

Oregon Child Support Program
2011-12 Child Support Guidelines Review

**Guidelines Advisory Committee
Report and Recommendations**

March 27, 2012

TABLE OF CONTENTS

I. Summary of Recommendations	1
II. The Guidelines Review	2
III. Medical Support	5
IV. Parenting Time Credit	17
V. Children Attending School	22
VI. Income	26
VII. Miscellaneous Issues	31
VIII. Design	38
IX. Implementation	45

Appendices

A. 2011 guidelines issues	46
B. Proposed administrative rule language	55
C. Proposed commentary topics	61
D. Draft child support worksheet	64
E. Draft one-page worksheet	69

I. Summary of Recommendations

Medical Support

- Apportion health insurance costs between the parents.
- Combine both parents' ability to pay for health insurance.
- Better reflect statutory cash medical requirements.

Parenting Time Credit

- Replace the current credit formula with a graduated curve. Provide a smaller credit for even minimal parenting time, increasing rapidly as parenting time approaches 50%/50%.
- Eliminate the 25% parenting time threshold and 1.5 multiplier.
- Do not apply parenting time credit to Children Attending School (ORS 107.108).

Child Attending School

- Provide clear directions for computing support for a Child Attending School in administrative rule and in the support calculator.
- Apply parenting time and child care adjustments to minor children only.
- Prioritize support for minor children when parental income is limited.
- Clearly show each parent's obligations to minor children and to Children Attending School.

Income

- Provide more flexibility in using imputed and actual income, or a combination of the two, to determine income.
- Modify additional child deduction to reduce credit amount and replace the term "additional child" with "non-joint" child.
- Allow a non-joint child deduction for a Child Attending School not yet 19, attending high school, and living at home.

Miscellaneous Issues

- Provide commentary to guideline rules as appropriate.
- Encourage rebuttal usage with explanatory commentary, calculator instruction, and worksheet findings. Improve rebuttal tracking in the Child Support Program, and begin tracking private-sector rebuttals.
- Do not include public or employer subsidies for child care costs. Do not adjust child care costs for potential tax credit eligibility.

Design

- Implement the Advisory Committee's policy decisions in the worksheet.
- Replace two current calculators with one simple, intuitive calculator.
- Implement one-page input/output summary.

II. The Guidelines Review

Quadrennial guideline review mandate

The Oregon Child Support Program (“the Program”) is responsible for enacting a single formula for use in computing every child support obligation in the state, whether administrative or judicial. ORS 25.275(1). The formula must be reviewed at least once every four years to ensure application of the formula results in appropriate support awards. ORS 25.270(3), 45 CFR 302.56(e). The formula’s last regular review was in 2006-7. The formula had minor amendments in 2009, corresponding to the Department of Justice’s implementation of the Recession Response Program, and the guideline formula was rewritten in its entirety for 2010. Neither change, however, included the review of economic data required by 45 CFR 302.56(h).

Economic Study

The Program began by soliciting a study from the Oregon Office of Economic Analysis. The child support guidelines are based on an obligation scale developed from estimated child-rearing expenses arrayed by family size and combined income.¹ The Office of Economic Analysis scrutinized the assumptions underlying that data and concluded that despite significant economic distress, the scale itself is still a sufficiently reliable measure of average childrearing expenses. While several economic trends may have had modest impacts, some of those impacts would be upwards and others would be downwards, tending to cancel one another out. Moreover, even significant changes in economic factors are more likely to change the number of people in different income strata, rather than to change the proportion of household income devoted to childrearing expenditures within each stratum. Thus, while the lower reaches of the scale may be used more in 2012 than in 2006, the figures at each income level are likely to still conform relatively closely to average actual proportions of household spending on children at that income level.

Despite the apparent soundness of the underlying economic data, the quadrennial review mandate provided an opportunity to study the effectiveness of the changes enacted in the 2010 formula.

The Guidelines Advisory Committee

As part of the quadrennial guidelines review, the Child Support Program solicits input from the public, the legal community, nonprofit organizations, and partner

¹ Venohr, Betson et al., State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations. Policy Studies, Inc. June 26, 2006. Retrieved from http://oregonchildsupport.gov/laws/guidelines_archive/psi_guidelines_review_2006.pdf#page=21.

agencies. The primary vehicle for this input is the Guidelines Advisory Committee. Composed of legal professionals representing the family law bar, the bench, and various client constituencies, as well as Program and partner agency representatives, the Guidelines Advisory Committee reviews the current guideline formula and makes recommendations to the Child Support Program. The committee included:

Name	Organization
Jean Fogarty, Chair	Director, Oregon Child Support Program Division of Child Support, Department of Justice
Kate Cooper Richardson, Facilitator	Child Support Program Deputy Director, DOJ-Division of Child Support Policy Chief
Mike Ritchey	General Counsel, DOJ-DCS
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The Guidelines Advisory Committee was supported by Child Support Program staff.

Name	Child Support Program Staff
Tom Hedberg	DCS Policy Team Manager
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Susan Baker	DCS – Administration

Principles

Child Support Program Deputy Director Kate Cooper Richardson provided the committee with four overarching principles for the committee’s recommendations:

1. The guidelines produce fair awards.
2. The rules are understandable to families and practitioners.
3. The calculation required to implement the rule is not complex.
4. The outcomes are enforceable.

Report

The following sections are the committee’s recommendations to the Program, organized by subject matter area and then by priority. The recommendations expected to have the greatest positive impact to one or more of the listed principles are listed first.

III. Medical Support

Key Recommendations

- **Apportion health insurance cost between the parents.**
- **Combine both parents' ability to pay for health insurance.**
- **Better reflect statutory cash medical requirements.**

Introduction

The medical support changes in the 2010 Child Support Guidelines revisions caused a great deal of confusion for parties, the courts, and the private bar. In some instances, the changes were not well explained and the departure from established practice caught everyone off guard. In most cases these can be addressed through the addition of commentary. In other instances, the implications of the changes were not anticipated and led to a variety of complications.

Apportioning Health Insurance Cost Between Parents

Under the child support guidelines adopted in 2010, parents do not share the cost of health insurance. Instead, the cost of health insurance available to a parent is compared only to that parent's individual four percent reasonable-in-cost cap. This is confusing to parties and has resulted in fewer policies being affordable than if both parents' reasonable-in-cost caps were combined to purchase insurance. Historically, the parents' caps were combined and apportioned.

It is recommended that the guidelines prorate the cost of health insurance between the parties based on each parent's share of their combined incomes. Health insurance should be considered reasonable in cost if the premium does not exceed the parents' combined reasonable-in-cost caps. The draft worksheet in development has been designed to accomplish this result. It will also require a revision of the medical support rule, OAR 137-050-0750, and the addition of commentary to explain it.

The medical support rule can be confusing and may need an extensive revision to clarify its provisions. In the absence of such an effort, OAR 137-050-0750 should be amended as follows:

(4) In applying the reasonable in cost standard to private health care coverage:

(a) Only the cost of covering the child for whom support is sought will be considered. If family coverage is provided for the joint child and other family

members, prorate the out-of-pocket cost of any premium for the child for whom support is sought only.

(b) Apportion the cost between the parents based on their shares of adjusted income. A parent's proportionate share of the premium is determined by multiplying the premium by the parent's proportionate share of the parents' combined adjusted incomes.

(c) No share of the premium may be apportioned to a parent with income at or below minimum wage. If only one parent has income above minimum wage, compare only that parent's reasonable in cost cap to the insurance premium.

The Program should consider adding the following commentary to the rule:

The guidelines require both parents to contribute to the cost of private health care coverage when it is reasonable in cost. The cost of providing private health care coverage is shared between the parents based on each parent's income share. The premium cost for insuring the children is multiplied by each parent's percentage of both parents' combined incomes. Private health care coverage is considered reasonable in cost only when the parents' combined reasonable-in-cost caps equal or exceed the cost to insure the joint children.

Actual Cost vs. Reasonable-Cost Cap

There was a consensus among most committee members that only the actual cost of private health insurance should be ordered. It was believed that doing so made medical support provisions easier to understand. A minority of the committee believes that Program orders should order parents to provide private health insurance anytime the cost of insurance does not exceed the parents' combined reasonable-in-cost cap. This would add flexibility to Program orders and avoid the need to modify when the cost of insurance increases but does not exceed the combined reasonable-in-cost caps. The differences between the majority and minority positions can be illustrated with an example:

Abby and Ben each earn \$5000 per month and have reasonable-in-cost caps of \$200 each. They could be ordered to pay a total of \$400 per month for insurance. If Ben has insurance available through his employer at a total cost of \$200 per month, under the majority recommendation, Abby and Ben would be ordered to provide health insurance at a cost of \$100 per month each. In addition, Ben's employer would be instructed to cover the children as long as the premium does not exceed \$200 per month. Under the minority recommendation, Abby and Ben would be ordered to provide health insurance at a cost not to exceed \$200 per month each. Ben's employer would be ordered to cover the children as long as the premium does not exceed \$400 per month.

