family income to determine a child support obligation. The General Care Support Tables contain those figures and percentages

**MICHIGAN CHILD SUPPORT FORMULA - SUPPLEMENT 2021**

exclude medical and child care expenses. This supplement contains net family income levels adjusted using the February 2020 Consumer Price Index (CPI-U Detroit) from its 1985 original base.

2.03(B) Normally, when a family’s net monthly income exceeds the highest income level in General Care Support Tables, support will be determined using listed figures for the correct number of children. However when a family’s income greatly exceeds the highest income level, the court may exercise discretion as permitted by 2021 MCSF 3.02(E).

2.03(C) Tables

<b>General Care Support Table:</b>		<b>One Child</b>				
<b>Income Amount</b>	<b>Base Percentage</b>	<b>Base Support</b>	<b>&amp;</b>	<b>Marginal Percentage</b>		
\$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

<b>General Care Support Table:</b>		<b>Two Children</b>				
<b>Income Amount</b>	<b>Base Percentage</b>	<b>Base Support</b>	<b>&amp;</b>	<b>Marginal Percentage</b>		
\$1,318	39.4%	\$519.29	+	36.22%	over	\$1,318
\$2,116	38.2%	\$808.31	+	26.21%	over	\$2,116
\$2,886	35.0%	\$1,010.10	+	23.67%	over	\$2,886
\$3,703	32.5%	\$1,203.48	+	22.51%	over	\$3,703
\$4,810	30.2%	\$1,452.62	+	21.75%	over	\$4,810
\$6,830	27.7%	\$1,891.91	+	20.27%	over	\$6,830
\$8,417	26.3%	\$2,213.67	+	17.01%	over	\$8,417
\$10,581	24.4%	\$2,581.76	+	15.00%	over	\$10,581 or at the court’s discretion

**MICHIGAN CHILD SUPPORT FORMULA - SUPPLEMENT 2021**

<b>General Care Support Table:</b>		<b>Three Children</b>				
<b>Income Amount</b>	<b>Base Percentage</b>	<b>Base Support</b>	<b>&amp;</b>	<b>Marginal Percentage</b>		
\$1,318	49.4%	\$651.09	+	47.28%	over	\$1,318
\$2,116	48.6%	\$1,028.38	+	35.11%	over	\$2,116
\$2,886	45.0%	\$1,298.70	+	30.50%	over	\$2,886
\$3,703	41.8%	\$1,547.85	+	28.77%	over	\$3,703
\$4,810	38.8%	\$1,866.28	+	27.98%	over	\$4,810
\$6,830	35.6%	\$2,431.48	+	23.40%	over	\$6,830
\$8,417	33.3%	\$2,802.86	+	19.61%	over	\$8,417
\$10,581	30.5%	\$3,227.21	+	19.00%	over	\$10,581 or at the court's discretion

<b>General Care Support Table:</b>		<b>Four Children</b>				
<b>Income Amount</b>	<b>Base Percentage</b>	<b>Base Support</b>	<b>&amp;</b>	<b>Marginal Percentage</b>		
\$1,318	55.6%	\$732.81	+	52.68%	over	\$1,318
\$2,116	54.5%	\$1,153.22	+	39.88%	over	\$2,116
\$2,886	50.6%	\$1,460.32	+	34.28%	over	\$2,886
\$3,703	47.0%	\$1,740.41	+	33.10%	over	\$3,703
\$4,810	43.8%	\$2,106.78	+	31.97%	over	\$4,810
\$6,830	40.3%	\$2,752.49	+	24.92%	over	\$6,830
\$8,417	37.4%	\$3,147.96	+	23.22%	over	\$8,417
\$10,581	34.5%	\$3,650.45	+	22.00%	over	\$10,581 or at the court's discretion

<b>General Care Support Table:</b>		<b>Five Children</b>				
<b>Income Amount</b>	<b>Base Percentage</b>	<b>Base Support</b>	<b>&amp;</b>	<b>Marginal Percentage</b>		
\$1,318	60.8%	\$801.34	+	57.35%	over	\$1,318
\$2,116	59.5%	\$1,259.02	+	42.63%	over	\$2,116
\$2,886	55.0%	\$1,587.30	+	37.78%	over	\$2,886
\$3,703	51.2%	\$1,895.94	+	37.30%	over	\$3,703
\$4,810	48.0%	\$2,308.80	+	35.83%	over	\$4,810
\$6,830	44.4%	\$3,032.52	+	24.78%	over	\$6,830
\$8,417	40.7%	\$3,425.72	+	24.08%	over	\$8,417
\$10,581	37.3%	\$3,946.71	+	23.00%	over	\$10,581 or at the court's discretion

