

# 2008 Michigan Child Support Formula Manual

Effective: October 1, 2008



State Court Administrative Office  
Family Services Division  
Friend of the Court Bureau  
Lansing, Michigan

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**2008 MICHIGAN CHILD SUPPORT FORMULA MANUAL**

**List of Major Changes**

<b>MCSF Section</b>	<b>Change</b>
All	Contents reorganized and simplified
1.01	Formula divided into the manual and a supplement
1.04(E)	Three former provisions become deviation factors, and three new factors were added
2.01	Income section simplified and consolidated, and added information regarding perks and in-kind income, capital gains, tips and gratuities, and the value of gifts that replace income
2.01(G)	Imputing income only considers a parent's <i>potential income</i> (income the parent has a reasonable likelihood of earning, subject to that parent's ability)
2.08	Provisions for children that parents have in common and additional children from other relationships separated, and all consideration for additional children based on a percentage adjustment to a parent's income
3.02(A)	Base support calculation includes all children that the parents have in common
3.02(C)	Low income equation uses a flat ten percent
3.02(D)	The low income transition equation permits parents with low to moderate incomes to retain more income than the previous calculation
3.03	Parental time offset eliminates parenting time abatements and the shared economic responsibility formula
3.05(C)	Health care coverage premiums adjustment prorates a parent's entire premium
3.06	Child care terminates on August 31, and adds notification requirements when expenses change or stop
4.01	Calculation of a base support for a third party custodian no longer considers the other parent's income
4.02(B)	Arrearage payment calculation rate and limits were changed
4.03	Agreements related to property settlement section added
4.04	Minimum threshold for modification increased to 10% or \$50 per month, whichever is greater

## 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/scao/services/focb/mcsf.htm>.

### 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 “2008 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).

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 (§4.03).
- (7) A parent is incarcerated with minimal or no income or assets.
- (8) A parent has incurred, or is likely to incur, extraordinary medical expenses for either that parent or a dependent.
- (9) A parent earns an income of a magnitude not fully taken into consideration by the formula.
- (10) A parent receives bonus income in varying amounts or at irregular intervals.
- (11) Someone other than the parent can supply reasonable and appropriate health care coverage.
- (12) A parent provides substantially all the support for a stepchild, and the stepchild's parents earn no income and are unable to earn income.
- (13) A child earns an extraordinary income.

- (14) 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.
- (15) 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.
- (16) 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.
- (17) 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.
- (18) 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.
  - (2) Earnings generated from a business, partnership, contract, self-employment, or other similar arrangement, or from rentals.
    - (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, BAH-II, veterans' administration benefits, G.I. benefits (other than education allotment), or drill pay.
  - (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) Capital gains to the extent that they result from recurring transactions; or if the capital gains are 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.



- (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) Employer contributions to pension or other retirement plans, or individual contributions to qualified private retirement plans that exceed 5.5 percent of the parent's gross income (excluding FICA and Medicare taxes).
  - (9) 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(n).
- 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.
- 2.01(E) Do not consider expenses consistent with a parent's business or occupation as part of a parent's income. Unless otherwise counted, a parent's income includes the following expenses if they are inconsistent with the nature of the parent's business or occupation:
- (1) Rent paid by the business to the parent.
  - (2) Depreciation allowances unless they (a) involve the property of the parent (not a corporation or partnership); and (b) involve tangible personal property other than automobiles or home offices; and (c) are based on straight-line (not accelerated) tax depreciation.
  - (3) Home office expenses, including rent, hazard insurance, utilities, repairs, and maintenance.
  - (4) Entertainment expenses spent by the parent. Legitimate expenses for customer's entertainment are allowable as deductions.
  - (5) 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.
  - (6) 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.

- (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 voluntarily 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 or more hours per week) but has chosen to cease working additional hours (such as leaving a second job or refusing overtime). But 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:
    - (a) Prior employment experience and history, including reasons for any termination or changes in employment.
    - (b) Educational level and any special skills or training.
    - (c) Physical and mental disabilities that may affect a parent's ability 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 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 and present means of support.
    - (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) 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(A)) should be considered as income. Impute a reasonable rate when determining the potential investment return that could be earned.

- 2.01(I) Attribute all social security retirement, survivor's, or disability program dependent benefits based on the earnings record of a parent paid for the children-in-common with the other parent as the earning parent's income.
- 2.01(J) Count all social security retirement, survivor's, or disability insurance benefits received by the children-in-common with the other parent in the current case as custodial parent income, if the benefits are based on the earnings record of someone other than a parent.

**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. Income includes the interest earned on those assets. §2.01(H).
- 2.05(B) 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, 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 gross income before calculating and deducting its payer's federal, state, and local income taxes, and after 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.
    - (a) 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.
    - (b) In determining filing status (Single or Married), presume the status most consistent with each parent's situation.
    - (c) When tax returns cannot be obtained, use income tax guides to determine the taxes deducted from gross earnings for a parent's actual number of dependent exemptions.
- 2.07(C) Deduct any mandatory payments withheld as a condition of employment (e.g., most union dues and some retirement plans).
- 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 employer contributions to private qualified pension plans, but only up to 5.5 percent of the employee's gross income.
- 2.07(F) 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.