The advantage of the majority position is that Ben and Abby will know exactly what they are required to contribute to medical support. Ordering parties to provide health insurance at a cost not to exceed \$200 each, as the minority recommends, is potentially confusing when the actual cost of health insurance is only \$100 each.

The advantage of the minority position is that it provides greater flexibility, will prevent health insurance coverage from lapsing, and will avoid the need for yearly modifications each time there is a premium increase. Assume that in the example above the cost of health insurance increases to \$210 per month. Under the majority position, coverage for the children will lapse until the order is modified. Under the minority position, coverage would continue until the cost of insurance exceeds \$400 per month.

Double Insurance Coverage

Current guidelines order both parents to provide insurance when each parent has a policy available at a reasonable cost. This works to the benefit of some children who end up being covered by two policies and incur smaller co-pays and deductibles or avoid them completely. In some cases, however, the duplication of coverage does not result in any real benefit. More important, as noted above, comparing the cost of insurance to only one parent's reasonable-in-cost cap has caused fewer children to be covered by insurance. As part of this proposal, it is also recommended that parents be ordered to provide only one health insurance policy unless they agree to double coverage.

Ordering both parents to provide insurance avoided the complication of deciding which policy should be provided when two are available. In some cases, either choice will disadvantage one of the parties. The parents may already be providing health insurance for other non-joint children. Ordering either parent to pay a portion of the other parent's premium may cause the policy for the non-joint children to become unaffordable. There is no perfect answer. Nevertheless, there needs to be an established practice for deciding which insurance policy must be provided.

It is recommended, in cases where both policies are affordable and the parents cannot agree on which one to provide, that the parent with the majority of parenting time should be allowed to choose. It is believed that the parent who spends the majority of the time with the children will be in the better position to choose the policy that is more appropriate. Allowing the parent with the greater parenting time to choose also is consistent with federal law. Parents still could voluntarily agree to purchase two policies if that is appropriate.

If this recommendation is adopted, only one parent generally will be ordered to enroll the children for insurance. This means that the providing party will pay the entire

cost up front, usually by having the full premium deducted from paychecks. If the providing parent is also the obligor, the support obligation would be decreased by the other parent's proportionate share of the premium cost. If the providing parent is the obligee, the obligor's proportionate share is added to the support obligation.

These recommendations will make the provision of health insurance consistent with the income shares model on which Oregon's obligation scale is based. It also will be easier to explain and justify to pro se parties. Finally and most importantly, it will cause more children to be insured because it will make more policies affordable.

Four Percent Reasonable-in-Cost Cap Limitation Applies to Children's Portion of the Premium Only

When comparing the cost of health care coverage to the obligor's reasonable-in-cost cap, the guidelines should consider only the cost of providing insurance to joint children covered by the order. The cost to insure the providing parent and any non-joint children must be deducted from the premium before it is compared to the reasonable-in-cost cap. The worksheet and calculator should be clarified, and the following commentary should be added:

When determining whether the cost of health insurance is reasonable, only the cost of insuring the joint children covered by the order should be considered. The cost to insure a parent and any non-joint children must first be deducted.

Is Four Percent of Adjusted Income Adequate?

Concerns have been raised that four percent of adjusted income may not be sufficient to provide adequate medical support. Modeling is needed on this issue after the worksheet and calculator have been finished. If the modeling shows that medical support of four percent is not adequate, it is recommended that the committee be allowed to consider increasing it to a higher amount.

Cash Medical Support When No Health Insurance is Available

When no insurance is available, Oregon's guidelines now require cash medical at the full reasonable-in-cost cap. The paying parent often perceives this as a windfall to the other parent because there is no guarantee that expenses actually will be incurred. In addition, dissolution decrees frequently include a provision requiring parents to share uninsured medical expenses. When such clauses exist, cash medical support is often viewed as paying twice for the same medical expenses.

On the other hand, when children are enrolled in public health care that is funded in part with Medicare funds, federal law requires that support rights be

assigned to the State. It is the policy of the State of Oregon to enforce the assignment on those cases by intercepting cash medical support. Therefore, for cases with assigned support, it is necessary to include cash medical support.

Oregon Revised Statutes 25.323(4) requires cash medical support when neither parent can provide private health care coverage, unless an order includes findings why it has not been ordered. The private bar has requested that the ability to enter appropriate findings be incorporated into the worksheet and automated in the Program's online calculator. In other words, it has been suggested that the Program make changes to its worksheet and calculator so that they conform to the medical support statute.

The committee believes that not ordering cash medical support is appropriate only when a child's medical needs are being addressed in some other way. It is also important to preserve the Program's ability to order cash medical support when medical support is assigned to the State. Accordingly, the committee recommends that the child support worksheet be designed to permit parties to choose not to include cash medical support by issuing the following findings:

- The children are not receiving public assistance, and either
- Health insurance is being provided, or
- The underlying dissolution decree contains a provision for sharing uninsured medical expenses.

The recommendation is not intended to eliminate cash medical support from every case except those with assigned support. On the contrary, it is intended to implement the full range of options available under ORS 25.323, which specifically provides for entry of a finding in lieu of cash medical support. Limiting the exercise of this option as provided in the bullet points will result in cash medical support not being ordered only when a child's medical needs are being met in some other manner. It will avoid unnecessary duplication of medical support and still provide for the State to recover cash medical when support is assigned.^{2 3}

² The following suggestion was raised after the opportunity for a full committee discussion, but is included here for consideration: Cash medical should not merely be avoidable, but should not be an option where 1) the children are not receiving public assistance, 2) health insurance is provided, and 3) there is a provision for division of expenses under ORS 107.106.

³ The following matter was raised after the opportunity for a full committee discussion, but is included here for consideration: ORS 25.323(4)(b) requires cash medical support or findings only where neither parent has access to appropriate, available health insurance, and there are no particular conditions on those findings. According to this perspective, the calculator should make it clear that findings are available as an alternative to cash medical support

Contingent Cash Medical Provisions

Most support orders entered by the Child Support Program contain contingent cash medical support. This policy was adopted as part of the 2010 guidelines change. It allows cash medical support to be activated or suspended depending on whether health care coverage is available. It keeps medical support flowing at all times and reduces the need to modify orders.

Under ORS 25.323(3), the use of contingent medical support is permissive, not mandatory. However, the public calculator currently available online automatically includes contingent cash medical language adopted for the internal child support program calculator in every worksheet summary. This has also been an ongoing source of confusion to pro se parties and attorneys alike.

There is a need for added flexibility and clarity in both the worksheet and the calculator on this issue. The State routinely needs to include contingent cash medical support in all orders issued by the Program. It may not be appropriate for private parties. The calculator should allow parties who are not on public assistance to opt out of cash medical support under certain circumstances or to include cash medical support that is not contingent. The proposed calculator and worksheet address these concerns by giving parties the opportunity to choose whether to include cash medical support make cash medical support and whether to make it contingent. The worksheet summary needs to be designed so that contingent language only appears when the parties have chosen to include it.

Public Health Care: Amount of Cash Medical Support Order

As noted above, when children are enrolled in public health care, cash medical support must be assigned to the State. At the present time, cash medical support is ordered at the full reasonable-in-cost cap. The committee considered whether some other amount should be ordered. One suggestion was to order an amount equal to the cost to the State of providing public health care coverage. However, the State has numerous public health care plans and each carries a different price tag. Some require participants to contribute to the cost of enrollment; others are entirely subsidized. The children may not be enrolled in a public plan at the time the order is entered. Consequently, the cost of public health care coverage may not be known when the amount of cash medical is set.

Other suggestions included using the cost of the most common public plan or using an average of all public plans. Both of these approaches have problems. While

whether the family receives assistance or not, and provisions entered under ORS 107.106 for sharing unreimbursed medical expenses are only one of multiple possible bases for such findings.

mathematically attractive, using an average is confusing and extremely hard to explain or justify to parties. Using the cost of the most common plan may be appropriate for families enrolled in that plan, but will either inadequately or excessively reimburse the State for families enrolled in other plans. The committee recommends that, when children are enrolled in public health care, the Program maintains the current practice of ordering cash medical at the full reasonable-in-cost cap. Assigned support can be retained by the State only to the extent of unreimbursed assistance. Once the cost of assistance has been recovered, any excess is returned to the obligee.

