

2011 Guidelines Review
Child Support Guidelines Advisory Committee
Thursday, August 25, 2011, 9 AM to Noon, Siuslaw Conference Room
Capitol City Business Center, 4600 25th Ave. Ste 180, Salem, OR 97301

MINUTES

FACILITATOR: Kate Cooper Richardson

MINUTES: Susan Baker

Members in attendance: Donna Brann, Kate Cooper Richardson, Vonda Daniels, Chris Eggert, Kelly Evans, Jean Fogarty, Laurie Hart, Martin Herbest, Jack Lundeen, Shelly Matthys, Carol Anne McFarland, Mike Ritchey, Robin Selig, Linda Scher, Carl Stecker, Brenda Wilson, Jennifer Chapman, and Jonathan Ramberg.

Support Staff: Barb Bellek, Jeremy Gibons, Tom Hedberg, Lorrin King, Julie McNeal, and Melissa Park.

Absent: Claire Anderson, Lisa Buss, Professor Kathy Graham, Judge Susan Tripp, and Vince Hill.

Minutes Review and Approval	Kate Cooper Richardson
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The committee reviewed and approved the minutes of the June 26, 2011, meeting.

Income Workgroup Update	Robin Selig
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A report from the workgroup on tackling the smaller issues first and then they will address the larger issues in four subgroups:

1. The additional child deduction
2. Imputed vs. actual income
3. Deducting the parent's proportion of the health insurance portion from income
4. Low income parents

Charts were prepared comparing several other states' approaches to income imputations, overtime income, non-joint children, self-support reserve, and minimum order amounts. The workgroup is considering allowing more flexibility in figuring potential income. With Oregon's unemployment rate holding steady around 9.5% for the past year, employment opportunities are not what they were during the last guidelines review.

Child Attending School Workgroup Report	Jack Lundeen
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The workgroup wants to separate the Child Attending School from the minor children. Tom has been working towards modeling. Jack created some calculations and found them to be inaccurate.

Basic support is determined based upon income and ability to pay. Our model then divides that by the number of children and attributes pro-rated amounts to CAS and to minors. The minor children's share would be subjected to the regular support calculation, including parenting time

credits and child care costs. The CAS share of basic support is handed separately, split between the parents in proportion to their income, and capped at the parents' available income remaining after deducting the obligation for the minor children. In the old calculation worksheets, there was a summary line to lay out who pays what amount, and it should be restored.

An overview of the history of commentary in the guidelines was presented to the committee. In the last guidelines review it was decided to remove the commentary from the guidelines. There have been subsequent requests to restore the commentary. Julie shared what other states do in regards to commentaries. For example, Alaska uses commentary to support its guideline rules, while other states include notes or examples with their rules to show how support is calculated in case scenarios. Few states surveyed have an actual written commentary similar to Oregon's commentaries. Commentaries were not seen as part of the actual rule, which is why it was removed in the last guidelines.

Commentary is not permitted as part of the official administrative rules maintained by the Secretary of State. If there were a commentary, it would create an annotated version of the administrative rules, and would be maintained separately (for instance, on the Child Support Program's website).

Rebuttals

State and federal law requires that you have criteria in place to allow for a deviation from the guidelines. Federal regulations require that rebuttal usage be reviewed during state guidelines reviews. If a rebuttal is used often as a regular deviation to the guideline amount, it should be incorporated into the guideline. Also, if there is a rebuttal that is not being used, they are reviewed for determination if it should be listed.

The Program has some data on what rebuttals are applied on our cases; however, there is no data available on orders taken through the courts. Because the rebuttal data is entered manually on the child support system, it may not be entirely representative of rebuttal use. According to a survey of Oregon circuit courts, of the family court facilitators that perform child support calculations for self-represented parties, few counties will include rebuttals. Because many self-represented clients are not knowledgeable of legal processes, they have less understanding on the application of a rebuttal. Many of the rebuttals applied on DCS cases involve children in state care.

Issues List

Remove the exclusion for extracurricular expenses. Needs vs. wants: Is participating in a sport a "need" of the child? Extracurricular activities were deemed wishes in the last guidelines. This is still debated.