### 3. EXPLANATORY MATERIALS

#### 3.01 **Substantial Changes in Circumstance Reviews**

- 3.01(A) When a friend of the court office is not obligated to initiate a review under [MCL 552.517\(1\)](#), it must conduct one pursuant to [MCL 552.517b\(9\)](#) when a party presents evidence, such as a document or other written corroboration about the circumstance, as described in MCSF-S 3.01(B) to the office that a substantial change in circumstances has occurred after the last support order was entered. While similar to changed circumstances that a court could consider when deciding whether to grant a motion, the factors cited in this section only apply to determining when the office must conduct a support review beyond those required by [MCL 552.517\(1\)](#).
- 3.01(B) A substantial change in circumstances to warrant a review of the support amount occurs when any of the following situations arise:
- (1) The payer begins or stops receiving social security benefits.
  - (2) A child receives social security benefits based on the support payer's earnings record, or a reduction occurs in those benefits by \$50 per month or more.
  - (3) A health issue affects a party's ability to earn income for a substantial period (a permanent or long-term disability or injury, a lengthy hospital stay and recuperation, etc.).
  - (4) A parent's income changes by 75 percent or more.
  - (5) A parent receives a call to active military duty likely to last at least six months and result in a significant income reduction.
  - (6) Significant changes in the medical expenses of a party.
  - (7) Changes in the physical, mental, or educational needs of a child.
  - (8) A significant change in financial circumstances because of a modification of the payer's other support obligations.
  - (9) The office learns that a payer is incapacitated, unless the office can document sufficient assets or a source of income that could be used to comply with the order. 2021 MCSF 4.02.

#### 3.02 **Determining Which Parent Should Maintain Health Care Coverage**

- 3.02(A) [MCL 552.605a](#) contains the statutory requirements regarding provision of health care coverage. The federal Affordable Care Act also contains requirements for parents to maintain coverage for dependent children.
- (1) Support orders must specify which parent should maintain coverage. To prevent purchasing duplicate coverage, extra costs, and unnecessary enforcement actions, do not automatically order both parties to provide coverage.
  - (2) Coverage means health care insurance available to cover a child, whether private coverage provided as a benefit of employment, purchased, or through alternative means (a parent's spouse or household member), or public coverage like SCHIP (MICHild) or Medicaid.

- (3) The court may allow a parent’s obligation to provide coverage to be met through alternative means (e.g., insurance is available for a child through a parent’s spouse or other household member). A parent should be required to secure health care coverage immediately if alternative coverage for the children stops. For example, an order could state:

The (defendant/plaintiff) shall maintain health care coverage for the child(ren). At the option of the (defendant/plaintiff), coverage can be obtained by purchasing it or by enrolling the child(ren) in coverage available through a household member.

- (4) [MCL 552.605a](#) requires the presumptive use of the definition of the reasonable cost of coverage and accessible coverage. It also permits the court to exercise its discretion when ordering health care coverage based on the child's needs and the parents' resources.

3.02(B) Consider the following when determining which parent must maintain the children’s health care coverage:

[Private coverage includes coverage available through alternative means]

- (1) Do the parents agree who should maintain the children’s coverage?
- (a) If yes, and provided that coverage is not public coverage, select that parent or both parents as agreed, to maintain coverage. A detailed review is unnecessary.
  - (b) If no, proceed to (2).
- (2) Does either parent have private coverage available that is accessible to the child?
- (a) If one, proceed to (3).
  - (b) If both, proceed to (4).
  - (c) If neither, proceed to (5).
- (3) Only one parent has accessible private coverage available. Is the parent’s net cost of coverage at or below the reasonable cost of coverage?
- (a) If yes, select that parent to maintain coverage.
  - (b) If no, proceed to (5).
- (4) Both parents have accessible private coverage available, and do not agree on who should maintain coverage. Compare the plans using the following questions.
- (a) Does either parent’s net cost of coverage exceed the reasonable cost of coverage?
    - (i) If no, proceed to (b).
    - (ii) If one plan is available at a reasonable cost, select that parent to maintain coverage.
    - (iii) If neither plan is available at a reasonable cost, proceed to (5).
  - (b) Is one parent more likely to maintain coverage or one plan’s coverage less likely to lapse?
    - (i) If yes, select that parent to maintain coverage.
    - (ii) If no, proceed to (c).