Tribal Health Care Coverage

Obligors who are tribal members often are able to enroll their children in health care coverage provided by Indian Health Services (IHS). It is common for enrollment to be free of charge. As noted, orders issued by the Child Support Program generally provide that an obligor is to provide cash medical support unless he or she is providing private health care coverage. There has been confusion about whether tribal coverage is considered private health care coverage.

The provisions of ORS 25.321(11) & (12) state that private health care coverage is any health care coverage that is not provided by a public body. Public body is defined by ORS 174.109. The definition does not include tribes. This means that under Oregon law, tribal coverage is private health care coverage. The Child Support Program recently clarified its position on this issue and began treating tribal coverage as private health care coverage. It is recommended, however, that more be done to communicate this point to the public and to Program staff. This should be accomplished by adding the following commentary to OAR 137-050-0750:

Tribal health care coverage provided by Indian Health Services (IHS) is private health care coverage. ORS 25.321(11) & (12) define private health care coverage as any health care coverage not provided by a public body. Public body is defined by ORS 179.109. The definition does not include tribes.

When Should Contingent Cash Medical Stop?

Oregon Revised Statutes 25.323 provides that every child support order must require at least one parent to provide health care coverage any time it is available at a reasonable cost. Oregon Administrative Rule 137-050-0750 defines reasonable in cost as four percent of adjusted income. Absent a rebuttal or compelling factors, a party may not be ordered to provide health care coverage that exceeds the reasonable-in-cost cap. As a result, orders issued by the Program provide that contingent cash medical support will stop only when an obligor provides health care coverage that is *reasonable in cost*. However, on occasion, health care coverage that is not reasonable in cost becomes

available to an obligor who voluntarily chooses to provide it. Cash medical support should stop anytime an obligor provides private health care coverage, whether or not it is reasonable in cost. This will require revision of the medical support language in Program orders. It also would be advisable to add the following provision to OAR 137-055-3340(3):

(c) Cash medical support can be suspended if an obligor voluntarily provides health care coverage at a cost in excess of what is ordered.

Apportioning Predictable Recurring Medical Expenses Between the Parties

Oregon's current guidelines permit predictable recurring medical expenses to be included in child support orders. This can be done by adjusting either cash child support or cash medical support using a rebuttal. Rebuttals are viewed by many as difficult to use. It was initially recommended that the new calculator and worksheet be designed to allow predictable, recurring expenses to be included as part of the routine calculation of presumed support.

However, adding this functionality to the calculator caused the worksheet to be significantly longer and more complicated. After reconsideration, the recommendation was withdrawn. The current version of the draft worksheet does not make any provision for predictable, recurring medical expenses. Parties who wish to have such expenses included in their orders will need to use a rebuttal.

Obligee Contribution to Medical Support

The current calculator was placed into service as part of a process that implemented both 2010 guidelines and changes from the 2009 state legislative session. One of the legislative changes was the enactment of ORS 416.416, which gave the Child Support Program the ability to enter orders that provide for alternate support amounts that will automatically apply if the custody of all minor children switches between parents. For these types of orders, it is necessary to display both cash medical and cash child support amounts for both parents. Unfortunately, cash medical support amounts are displayed for obligees even when orders do not contain ORS 416.416 provisions.

This display is confusing and causes Program participants to conclude that the obligee is responsible for paying cash medical support to the obligor. It is recommended that cash medical support amounts not appear in the obligee column unless the calculation supports an order entered under ORS 416.416. The worksheet summary should be revised to better explain its presence when it does appear. The following language should be added to the summary:

Your order contains provisions allowing the parent who is responsible for paying support to change when the custody of all minor children switches between parents. The support amounts shown in each parent's column only apply when the children are all living with the other parent.

There is also confusion about the extent of an obligee's duty to provide medical support. Oregon's child support scale and guidelines are based on an income shares model. Each parent is responsible for the support of a child in proportion to his or her share of the parties' combined incomes. When no health care coverage is available, an obligor satisfies the obligation by paying medical support to the obligee. Support paid by an obligor is usually not adequate to cover all the children's needs. In the real world, an obligee makes up the difference by contributing from his or her household budget.

Language from the preceding paragraph should be adopted as commentary to OAR 137-050-0750 to make it clear that an obligee has an obligation to provide medical support that is at least equal to his or her income share. The obligation is not satisfied by sending money to the obligor. Rather, it is satisfied by the provision of "in kind" medical support while the children are with the obligee.

Effect of ORS 107.106 Clause in Dissolution Decree

Dissolution decrees frequently include provisions for parents to share uninsured medical expenses for their children. This is based on the requirements in ORS 107.106. The pro se forms available online from the Oregon Judicial Department provide parties with the option of including these provisions. When a decree with these provisions is subsequently modified by the Program, cash medical support provisions will be ordered. Many questions have arisen about whether Program orders supercede the underlying requirement for sharing uninsured medical expenses. A related concern is the common misperception that cash medical support in a Program order amounts to ordering a party to pay a second time for expenses he or she is already obligated to share with the other parent.

The Program does not believe that its orders supercede ORS 107.106 provisions. Those provisions survive and are unaffected by subsequent modifications by the Program. Any amounts paid as cash child support pursuant to a Program order can be considered as an offset against any amount that must be paid to reimburse the other parent for uninsured medical expenses under the preexisting decree. It is recommended that the Program add the following language to its orders:

A provision in an underlying court order that requires parents to share the cost of uninsured medical is not changed by this modification. Amounts paid for cash

medical support under this order can be used to offset any obligation for uninsured expenses imposed by the underlying court order.

\$250 of Medical Expenses Included in Obligation Scale

The obligation scale includes \$250 per child per year for “ordinary medical expenses.” There is confusion among the private bar and within the Child Support Program about the relationship between the \$250 included in the scale and medical support ordered under ORS 25.323 or ORS 107.106. Many users believe that the scale covers the same types of expenses as medical support. According to this view, when parties are ordered to share uninsured medical expenses, the first \$250 per child per year is excluded because the amount already was included in the cash child support. Another view holds that the scale includes incidental medical expenses like bandages, vitamins, and routine physical exams. These are different than the medical expenses covered by medical support, and there is no need to account for them.

This confusion is reflected in some of the Program’s resource materials. The obligation scale is based on an economic study performed by Policy Studies, Inc., in 2006. The pertinent portion of that report provides:

Obligation scale does not include expenditures on child care, extraordinary medical expenses, and children’s share of health insurance costs. The obligation is based on economic data that represent estimates of total expenditures on child-rearing costs up to age 18. The major categories of expenditures include food, housing, home furnishings, utilities, transportation, clothing, education, and recreation. Excluded from these figures are average expenditures for child care, children’s extraordinary medical care, and the children’s share of health insurance. These costs are deducted from the base amounts used to establish the Schedule because they are added to child support obligations as actually incurred in individual cases. Deducting these expenditures from the base amounts avoids double-counting them in the child support calculation.

Obligation scale includes expenditures on ordinary medical care. Although expenditures for the children’s extraordinary medical care and the children’s share of health insurance are to be added to the child support obligation as actually incurred in individual cases, it is assumed that parents will make some expenditures on behalf of the children’s ordinary medical expenses (i.e., out-of-pocket expenses not covered by insurance). This includes band-aids, co-pays for doctor’s well visits, and over-the-counter medicines. Expenditures on ordinary medical care are \$250 per year per child, which approximates average out-pocket expenses nationally. (PSI 2006 Economic Study, pp. 15-16)

Health Care Expenses

In the CEX,^[4] health care expenses consider all out-of-pocket health-related expenses. This includes prescription medicines, over-the-counter medicines (e.g., aspirin), the employee's share of health insurance premiums, co-pays and deductibles; orthodontia; and other health-related expenses.

Ordinary and routine medical expenses (e.g., band-aids, over-the-counter medicines, co-pays for well visits) are assumed to be \$250 per child per year for the reference family. This amount approximates average out-of-pocket health care costs per child.⁶ Those medical expenses in excess of the \$250 threshold are considered to be extraordinary. They are likely to be expended on such items as orthodontia and uninsured expenses that may include asthma treatment, certain medical equipment, visits to the emergency room of a hospital outside of the healthcare provider's network and other expenses. (PSI 2006 Economic Study, p. II-5)

These passages provide strong support for the proposition that the scale and medical support do not overlap. However, the guidelines in effect until January 1, 2010, OAR 137-050-0430, provided:

137-050-0430 Cash Medical Support

(6) If the child has access to public or private health care coverage but also has uncovered medical expenses, either or both parents may be required to contribute toward the cost of these expenses by an order for cash medical support to the extent the uncovered medical expenses exceed \$250 per year per child.