Child Care

This issue arises in each guidelines review. Child care costs are burdensome, especially in low-income families, and can significantly increase the support order. In some cases, these orders exceed withholding limits and are only partially enforceable, causing the obligor to go into arrears every month. Some obligees are finding ways to cut the child care costs, but it is a difficult for single parents to find affordable child care.

Due to budget cuts, the Employment-Related Day Care benefit (ERDC) will only be given to families coming off Temporary Assistance to Needy Families (TANF). Should our calculation be based on a limited amount of families?

Currently there is no provision in the child care rule OAR 137-050-0735 for including child care costs when the child is with a caretaker (usually the grandparents), although the calculator does include these costs and divide them between the parents.

Miscellaneous Issues

When incomes are different and parenting time is close to even the calculation flips, causing the custodial parent to incur the obligation to pay support. On DCS cases, this causes some concern as the party who did an application for services would normally be considered the obligee. Should this be allowed? Should there be a determination prior to the calculation of support on who is the obligor?

Social security and veterans benefits are applied to cash child support only, not medical support, although ORS 25.275 makes no such distinction.

Child's survivor benefits will be reviewed in the Miscellaneous workgroup.

Other issues:

- Disabled adult child ORS 109.010
- Income Issue 14 – trust payment
- Income issue 28 – overtime in commentary
- Flip and rebuttal – underemployed obligor, employed custodial parent.
- Process for additional miscellaneous issues.

Keeping Up the Process

The guidelines project's work products include rules, calculators, and worksheets. Some of the proposals presented here are still relatively abstract ideas. There has been a great deal of discussion of modeling, and an expectation that the modeling contractor will turn abstract ideas into a concrete formula. This is not the case. In fact, in order to model the proposals, there must be the worksheet

From here, the next step is to turn the ideas and proposals into a formula, represented on a worksheet. The process of operationalizing the policies will reveal finer-grained policy determinations that still must be made. This is one of the purposes of the Design (worksheets and calculators) workgroup. This workgroup, with staff support, is prepared to draft the worksheet-level implementation of all the workgroup proposals.

This, in turn, will give us the work product the developer needs to model the impact of the policy proposals.

The Guidelines Advisory Committee is halfway through the guidelines process. We are getting to the point where the rubber meets the road. Information from the workgroups must be in a language that can be modeled. There has been discussions on developing such a tool with the contractor, which will send a lot of scenarios to the calculator and get results.

Child Support Program Guidelines Project Management Team

Jonathan Ramberg, Field Operations Manager for the Child Support Program was introduced to the committee as he is the project manager for the 2011 Guidelines Implementation Project. Tom Hedberg is the project business lead, and Kate is the project sponsor.

Upcoming meeting schedules

The September 29, 2011, meeting has a conflict for some participants that affect ongoing agendas. Therefore, after adjustment, September's agenda will cover the following:

- Child Attending School workgroup progress report
- Developments in implementing and modeling parenting time
- Miscellaneous issues workgroup update
- Income workgroup update

October's agenda will include:

- Miscellaneous issues workgroup report
- Income workgroup report.

The November meeting may focus on worksheets. In December, the Advisory Committee will start working with the modeling results. This requires the workgroups to maintain communications evaluating the modeling results.

The Advisory Committee needs to consider alternate dates for the December meeting so a decision can be made in September. The meeting is scheduled for December 29, 2011. Possible alternate dates include December 15, 2011, or January 5, 2012,

The committee revisited the decision-making process. The Advisory Committee must complete its work and make recommendations in order to draft the rules. Child Support Program Director Jean Fogarty is the rulemaking authority, and she is looking for as much consensus as possible on recommendations for a rule. If the Advisory Committee does not reach a consensus, she expects majority and minority reports or recommendations. Program staff will draft the proposed rule changes and bring them to the Advisory Committee for internal review and comment before formal rulemaking notice and public hearings.

To clarify, the workgroups are to propose solutions and rule changes? The workgroups are not expected to draft rules. Program staff will provide drafting services. However, the Program welcomes wording proposals on areas of interest to members of the Advisory Committee.

Round Table

All

Workgroup meetings begin at 12:30 p.m. to allow represented staff members' lunchtime.