

IOWA CHILD SUPPORT GUIDELINES REVIEW COMMITTEE:

SUMMARY OF RECOMMENDED CHANGES¹

1. **Schedule of Basic Support Obligations.**

- A. The current schedules are based on 2007 economic data using the Betson-Rothbarth-3 (BR-3) study, updated to 2012 price levels. Adjusting the economic data to 2016 price levels would be expensive and time consuming and would have a minimal impact on support amounts (approximately 1%) due to modest inflation since 2012. A new economic study is expected to be available during the next guidelines review and the schedules should be reviewed again then.
- B. RECOMMENDATION: No changes should be made to the Schedule of Basic Support Obligations.

2. **Model for Calculating Support.**

- A. Iowa has utilized the current Pure Income Shares Model for calculating support since 2009. Thirty-nine states use the model. One of many advantages of the model is that it helped solve the “notch effect” that was prevalent under Iowa’s prior child support guidelines. The Committee considered other models and determined that the Pure Income Shares Model continues to be the model which is most equitable.
- B. RECOMMENDATION: The Pure Income Shares Model should be retained.

3. **Minimum Support Amounts.**

- A. The current minimum support amount is \$30 for one child and \$50 for two or more children. Any minimum support amount represents a public policy decision based primarily on the ability of the payor to pay rather than the needs of the child(ren). The minimum amounts were increased to their current level in 2012 and inflation has not increased significantly since then.

¹ The Iowa Child Support Guideline Review Committee will submit its final report to the Iowa Supreme Court in April 2017. As of the date of this outline the Court has not approved the committee’s recommendations. The guideline changes discussed in this outline are not final and should be checked against the actual child support guidelines once ordered by the Court.

- B. RECOMMENDATION: The minimum amount of support should not be changed at this time. However, the minimum support amounts should be reviewed during the next guidelines review when a new economic study is expected to be available.

4. **High Income Parents.**

- A. The current guidelines provide Basic Support Obligations for combined net monthly incomes up to \$25,000 per month. The Committee considered whether to provide support amounts for combined monthly income beyond \$25,000. However, the \$25,000 per month amount is already extrapolated from data supporting \$22,000 per month, and it would be speculative to extrapolate further.
- B. RECOMMENDATION: Maintain the current combined adjusted net maximum monthly income limit of \$25,000 in the Schedule of Basic Support Obligations.

5. **Health Insurance.**

- A. Iowa Code Section 252E.1A requires the court to order a parent to provide a health benefit plan covering the child(ren) if the parent has a plan which is accessible and reasonable in cost. If a parent is ordered to provide a health benefit plan, the guidelines provide that the insurance premium for the child(ren) is added to the basic support obligation and prorated between the parents. Rule 9.14(5)(b) currently provides that the child(ren)'s portion of insurance is the difference between the cost of family coverage and single coverage, regardless of the number of individuals covered under the policy.
- B. The Committee discussed two primary difficulties with the current rule. First, the cost of "family coverage" frequently exceeds the cost of the group plan actually carried by the parent (such as a parent + child plan). This inappropriately increases the support obligation if the custodial parent is ordered to carry the health insurance and inappropriately decreases the support obligation if the noncustodial parent is ordered to carry the health insurance. Second, if the entire difference in cost between family and single coverage is utilized, the parent not carrying the health insurance may be subsidizing the health insurance costs of the other parent's family. For example, if a noncustodial parent has a health insurance plan covering his or her new spouse, their child, and the child for whom support is being calculated, prorating the entire cost difference between family and single coverage would require the

custodial parent to subsidize the noncustodial parent's cost to cover his or her new spouse and their child.

C. RECOMMENDATION: Rule 9.14(5)(b) should be amended to provide:

“b. The allowable child(ren)'s portion of the premium will be calculated as follows:

(1) For a health benefit plan covering multiple individuals, including the child(ren) in the pending action, the allowable child(ren)'s portion is the amount of the premium cost for such coverage to the parent or stepparent that is in excess of the premium cost for single coverage, divided by the number of individuals enrolled in the health benefit plan, excluding the person providing the insurance, and then multiplied by the number of children who are the subject of the pending action.

(2) For a health benefit plan covering only the child(ren) in the pending action, the entire premium will be used as the allowable child(ren)'s portion of the premium.”

EXAMPLE: A parent is ordered to provide a health benefit plan. The plan costs \$600 per month and covers himself, his new spouse, his child with his new spouse, and the two children who are the subject of the support order. A single plan would cost \$280 per month. The allowable child(ren)'s portion which will be added to the basic support obligation and prorated between the parties is \$160. [$\600 total plan cost - $\$280$ single cost = $\$320$ / 4 individuals covered excluding the parent providing the insurance = $\$80$ x 2 children subject of the support order = $\$160$].