(7) If private or public health care coverage is not available and the child has uncovered medical expenses, cash medical support may be ordered to the extent the uncovered medical expenses exceed \$250 per year per child.

The commentary to OAR 137-050-0430 provided:

Section (6) : Clarification was added in 2009 to point out that the \$250 unreimbursed medical expenses threshold (discussed below under section 7) applies if ordering reimbursement of cash medical expenses and the child or children are or may be covered by private or public health care coverage.

Section (7): The term "eligible" was added to this section in 2001 to reflect that medical costs may be "eligible" for payment by health care coverage but may not be paid for a period of time. This lag in payment does not make the costs uninsured costs. Uninsured or out-of-pocket medical costs may include co-payments, payments toward premiums paid by the other parent (under certain circumstances decided by the fact finder),

⁴ The Consumer Expenditure Survey provides information on the buying habits of American consumers, including expenditures, income, and consumer unit (families and single consumers) characteristics. The survey data are collected for the Bureau of Labor Statistics by the U.S. Census Bureau. It is the only federal survey to provide information on the complete range of consumers' expenditures and incomes as well as the characteristics of those consumers. It is used by economic policymakers examining the impact of policy changes on economic groups, by businesses and academic researchers studying consumers' spending habits and trends, by other federal agencies, and, perhaps most important, to regularly revise the Consumer Price Index market basket of goods and services and their relative importance. See <http://www.bls.gov/cex/>.

deductibles, over-the-counter medications and other medical costs not covered by the family health care coverage. The guidelines scale amounts include ordinary unreimbursed medical costs of \$250 per child per year. (Economic Basis for Updated Child Support Schedule, prepared by Policy Studies Inc., December 31, 2001) Medical expenses, as defined by this rule, which exceed \$250 per child per year may be added to the basic support obligation. Uninsured costs that exceed \$250 per child per year and that are not predictable or anticipated are not addressed in this rule. This has always been an underlying assumption of the child support scale, even though this provision was not adopted formally in the rule until 2003.

Both the rule and commentary strongly suggest that the scale covers the same types of expenses as medical support.

In order to clear up any confusion and assure consistent application of the guideline rules, it is recommended that the Program adopt an official position on this issue and that commentary be developed to explain it.

Conclusion

Proper medical care is vital to children and it should be required by every child support order. National health care reform may modify or eliminate the need to address medical support in child support orders in the future. For the time being, there are numerous aspects of the way the Program currently deals with medical support that are too inflexible and that cause confusion to the parties and the bar. The committee strongly believes that the adoption of the recommendations contained in this report will better serve the public by making the calculation of medical support easier to understand and medical support provisions appropriate for a wider range of Program users.

IV. Parenting Time Credit

Key recommendations

- **Replace the current credit formula with a graduated curve. Provide a smaller credit for even minimal parenting time, increasing rapidly as parenting time approaches 50%/50%.**
- **Eliminate the 25% parenting time threshold and 1.5 multiplier.**
- **Do not apply parenting time credit to Children Attending School (ORS 107.108).**

Goals

The committee approached the parenting time credit with five main goals, based on comments received and members' own experience:

Goal 1: Ensure credit reflects actual cost sharing

Committee members expressed doubt that a parent with a low level of parenting time actually incurs expenses commensurate with the parent's percentage of parenting time. In these cases, the primary parent usually pays for virtually all regular expenses—food, clothing, housing, transportation, school costs, ordinary medical co-pays and deductibles, and other primary child-rearing costs. In many cases, visitation is infrequently exercised. To the extent that the noncustodial parent exercises visitation, it does not significantly lower the custodial parent's costs for core child-rearing expenditures because the visitation is brief or primarily recreational in character.

As shared parenting approaches 50%/50%, expenses increase significantly for the parent with less parenting time, while decreasing only incrementally for the parent with greater time. At equal parenting time, both parents are incurring significant expenses—most significantly, the duplicated rent or mortgage expense of having a regular room for the child.⁵ Wardrobes and food supplies are also duplicated to an extent.

The current parenting time credit goes from zero credit at 24% parenting time with the obligor to a 25% credit at 25% of overnights with the obligor. The credit is then equal to the amount of parenting time until the 50% level. Thus, at 24%, it ignores the expense, and overestimates it at 25%. The current parenting time credit is based on a basic support amount increased by 50% to reflect increased costs of shared parenting. The average net effect is to keep 50% more of the child support obligation in the

⁵ Venohr, Betson et al., p. 26
(http://oregonchildsupport.gov/laws/guidelines_archive/psi_guidelines_review_2006.pdf#page=34).

household of the obligee parent, but this also varies based on relative incomes, and causes some difficult-to-predict effects on support at the 25% threshold.

Goal 2: Eliminate the 25% parenting time threshold

Wherever the parenting time credit crosses a threshold or changes computation methods, there is a “bump.” At these thresholds, small changes to parenting time result in large changes to the child support amount. As a result, parties have a strong incentive to manipulate the parenting plan in order to achieve a favorable result in the child support calculation or simply to avoid an unjust result.

Under the 2007 guidelines, there was a 25% parenting time threshold and a separate calculation method for 50%/50% parenting time. Because the calculator had fixed, preselected columns for obligee and obligor, the parenting time credit calculation changed again above 50%. The result was four bumps across the possible range of parenting time: 25%, 50%, 50.1 %, and 75%.

By eliminating the separate method for parenting time at 50% and handling the parent with greater parenting time in either column, the 2010 guidelines eliminated two of these four bumps. Additional revisions to the credit computation method reduced the bump at 25% by an average of approximately one-third. This was better, but not good enough.

Also, the committee heard reports of an occasional anomaly: where the noncustodial parent had much higher income than the custodial parent, levels of parenting time just at the 25% threshold could actually result in small increases in the support amount, rather than decreases.

Goal 3: Reduce occurrence of the “flip”

The 2010 guidelines were built with the understanding that a parent with slightly more parenting time could be the paying parent (obligor) in cases of gross economic disparity. What we did not fully understand prior to implementation was that this “flip” would occur anytime; all other things held equal, the parent had a greater percentage of combined income than of parenting time. Particularly when considered in light of the nature of shared parenting expenses (see Goal 2), this produced results in a number of cases that appeared unjust or inappropriate.

A majority of the committee agreed that there were cases in which a parent with more parenting time but much higher income should absorb some responsibility for the lower-income parent’s child-rearing expenses. However, both the frequency of this flip and the amount of the support obligation when the flip does occur should be significantly less.

A minority of the committee believes that the parent with more parenting time should never, under any circumstances, pay support to the parent with less parenting time.

Goal 4: Simplify

The parenting time credit calculation should be transparent and easy to use.

Goal 5: Minimize changes to current model

The transformational changes to the parenting time credit in 2010 produced major impacts in many cases. To minimize further disruption, the current changes should be incremental improvements to the present system—at least in outcome. They should not produce surprising or anomalous results, and they should not serve as an impetus for parties to seek modification of otherwise satisfactory orders.