**2.08 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 third party'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 third party'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 the portion of that parent's income reserved for supporting those 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	85%
2	77%
3	72%
4	69%
5 or more	66%

**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 extraordinary 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.

3.01(C) Minimum Order Amounts

Unless the court decides to deviate from the formula, a parent's total child support obligation must be at least \$25 per month.

#### 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 third party'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 third party. §2.08 and §4.01.

3.02(B) General Care Equation

- (1) Determine the monthly family income by combining the parents' net incomes.
- (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 (§3.01(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.

**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.

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

- F = Parent's Monthly Net Income 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**

- (1) 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.

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

- H = Low Income Threshold (§2.09(A))
- 10% = Percentage for Income below the threshold (§3.02(C)(1))
- 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>	
Number of Children-in-Common	Percentage Multiplier
1	50%
2	55%
3	60%
4	65%
5 or more	70%

**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.

- (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:

$$\frac{(A_o)^3 \cdot (B_s) - (B_o)^3 \cdot (A_s)}{(A_o)^3 + (B_o)^3}$$

- A<sub>o</sub> = Approximate annual number of overnights the children will likely spend with parent A
- B<sub>o</sub> = Approximate annual number of overnights the children will likely spend with parent B
- A<sub>s</sub> = Parent A's base support obligation
- B<sub>s</sub> = 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) An offset for parental time generally applies to every support determination whether in an initial determination or subsequent modification, whether or not previously given.

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 (§4.04)), 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.
- (4) Extraordinary 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.

#### **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, 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 additional uninsured expenses that can be predicted in advance (e.g., orthodontia, special medical needs, or ongoing treatments).
- (3) 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 extraordinary medical expenses, the recipient needs to show that the established 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) Extraordinary Medical Expenses

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

**3.05 Health Care Coverage Obligation and Premiums**

3.05(A) Reasonable Cost of Coverage

- (1) A reasonable cost for providing private health care coverage for the children does not exceed five percent of the providing parent's gross income.
  - (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 private coverage, unless private coverage is obtainable without any financial contribution by that parent.
  - (b) A parent's cost for providing private 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.

3.05(B) Responsibility to Insure

- (1) When ordering child support, the court must order one or both parents to maintain health care coverage for the children if it is available at a reasonable cost as a benefit of employment, or when a self-employed parent maintains personal health care coverage.
- (2) Many factors may be used to determine whether one or both parents 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.

**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.
- (2) Allocate the children's net health care premiums between the parents according to the following steps.
  - (a) Determine each parent's monthly health care premium attributable to the children by dividing the premium by the number of individuals covered (including the parent) 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 third party 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 31st following the child's 12th birthday. 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 Social Security Benefit Credit**

- 3.07(A) Credit Social Security Retirement, Survivor's, or Disability Insurance benefits paid for the children based on the support payer's earnings record against that parent's support obligation as follows:
- (1) Determine the total child support obligation.
  - (2) Determine the monthly benefit amount that is attributable to the payer and that the support recipient receives for the children and then subtract that amount from the total child support obligation.

- (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.

3.07(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).

## 4. OTHER FACTORS

### 4.01 Third Party Custodians

- 4.01(A) When a third party 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. When possible apportion them 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 third party, treat the parents' other children-in-common who are not in the third party's custody as additional children from other relationships (§2.08(A)).
- 4.01(D) When a child is in a third party'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.
  - (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 third party.
  - (5) Do not reduce a parent's base support obligation paid to a third party for health care coverage premiums paid by a parent. Allocation of parent-paid premiums between the parents should be handled separately. If the third-party custodian purchases health care coverage for the children, then add each parent's share of the children's net determinable portion of the premiums paid by the third party to that parent's support payment.

### 4.02 Arrearage Guideline

- 4.02(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.

4.02(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 two 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 confinement expense repayment amount (i.e., payment for current month, not past due amounts) should not be less than \$25, nor more than the confinement expenses' pro-rata share of the total amount of confinement 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 §4.02(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 (§4.02(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 (§4.02(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.

4.02(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.

4.02(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.

4.02(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) Confinement Expenses means the support payer's share of the total necessary expenses incurred by or for the mother in connection with her confinement or of other expenses incurred in connection with the pregnancy of the mother that the circuit court orders repaid.
- (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.

**4.03 Agreements Related to Property**

4.03(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.

**4.04 Minimum Threshold for Modification**

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

4.04(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.

**4.05 Order Conversion, Prorating, and Rounding**

4.05(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.

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

4.05(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 10% minimum and 90% maximum limits explained in §3.01(B).