6. **Cash Medical Support and hawk-i.**

- A. Healthy and Well Kids in Iowa (hawk-i) is not considered a “health benefit plan”. Therefore, if a parent enrolls the child(ren) in hawk-i, the other parent will be subject to the requirement of paying cash medical support. The cost of cash medical support is often significantly greater than the cost of the hawk-i coverage. The State of Iowa typically takes an assignment of the cash medical support a parent is ordered to pay when the child(ren) is on Title 19, but does not take an assignment of cash medical support when the child(ren) is on hawk-i. When the cash medical support amount is greater than the cost for hawk-i, it results in a windfall to the custodial parent.

- B. RECOMMENDATION: The cash medical support amount should be the lesser of the actual cost of the hawk-i premium or the amount calculated under the guidelines. Rule 2.12(3) would be amended to add:

“...If the child(ren)’s health care coverage is through the Healthy and Well Kids in Iowa program (hawk-i) under Iowa Code chapter 514I, the ordered amount of cash medical support is the cost of the hawk-i premium or the amount calculated pursuant to the table in rule 9.12(4), whichever is less.”

7. **Spousal Support and Definition of Gross Income.**

- A. Rule 9.5(8) allows a deduction for a prior obligation for spousal support actually paid. However, it does not address what to do when spousal support is ordered in the current action. Iowa appellate courts have often permitted trial courts to consider spousal support paid or received in the current action in determining child support, even though it is not specifically addressed in the guidelines. See *e.g., In re Marriage of Mihm*, 842 N.W.2d 378, 382 (Iowa 2014); *In re Marriage of Lalone*, 469 N.W.2d 695, 696 (Iowa 1991).
- B. The guidelines are also ambiguous as to whether spousal support received by a party is included in that party’s gross income for purposes of calculating child support. Rule 9.5 defines net monthly income, but does not define gross monthly income beyond stating that it does not include public assistance benefits or earned income tax credits. The Committee reviewed definitions of gross income in Iowa law, rules, and case law, as well as statutory and rule language from other states and agreed spousal support should uniformly be included in the gross income of the recipient and subtracted from gross income of the person paying it. The Committee also agreed that the spousal support amount should be determined first before child support is calculated. The only exception to the general rule urged by the Committee is that reimbursement spousal support not be added to the income of the recipient or deducted from the income of the payor.
- C. RECOMMENDATION: Rule 9.5 should be amended to add a gross monthly income definition and provide for the inclusion of spousal support in the income of the recipient and the deduction from the income of the payor:

“Rule 9.5 Income.

9.5(1) Gross monthly income. In the guidelines, the term “gross monthly income” means reasonably expected income from all sources.

a. Gross monthly income includes traditional or rehabilitative spousal support payments to be received by a party in the pending matter and prior obligation traditional or rehabilitative spousal support payments actually received by a party pursuant to court order.

(1) If traditional or rehabilitative spousal support is to be paid in the pending matter, it will be determined first and added to the payee's income and deducted from the payor's income before child support is calculated.

(2) The payor of prior obligation spousal support will receive a reduction from income for traditional or rehabilitative spousal support actually paid pursuant to court order.

(3) Reimbursement spousal support shall not be added to the payee's income or deducted from the payor's income.

b. Gross monthly income does not include public assistance payments, the earned income tax credit, or child support payments a party receives.

c. Gross income from self-employment is self-employment gross income less reasonable business expenses.

d. To determine gross income, the court shall not impute income under rule 9.11 except:

(1) Pursuant to agreement of the parties, or

(2) Upon request of a party, and a written determination is made by the court under rule 9.11."

8. **Child Care Expenses.**

A. Child support amounts in the Schedule of Basic Support Obligations do not account for child care expenses. Child care costs are specifically removed from the economic data on which the guidelines are based because not all parents have child care costs. However, many states require that parents share in the cost of child care in other ways. Some states treat child care costs in the same way that Iowa treats health insurance premiums (added to the support obligation and prorated between the parents). Some states treat child care costs in the same way Iowa treats uninsured medical expenses (divided in proportion to income, but not added to the child support obligation). Iowa is one of only a few states

that do not specifically address child care in its guidelines as either an add-on or as a separate obligation apportioning expenses between the parents. Instead, the Iowa guidelines merely allow a deduction from gross income for “Actual child care expenses while custodial parent is employed, less the appropriate income tax credit.” [Rule 9.5(10)]. The deduction from gross income has only a de minimis impact on the support amount.