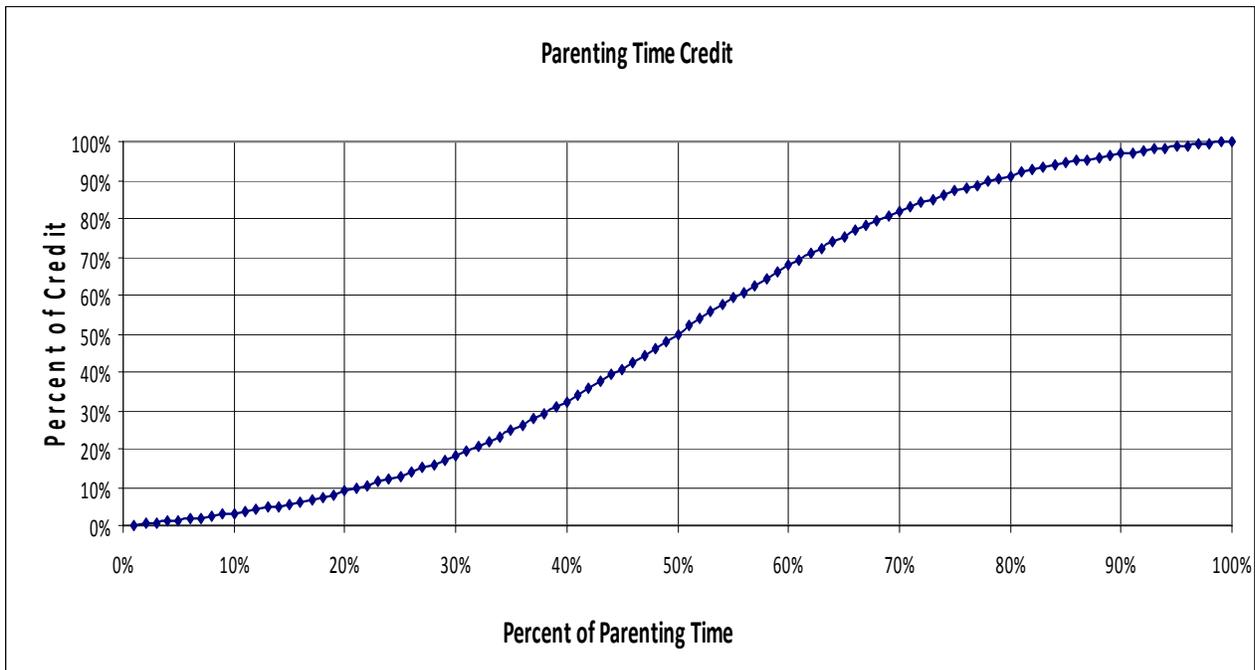
Recommendation 1: The graduated curve

As a solution to these various concerns, the committee proposed the development of a mathematical curve that would produce the desired results across the full range of parenting time. With ample assistance, the committee arrived at the “double logistic” or “sigmoid” function.⁶ This formula, as implemented, meets the following specifications:

- At zero percent parenting time, it produces a zero percent credit.
- As parenting time rises, the credit percentage trails. At 25% parenting time, the credit is 13%.
- The credit accelerates above 27%, and by 50% parenting time, the credit is 50%. Shared parenting is expensive for both parents.
- By the time parenting time is at 70%, the parent is already incurring most (but not quite all) of the expenses they could incur.
- 100% parenting time produces a 100% credit.
- The curve is symmetrical. Adding the credit based on 75% parenting time to the credit based on 25% equals 100% of the total possible credit. This means that, like

⁶ The Guidelines Advisory Committee and the Oregon Child Support Program are indebted to three individuals for developing this formula. Joshua Sweet of the Oregon Department of Justice identified the type of formula needed and developed initial models. Professor Emeritus Bruce Gates of Willamette University solved a number of hurdles to make the formula meet the specifications and provided a prototype. Raution Jaiswal of Ramssoft Systems, Inc., operationalized the formula, which enabled the projections used to develop this recommendation.

today's method, it is not dependent on which sides of the calculation the parents are entered



This figure shows a graduated curve created using a logistic (sigmoid) function. The model calculates a percentage of parenting time credit from the percentage of parenting time. The percentage of parenting time credit is applied to the combined basic child support obligation for minor children. The result is the amount to be subtracted from the support obligation for minor children.

Initial modeling of the effects of the proposed parenting time curve suggests it solves virtually every problem identified with the current parenting time credit.

- Because the curve produces low credits at low parenting time and greater credits as parenting time approaches 50%/50%, there is no need for the 1.5 basic support multiplier or 25% threshold currently in use. This simplifies the calculation and worksheet while better reflecting actual shared parenting expenses.
- The obligation is far less likely to flip using the proposed formula. Because the credit is quite low for a parent until parenting time is almost 50%, the chance of a parent with little parenting time becoming the obligee becomes virtually nil. Where the flip no longer occurs, the lower-income parent's new obligation is reasonable. The flip remains where incomes are drastically different or parenting time is close to 50%/50%, but the obligation will be less under the proposed system.

- In most cases, the proposed formula will not vary significantly from the existing formula. Results in 50%/50% cases and cases with no shared parenting time will be identical. The most significant changes will be at the current problem area around the 25% threshold.
- Under the proposed parenting time credit formula, increasing parenting time never increases the support obligation. As described above, the combination of the basic support multiplier and the 25% threshold under the current method can in some cases result in a slight increase in support where the noncustodial parent has much higher income than the custodial parent. Elimination of the threshold and multiplier eliminates this anomaly.

Recommendation 2: Do not apply parenting credit to a Child Attending School

Parenting time should be applied only to minor children and not to Children Attending School. The exception, adopted by consensus of the Guidelines Advisory Committee, is the 18-year-old child living at home with a parent and continuing in high school. This child should continue to be treated as a minor, including application of the parenting time credit, until the child graduates from or leaves high school, turns 19, or leaves home.

Recommendation 3: Clarify that a parenting time credit may be calculated for a parenting plan not yet in place but anticipated in the current action

Practitioners typically compute support based on parenting time anticipated as part of the current action. Clarifying the rule and calculator to this effect will make the calculator more self-explanatory for self-represented parents.

Changes considered and rejected

One proposal would have allowed a parenting time credit only if the parent receiving the credit can establish that they are actually paying expenses for the child. While the committee acknowledges that many parents with parenting time do not exercise that time, the answer is not to impose on every parent the burden of demonstrating actual parenting time. The graduated curve mitigates the problem by avoiding excessive parenting time credit at low levels of parenting time. Also, OAR 137-050-0730 already permits a circuit court or administrative law judge to make a finding of actual parenting time.

V. Child Attending School

Key recommendations

- **Provide clear directions for computing support for a Child Attending School in administrative rule and in the support calculator.**
- **Apply parenting time and child care adjustments to minor children only.**
- **Prioritize support for minor children when parental income is limited.**
- **Clearly show each parent's obligations to minor children and to Children Attending School.**

Goal

To create a fair and easy-to-implement tool for underwriting the expenses of a Child Attending School as defined by ORS 107.108.

Identified Issues

- Support for the 18 year old finishing high school
- Computation of support for a Child Attending School
- Interference of minor child factors (parenting time credit and day care expenses) in calculating support for a Child Attending School
- Creating an understandable display of results

The Conversation

Despite a significant amount of philosophical resistance based on requiring divorced parents to support college funding when parents in intact families are not required to do so, Oregon law prescribes child support payable to an adult child between the ages of 18 and 21 if that child is regularly attending an educational institution. In the past, the child support calculator ran a calculation that generated a result for all children, divided that result by the number of minors and the number of Children Attending School and divided the financial responsibility for the cost of the Child(ren) Attending School in proportion to parental income. Administrative rules and commentary provided guidance to parents and practitioners.

The most recent iteration of the child support calculator has neither instructions for calculating the support for a Child Attending School nor rules for describing it except for mention of a Child Attending School as a possible rebuttable factor at OAR

137-050-0760(1)(k), where it states that the court may consider, and departing from Guideline support, “evidence that a child who is subject to support order is not living with either parent or is a Child Attending School as defined in ORS 107.108.” The current calculator does not obviously divide parental responsibility for supporting a Child Attending School between the parents.

The objective of the Guidelines Advisory Committee was to create an easy-to-use calculation, with user-friendly, simple directions for calculating support for a Child Attending School. Specifically, the calculation should:

- Disconnect from the Child Attending School calculation minor child adjustments for parenting time credit and day care expenses.
- Make sure that the minor child gets priority in support, and the parent has adequate resources (self-support reserve) after minor child support to provide financial assistance to the Child Attending School.
- Allocate support for a Child Attending School between both parents.
- For child support purposes, treat an 18-year-old still at home and finishing high school like a minor child, with support paid by the parental obligor to the parental obligee, if allowed by statute.

There was a discussion about determining support for a Child Attending School similarly to the fact-based manner in which spousal support is determined: Figure how much the Child Attending School needs on a case-by-case basis, determine how much the Child Attending School could provide for him- or herself, and then figure how much parental obligors should provide to fill the bucket, perhaps using a form like the Uniform Support Declaration used in spousal support cases. This approach was rejected as too complicated to administer, and in recognition of the fact that there is no clear statutory guidance for what expenses should be covered by support for a Child Attending School.

Recommendations

The committee recommends to the Child Support Program that the calculator be engineered to:

1. Calculate financial support for all children based on parental income, before consideration of parenting time credit and child care expense issues, but probably incorporating consideration of insurance premiums paid to assure health insurance for a Child Attending School and minor siblings.