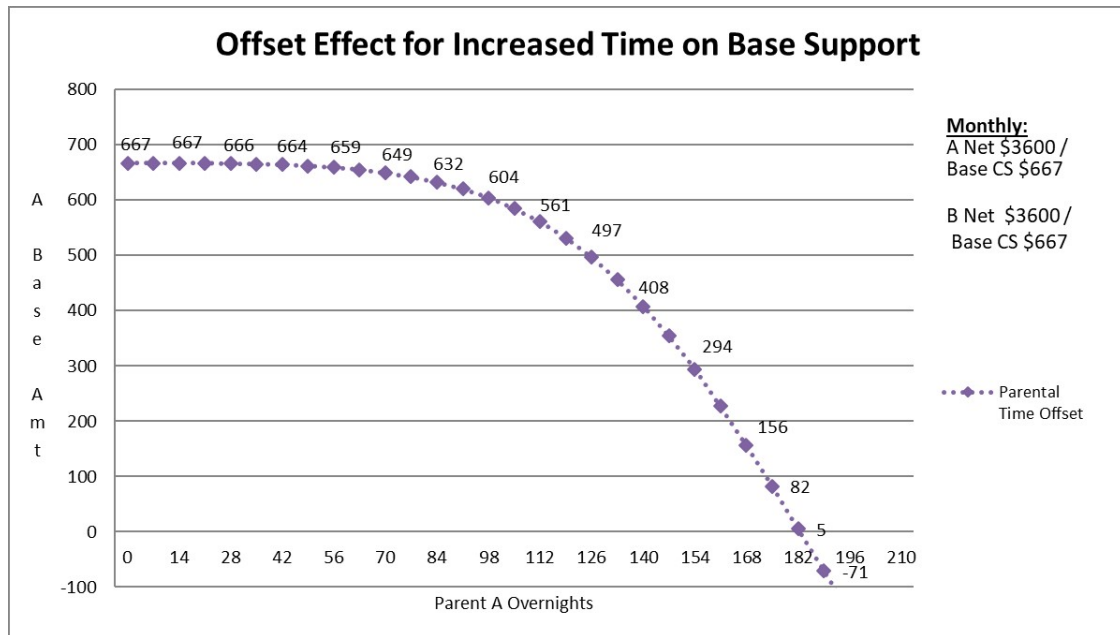


- (c) Does one plan have lower out-of-pocket costs for the child's expenses (e.g., lower deductibles, co-payments, benefits for a child's specific conditions, child's providers in plan's network, etc.) or have significantly lower net costs to insure the children (2021 MCSF 3.05(C)(2))?
    - (i) If yes, select that parent to maintain coverage.
    - (ii) If no, proceed to (d).
  - (d) Does one parent's plan offer services that are easier to access or closer to where the child resides or would usually receive care?
    - (i) If yes, select that parent to maintain coverage.
    - (ii) If no, proceed to (e).
  - (e) When there are not significant differences between plans in coverage or affordability, select the parent who will claim the minor children as dependents on his or her federal tax return this year.
- (5) If neither parent has coverage that is both accessible and available at a reasonable cost, is there private coverage available at a reasonable cost to either parent?
- (a) If yes, the court has discretion to select that parent to maintain coverage.
  - (b) Otherwise, select a parent who is eligible to enroll the children on public coverage like Medicaid, SCHIP, or other similar program.

### **3.03 Adjusting Support Payments for Parenting Time**

- 3.03(A) The economics in the General Care Equation base support calculation only consider the expense of a child living in one household. Because children often spend time in two households, the parent caring for a child should directly incur more child-related costs, which should reduce expenditures in the other parent's home.
- 3.03(B) Time away from a parent's home will reduce some costs, but not all child-related expenses. Households may have duplicated expenses for a child, like the residual cost to maintain a place for a child to return. The costs in the child's primary home remain largely unaffected, when a child inconsistently spends or does not spend much time with one parent.
- 3.03(C) Michigan's Parental Time Offset equation considers the obligations that each parent owes for a child, and balances some of the duplicated costs with the savings caused by time spent in the other parent's household. In the following situations, the equation should produce these results:
- (1) When a child spends equal time with both parents with equal incomes, neither parent pays the other.
  - (2) When a child spends equal time with both parents, the parent with a higher income pays some support.
  - (3) No reduction occurs when the child does not spend any time with a parent.
  - (4) Small reductions reflect some unduplicated costs. Reduced offsets continue until a parent will likely incur enough child-related expenses that make it unfair not to adjust support.
  - (5) An increasingly greater reduction occurs in the amount a parent owes to the other as a child spends more time in the parent's household.

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.

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.