B. The Committee recognized that child care costs are sometimes quite significant, and often exceed the child support obligation, especially when a child is not school age and when there are multiple children receiving child care. In Iowa, the average cost of infant child care in a licensed center is \$790 per month. However, if Iowa were to require child care costs to be shared in some uniform fashion, there are several issues that would need to be addressed as part of the solution. For example, disputes exist over the determination of the appropriate child care cost; differences over who would have the authority to select the provider; issues associated with family members providing care and only charging one of the parties; and the necessity of frequent modifications due to changes in the daycare costs and the number of children in daycare. Following the last review in 2009, Rule 9.11(2) was amended to specifically allow the court to consider an upward variance from the guidelines based on the child care expenses of the parties when the circumstances demand it. Rule 9.11(2) was amended to add: “Adjustments may also be made based on the parties’ child care expenses necessitated by employment or education.” However, there is little evidence to suggest that that this language has been utilized in any significant way since its addition in 2013. In addition, there continues to be a mistaken belief by many that variance is not warranted because the guidelines already account for child care costs.

C. **RECOMMENDATION:** The Committee recommends striking the child care variance language in Rule 9.11(2) and adopting a new rule (Rule 9.11A) addressing the court’s ability to vary from the guidelines based on the cost of child care. The Committee also recommends amending Rule 9.5(10) to reference the definition of child care expenses in new Rule 9.11A. The proposed rule changes are as follows:

“9.5(10) Actual child care expenses, as defined in rule 9.11A, less the appropriate income tax credit.

...

Rule 9.11A Variance for child care expenses. The custodial parent’s child care expenses may constitute grounds for the court to vary from the amount of child support that would result from application of the guidelines. In determining whether variance is warranted under this rule and rule 9.11, the court should consider the fact that child care expenses are not specifically included in the economic data used to establish the support amounts in the Schedule of Basic Support Obligations. When considering a variance, child care expenses are to be considered independently of any amount computed by use of the guidelines or any other grounds for variance.

9.11A(1) “Child care expenses” means reasonably necessary child care expenses paid by the custodial parent for the child(ren) in the pending matter to enable the parent to be employed, attend education or training activities, or conduct a job search.

9.11A(2) “Paid” means actual, annualized monthly child care expenses less any third party reimbursements and any anticipated child care tax credits.

9.11A(3) There is a rebuttable presumption that there will be no variance for child care expenses attributable to a child who has reached the age of 13 years old.

9.11A(4) If variance is warranted, the support order must specify the amount of the basic support obligation calculated before the child care expense variance, the amount of the child care expense variance allowed, and the combined amount of the basic support obligation and the child care expense variance.

9.11A(5) This rule does not apply to court-ordered joint (equally shared) physical care arrangements, see Iowa Code § 598.41(5), or to cases where the noncustodial parent’s adjusted net monthly income is in the low-income Area A of the schedule in rule 9.26.”

9. Step-Down Support Amounts.

- A. When two or more children are covered by the support order, problems arise when the court’s order or the parties’ stipulation on which the order is based does not address how child support will change as the number of children eligible for support changes. In those instances, parties are required to seek a child support modification through the court or an administrative adjustment through the Child Support Recovery Unit. Until the support amount is changed, the payor must continue to pay the previously ordered amount which can be

unduly burdensome to that party and can also create problems for the recipient if the support is later retroactively modified. The Committee determined that support orders covering two or more children should include a step-down provision to adjust the child support amount as the number of children entitled to support changes. Of course, the step-down amounts of support are based on information that may later change. However, the step-down amounts are subject to later modification if necessary and providing a step-down amount of support at minimum creates a placeholder until a modification can be completed.

- B. RECOMMENDATION: Rule 9.14 should be amended to state that for cases with multiple children, the support order must include a step-down provision to automatically adjust child support as the number of children entitled to current support changes.

10. **Guidelines Education for the Public.**

- A. The Committee discussed the need for public education focused on informing parents about how the child support guideline amounts are determined and the method for calculating individual child support obligations.
- B. RECOMMENDATION: An educational video should be developed, produced, and freely shared. The video should specifically be provided for showing during the Children in the Middle course.

11. **Updated Grids and Worksheets.**

- A. If the changes to the guidelines are adopted as recommended, the grids and child support guideline worksheets should be amended to correspond to the changes.
- B. RECOMMENDATION: The following grids and worksheets should be amended:
 - Adjusted Net Monthly Income Computation grid in Rule 9.14(1) to correspond to the proposed changes to Rule 9.5.
 - Basic Method of Child Support Computation grid in Rule 9.14(2) to correspond to the proposed changes to Rule 9.14(5) and Rule 9.5.
 - Joint (Equally Shared) Physical Care Method of Child Support Computation grid in Rule 9.14(3) to correspond to proposed changes to Rule 9.14(5) and Rule 9.5.

- Child Support Guideline Worksheets in Rule 9.27 to correspond to the proposed changes to Rule 9.14(5) and Rule 9.5.