2. Before adjusting for such minor issues as parenting time credit and day care expenses, divide the total child support for all children between the Child Attending School and minors.
3. Adjust child support for the minors for parenting time credit and day care expenses, and allocate support for the minors between the parents.
4. Ensure that after financial support for minor children is paid (in cash by the obligor to the obligee, in cash by the parent providing day care tuition to the day care provider, and in kind by the parents in both households), the parents retain sufficient financial resources to support themselves (the self-support reserve).
5. If sufficient parental financial resources remain for either or both parents after the self-support reserve is deducted, divide the balance of the amount generated in recommendation (2) above—the Child Attending School part of basic child support—between parents in proportion to income.
6. Create a display in the calculator and in the Support Summary which shows clearly each parent’s financial responsibility to the Child Attending School.
7. Reserve as a specific rebuttal the opportunity by either parent to be required to pay more (or less) depending upon the needs of the Child Attending School, his or her ability to meet those needs, and parental resources or burdens including, for example, the fact that a parent may be providing, in kind, room and board for the Child Attending School.

Although this model was agreed upon, the committee recognizes the need for modeling of case scenarios to validate the concept worked out in real life, using hypothetical parental income, parenting time credits, and child care expenses. The committee notes that child care expenses may be less common in households supporting a Child Attending School; it is less likely there would be grade-school-aged children, particularly children under the age of five when day care is very expensive, in the same household where support is being provided for an 18- to 21-year-old.

Providing that the instructions for the calculator itself are adequate (and there probably are no special instructions required for the calculator if it mechanically crunches numbers for the support of a Child Attending School in the background after the input of economic data by the user), then the only administrative rule that might be necessary would be a more thorough exceptional circumstance in the rebuttals, which might read as follows:

When there is a Child Attending School as defined in ORS 107.108, consider the financial costs in supporting the Child Attending School at school, including room, board, tuition and fees, and discretionary expenses, and consider the ability of the Child Attending School to meet those expenses with scholarships, grants and loans, and consider the ability of a parent to provide support for the Child Attending School, either in kind where a child continues to live in a parent's home or with cash if there are parental resources to provide financial support over and above the amount for a Child Attending School generated by the child support calculator.⁷

⁷ The following related issue was raised after the opportunity for a full committee discussion, but is included here for consideration: Where a parent (typically but not always the custodial parent) agrees to co-sign on a student loan for a Child Attending School or becomes solely responsible without co-signing, the loan should be considered as child support and clarified in commentary to justify a deviation. Student loans are not dischargeable in bankruptcy and should be considered real debts that a parent incurs on behalf of a Child Attending School.

VI. Income

Key Recommendations

- **Provide more flexibility in using imputed and actual income, or a combination of the two, to determine income.**
- **Modify additional child deduction to reduce credit amount and replace the term “additional child” with “non-joint” child.**
- **Allow a non-joint child deduction for a Child Attending School not yet 19, attending high school, and living at home.**

Recommendations

1. **Provide more flexibility in using imputed and actual income, or a combination of the two, to determine income without requiring rebuttal of a presumption. Do not attribute full-time work to parents for whom a shorter workweek is customary or mandatory or to parents historically unable to work full-time at minimum wage based on employment history, education, and job skills. Specific recommendations were incorporated in the form of a proposed rule. See draft OAR 137-055-0715.**

Discussion centered on a range of issues relating to the use of imputed and actual income. These issues included full-time employment at less than earning capacity, passive income such as rental and trust income, unemployment benefits greater than full-time minimum wage, part-time income greater than 40 hours per week presumption at minimum wage, and income generated from multiple sources. Solutions incorporated in the draft rule focused on providing flexibility while maintaining an appropriate degree of determinacy.

2. **Compute the additional child deduction by adding all of the parent’s children and prorating to determine the amount of the total obligation attributable to children not in the current calculation. This recommendation includes the suggestion that the terminology “additional child deduction” currently used in rule should be replaced with the terminology “non-joint child deduction.”**

The additional child deduction, in combination with the self-support reserve, reduces support orders significantly at low incomes because the additional child credit itself is not reduced in light of the self-support reserve. Several options were discussed and discarded as unworkable or inconsistent with the guiding principles established by the committee. This solution is an incremental improvement. It will decrease the amount of the deduction in all cases, mitigating the current problem. The actual dollar

impacts of this recommendation need testing through the modeling process. The results should be fair with enforceable outcomes.

The current use of “additional child” rather than the previously used “non-joint child” has created confusion that can be ameliorated by returning to earlier, more familiar language.

- 3. Make the non-joint child deduction available to a parent who has a child 18 years old and not yet 19, attending high school, and living at home. However, the current rule that precludes a non-joint child deduction for a Child Attending School that is in college but living at home should remain unchanged. Consider adding commentary to explain decision on these two points.**

The committee concluded that treating 18-year olds attending high school and living at home the same as minor children is reasonable. Families do not treat the minor child who turns 18 and is still in high school any differently, and ensuring that children graduate from high school is an important value. The committee chose not to recommend allowing the deduction for a child attending college but living at home (and for whom the parent is not ordered to pay support), because the parent in that situation has no legal obligation to support that child and ensuring adequate support amounts for minor children is a priority.

- 4. Continue deducting the parent’s portion of the health insurance premium only when necessary to insure the children. Make the process more transparent in the rules, calculator, and worksheets. Include explanation in commentary.**

The deduction of a parent’s portion of the health insurance only when health care coverage of the child is reasonable in cost based on the amount of a parent’s income after deducting the premium is confusing to parties. The current rule is appropriate; however, its operation should be more clearly explained.

The committee considered a counterproposal to allow all parents to deduct their own premium. Unfortunately, the possibility that some parents might select overly expensive coverage for themselves suggests this would require adding another reasonableness test, likely eclipsing the benefits of the simpler computation.

- 5. Add language that captures overtime income in rule. Overtime income should be counted to the extent it is expected to continue, and may be annualized to account for seasonal variations. Include mention of overtime income in commentary and amend OAR 137-050-0715(2)(a) as follows:**

(a) employment-related income including salaries, wages, commissions, advances, bonuses, dividends, overtime pay to the extent that the overtime is recurring, severance pay, pensions, and honoraria;

As a matter of policy, overtime income that a party has received historically and that is expected to recur should be counted as income.

6. Clarify that income does not include food stamp benefits or Social Security benefits resulting from a child's disability. Add clarifying language to OAR 137-050-0715(4) as follows:

(4) Child support, food stamps, Social Security benefits resulting from a child's disability, adoption assistance, guardianship assistance, and foster care subsidies are not considered income for purposes of this calculation.

Under current rule, parties are sometimes confused as to whether food stamps and Social Security benefits resulting from a child's disability are included when calculating income. Exclusion of both should be explicit in rule. Social Security benefits received due to a child's disability are tied to the needs of the child and should not be treated as income available to the family. Some explanation as to the basis for excluding these Social Security benefits should be included in commentary.

7. Clarify that distributions from the body of a trust fall within the definition of income under OAR 137-050-0715(2). Clarify language in OAR 137-050-0715(2)(b) as follows:

(b) Return on capital, such as interest, dividends, trust income, distribution of trust assets, and annuities

Some confusion has arisen as to whether income generated by a trust should be considered income for purposes of calculating child support. Specifically mentioning "trust income" in rule will resolve any uncertainty about how such income should be considered.

8. Clarify that a self-employed person may deduct one-half of self-employment tax. Incorporate rule language derived from *Marriage of Cowden*, 172 OR. App. 343(2001) into OAR 137-050-0715(2)(e) as follows:

(e) Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, minus costs of goods sold, minus ordinary and necessary expenses required for self-employment or business operation, including one-half of the parent's self-employment tax, if applicable. Specifically excluded from ordinary and necessary expenses are

amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income.

9. Prevent adjustments from reducing income below zero.

This is an uncommon and essentially technical problem, but must be addressed in rule. The guideline formula currently results in a negative amount of adjusted income when the subtractions from income (line 1b) exceed gross income (line 1a). This is most common where spousal support was awarded and subsequently the obligor had a drastic drop in income. One impact is that one parent's percentage share of income is over 100% and the other's is less than zero. In turn, the parent with over 100% of income is allotted more support than the entire basic support amount from the scale. This result is nonsensical, unnecessarily confusing, and should be corrected in the adjusted income rule (OAR 137-050-0720) or the calculation rule (OAR 137-050-0710).

Proposed Changes Considered But Not Recommended

1. The Earned Income Tax Credit should not be treated as income.

Like computing presumptive child care tax credits, adding the Earned Income Tax Credit would increase the complexity of the calculator. Because a party may not be entitled to the credit each year, its inclusion would be speculative. In addition, the amount of the credit changes yearly. Counting the credit as income available to the custodial parent would be inconsistent with its purpose of helping families move out of poverty.

2. Adoption assistance benefits should continue to be a specific exclusion from income as set forth in current rule and should not be made a rebuttable presumption.

The current language, excluding adoption assistance benefits, supports the public policy of encouraging adoption and foster care. Only one commenter made this proposal, which suggests that the current rule language is not problematic in most situations. Arguably, in cases where the payments constitute a windfall, the regular rebuttal process is available.

3. Further clarity in rule regarding whether income includes employer-paid portion of medical premium is unnecessary.

OAR 137-050-0715 makes clear that premiums are not income. This issue was raised only once. The answer is clear from the context: the parent does not receive and

cannot use the money. Actual premium costs to parents are handled separately in OAR 137-050-0720 and -0750.

4. Further clarity in rule regarding deductibility of depreciation from income of self-employed parents is unnecessary.

The language in OAR 137-050- 0715 is clear enough. This issue would best be addressed through commentary.

VII. Miscellaneous Issues

Key Recommendations

- **Provide commentary to guideline rules as appropriate.**
- **Encourage rebuttal usage with explanatory commentary, calculator instruction, and worksheet findings. Improve the Program’s rebuttal tracking, and begin tracking private-sector rebuttals.**
- **Do not include public or employer subsidies for child care costs. Do not adjust child care costs for potential tax credit eligibility.**

Goals

Make the guidelines more user friendly, less complex, and more understandable. Produce fair awards and enforceable orders.

Commentary

The commentary is useful to child support practitioners, self-represented litigants, and judges. In the past it was published only on the Child Support Program’s website. Efforts will need to be made to advise court staff, practitioners, and self-represented litigants how to access the commentary. The commentary gives case law, transition information for revised guidelines, has a gate-keeping function, and provides a back-story that helps attorneys, litigants, judges, and others understand the rules and how to calculate a child support obligation. Selective commentary will save time and money and clarify the calculation of a support obligation.

Recommendation

- Add key commentary available with the rules on the Program website, and include background and helpful hints to assist all users in understanding the rules.
- Do not change commentary between guideline rule reviews unless there is a problem or a significant change occurs that needs to be explained. If commentary is revised between guideline rule revisions, the Program should develop and provide a notice process to advise practitioners, judges, and other practitioners of the revisions, possibly through multiple outlets such as the Oregon State Bar Family Law Listserv.

Rebuttal

The Program's data collection on the use of rebuttals is not comprehensive. Still, a review was done of the rebuttals listed. The review found that no new rebuttals need to be added nor any existing rebuttals removed. Rebuttals are difficult for self-represented litigants to use, and many court staff are instructed not to assist with the application of a rebuttal to the presumed support amount. The bench is reluctant to use rebuttals. Some committee members question if this is due to lack of guidelines commentary, or if the application of rebuttals is not clear enough within the worksheet and calculator.

There is not a common understanding of where a rebuttal, once determined, should be applied to the support calculation. Judges and the bar prefer the rebuttals to come off the final amount; the Program applies rebuttals to income, costs, and the final amount. The Program does not allow stipulations of a support obligation outside of the agreed support amount (OAR 173-050-0765). Private practitioners will use stipulations and a rebuttal to justify the agreed amount. The committee recommends that, when a rebuttal is applied, it be viewable on the worksheet and calculator.

Recommendations

- Make no changes to the current list of rebuttals.
- Add commentary to explain rebuttals and consider the targeted audiences, such as self-represented litigants, practitioners, etc.
- Develop methods to accurately track rebuttals applied; the bar should consider developing similar methods. This will allow for a more comprehensive review of the rebuttals in future guidelines reviews.
- Explain and clearly document rebuttals on the worksheet and on the calculator to assist all users in understanding the final support amount. (Consider including the rebuttals used in the findings.)

Extracurricular expenses as a rebuttal

Practitioners have raised concern that excluding extracurricular expenses as a possible rebuttal is in conflict with ORS 25.280. The statute speaks to the "needs of the child." Prior commentary explained this by making a distinction between the "needs" of a child and the "wants" of a child, and extracurricular activities were seen as a want.

Recommendation

- Leave in the exclusion of extracurricular expenses and include commentary to make it clear and easier to understand.

Remove extraordinary or diminished from needs of the child criterion

“Extraordinary or diminished” should be removed from the rebuttal rule as it was seen as contrary to ORS 25.280. Legal review determined that the words “extraordinary or diminished” are necessary to rebuttal (o). The language should remain in place.

Recommendation:

- Leave language as is.

Child Care

Including the publicly-subsidized portion of child care costs continues to result in mammoth orders for low-income obligors. In many cases, when the self-support reserve is applied, it uses all available income, leaving none for medical support. Oregon has some child care affordability issues with parents moving children from licensed care to private care due to costs, costs of care exceeding annual median income for two-parent families, and costs of child care taking 27.2% of a single parent’s income. Low-income parties with \$800–\$900 per month child care costs can see a significantly increased support order making the full support ordered amount unenforceable as it exceeds current withholding limits, causing the obligor to go into arrearage each month. Due to budget cuts, the State’s Employment-Related Day Care program continues to be reduced in size. Employer child care subsidies also should be excluded.

Recommendation

- Insert “actual costs” into the last sentence of OAR 137-050-0735(2) to read “Only actual costs for child care that can be documented and determined can be considered.”
- Clarify in commentary that child care costs no longer include government or employer subsidies paid for that parent.
- Remove subparagraph (5) from OAR 137-050-0735 (removing government subsidies from the calculation of child support).

Child care tax credits

The fact that child care tax credits are applied to the child support obligation is confusing to self-represented litigants. If there is a need to address child care tax credits in the support calculation, it would be best as a rebuttal. Removing the calculation of the tax credits would simplify the calculation of support.

Recommendation

- Remove reference to child care tax credits in last sentence of OAR 137-050-0735(1) “~~less any state or federal child care tax credit~~”
- Add commentary that states “Tax credits have been removed from the calculation of child costs. Tax consequences may be addressed by rebuttal.”

Social Security and Veterans Benefits

Credit for these benefits against the child support obligation is applied to cash support, not medical support, leading to situations in which an obligor is required to pay cash medical even when the benefits paid to the child outweigh the total cash child support and medical support that would be owed. It was proposed that the credit be applied to both cash support and cash medical support. A change could result in unintended complications; to avoid complications, legislation may be required.

Recommendation

- Maintain current policy of applying credit for Social Security and Veterans disability payments to the child as a result of the obligor’s disability or retirement to cash child support, not cash medical support. Suggest commentary to explain that “credit is against only the cash child support, not cash medical or other medical provisions.”

Difference in statute and rule in use of obligor and parent

Oregon Revised Statutes 25.275(4)(b) restricts the credit for Social Security or Veterans benefits to benefits based on the *obligor’s* disability or retirement. Oregon Administrative Rule 137-050-0740 refers to a *parent*. While the statute and rule may not be inconsistent, they are confusing. The previous commentary stated clearly what types of Social Security were eligible for credit. Without the commentary it can be interpreted to allow a broader inclusion. A parent’s own Social Security (OASDI) is considered income. The rule should be conformed to the statute.

Recommendation

- Revise OAR 137-050-0740(2)(b) to read “The support obligation may be reduced dollar for dollar in consideration of any Social Security or apportioned Veterans benefits as a result of the obligor’s disability or retirement.”

Child’s Social Security survivor benefits resulting from a parent’s death

Former commentary explained that a child’s Social Security survivor benefits were not considered income when calculating a support obligation. Without the commentary, there have been attempts to use the child’s benefits in the calculation of support. This scenario is most likely to occur when a child is with a caretaker or in State care. After further review, the committee recommended that it would be more beneficial to add language to the rule to clarify that a child’s Social Security survivor benefits are not income to be used in the calculation of support.

Recommendation

- Add language to OAR 137-050-0740 to clarify that a child’s Social Security survivor benefits are not income.

Special treatment of the support calculation when entering an order for a disabled adult child under ORS 109.010

The question was raised whether the guidelines should take into consideration a calculation of support for a disabled adult child. The committee concluded that exceptions to the guidelines for a disabled adult child would best be handled through rebuttal.

Recommendation

- Do not provide special treatment for a disabled adult child under ORS 109.010

The agreed support amount in OAR 137-050-0765

Studies have shown that parties who agree to the amount of support are more likely to maintain payments on the obligation. The private bar desires more flexibility in establishing the support amount, allowing for more negotiation and fewer court appearances. Fifteen percent of the presumed support obligation, either higher or lower, would offer the flexibility requested.

Recommendation

- Revise language in OAR 137-050-0765(3) to read “may consent to a support amount that is within 15 percent” of the amount determined under the guideline rules.

Application of a rebuttal documented on worksheet and calculator

Recommendation

- The worksheet’s support summary should document what rebuttal was applied, the amount of the rebuttal, and where applied in the calculation.

Child support calculations with at least one child with each parent

There is confusion on the number of children in the order and for which children the support is owed. This is a form issue. For example, if there are three children and one is with the obligated parent, the calculation of support must include all three children or the amount will be incorrect. However, the end result is that support will be attributed to only two of the children.

Recommendation

- All joint children should be reflected in the calculation worksheet, including in the summary, and in the pleadings. The money award should attribute the support amount to the children with the obligee.

Caretaker’s child care costs

Oregon Administrative Rule 137-050-0735 does not clearly address a caretaker’s child care; however, the calculator has a place for and will compute the caretaker’s costs. The caretaker’s costs should be subject to the same job-related child care restriction as the parents’.

Recommendation

- Revise OAR 137-050-0735(2): “Child care costs can be incurred by either parent **or by a caretaker (as defined by OAR 137-050-0700 (5))** but must be related to [the parents’] employment, job search, or training or education necessary to obtain a job.”
- Add section 2 of former commentary.
- Review and update “Table 1” (child care costs) in OAR 137-050-0735 before rulemaking occurs.

Minimum wage obligor and child care costs

A proposal was offered to exempt an obligor at minimum wage or less from sharing in the obligee's child care costs. This protection is unnecessary. The self-support reserve should reduce a minimum wage obligor's support obligation when the calculation includes child care costs. The minimum order amount may kick in. Obligor's in the \$2,000 to \$2,300 range of income may have enough income available to not have their presumed support amount reduced by the self-support reserve. The resulting order may have issues with collecting the full support amount due to withholding limitations.

Recommendation

- Do not exempt any income-based group of obligors from contributing to child care costs. The income protections already in place are just and sufficient.

VIII. Design

Key Recommendations

- **Implement the Guidelines Advisory Committee's policy decisions in the worksheet.**
- **Replace two current calculators with one simple, intuitive calculator.**
- **Implement one-page input/output summary.**

Goals

1. Produce a design that implements the final decisions of the 2011 guidelines review process.
2. Discover the implications of the Advisory Committee's recommendations.
3. Address a number of problems that have been identified with our current worksheet and calculator.
4. Design a worksheet and calculator that are easy to use and understandable.

Much work has been accomplished to date. An automated Excel worksheet substantially accomplishes all of the stated goals. However, due to the nature and timing of the development process, it has not been possible to complete this work. Some recommendations need to be tested through modeling. The results of the modeling may reveal the need for additional changes. Furthermore, the Child Support Program Director will make final decisions about the next guidelines. Until she does so, the calculator and worksheet cannot be finished. Consequently, this aspect of the committee's recommendation is necessarily unfinished and ongoing. Committee members are committed to continuing involvement until it is completed.

In addition, the committee hopes to assist in the design of the user interface and associated helpful resources that it believes should be incorporated into the final design. If the recommendations prove too costly, the committee requests that it be given an opportunity to design a scaled-back version of the worksheet and calculator. Actual Program users are in the best position to make appropriate choices.

The most recent version of the proposed worksheet is attached as [Appendix D](#). It reflects many basic programming choices that are not addressed in this report. Those choices include solutions to nearly every item on a list of issues the committee was given at the start of this process. What is covered are general considerations relating to effective design and discussions of major changes and policy choices.

General considerations

The online calculator is an indispensable tool, utilized by the court system, attorneys, and pro se parties. The calculator itself is really a series of mathematical equations that are performed based on the data entered by users. What users see online is not so much the calculator as the calculator interface. It is the gateway to the calculator, what users experience. Its design and function create and perpetuate perceptions about the Child Support Program. The interface should be well-designed and intuitive. It should be self-explanatory and require few separate instructions. Users rarely should have questions because the design itself directs people to the right choices and to the information they need. The design should be clean and modern, instilling user and peer confidence by communicating that the Program is using contemporary design tools and techniques. It should be modeled after successful designs from all sectors, not primarily peer government designs. It should not communicate, however, that the Program overspent on trick-heavy, trendy design. Rather, it should be simple, understated, and as minimalist as possible to accomplish its function, using the best tools at the Program's disposal to achieve those ends.

At present, the interface requires users to complete a lengthy multi-screen interview and is programmed using old software and techniques. It is too cumbersome for some users, who instead choose to use an Excel version that the Program also must maintain. The committee recommends that the Program move away from its current approach. It is recommended that the Program develop a "user interface" that consists of a one-page list of questions to be completed by the user. [Appendix D](#) is a copy of a proposed worksheet developed by Advisory Committee member Jack Lundeen. It provides an example, albeit incomplete, of the type of interface the committee hopes to develop. All input fields would be completed by the user. Support amounts and a completed worksheet would be produced by the calculator. The questionnaire could be attached to the actual mathematically-complete worksheet and serve as the summary as well. The data it contains could be adopted into orders by reference as findings.

The success of the next calculator interface will depend on more than good design. It also will depend to a great extent on programming. Care must be taken to avoid some of the problems with the current model. The forward and back buttons work poorly. It does not update automatically when new information is entered, which helps explain why many users prefer the Excel version. The next interface should be programmed using software and techniques that result in an interactive, dynamic user experience and avoids clumsy and hard-to-program use of pop-ups or redirects.

The recommended approach has a number of advantages. If done well, it will provide a better experience to users and make it easier for them to access relevant

information that will make results appropriate and reliable. It also has the potential to save resources. A better online experience should reduce contact with the branches. Admittedly, there will be initial programming costs, but in the long run it should be easier to update and eliminate the need to maintain a separate, Excel-based calculator.

Major changes and policy choices

During the guidelines review process, a number of recommendations were made that have a significant impact on calculator and worksheet design. Those design changes are discussed in detail below.

Simplify the calculator

It has been suggested that the worksheet should be simplified and made to fit on no more than two pages. It is probably fair to say that simplicity and brevity have been goals during the design phase of every worksheet and calculator the Program has ever developed. Unfortunately, there is inherent tension among keeping the worksheet simple, accommodating the needs of all users, and making our calculations transparent enough to withstand legal review. Each attempt to address previously ignored or overlooked issues in the guidelines has added even more complexity.

A number of solutions were considered. It was suggested that the Program consider adopting two worksheets along the lines of what the IRS does with its short-form and long-form tax returns. Another suggestion was to redesign the worksheet summary page so that it is more detailed and includes comprehensive findings. A third idea considered was to develop a simplified user interface that would prompt users to fill out a few questions. A user would complete a number of required fields, hit “calculate,” and support amounts and a corresponding worksheet would be generated automatically.

The recommended solution is a combination of the second and third options. As noted, it is hoped that an interface can be designed that will utilize the contemporary web technology to provide a simple, intuitive user experience. Although it is not possible to design a legally sufficient worksheet that will fit on two pages, the committee believes the one-page summary and questionnaire will satisfy most users’ desire for brevity.

Calculation of non-joint child credit; Section 1(d)

The current calculator determines a parent’s non-joint child deduction by consulting the obligation scale for the number of non-joint children claimed using only that parent’s income. This consistently results in a non-joint child deduction that is significantly larger than the same parent’s support obligation to the joint children. The

Guidelines Advisory Committee recommends changing the way this credit is determined. Section 1(d) of the calculator has been redesigned to implement this recommendation (see page 26, Recommendation #2). The change essentially combines the number of joint and non-joint children being claimed and uses the parents' combined incomes to determine the basic support amount from the obligation scale. The basic support amount for all the children is then apportioned between the joint children and each parent's non-joint children. The amount of the credit is equal to only the non-joint child's share. Because the guidelines are based on economies of scale that result in lower costs for each additional child, this change significantly corrects the currently overestimated credit.

Calculation of support for Children Attending School; Section 2

The current guidelines apply parenting time credits to all children covered by a calculation, including Children Attending School as defined by ORS 107.108. This has been viewed as unfair, particularly when a Child Attending School is living away from either parent. Support for a Child Attending School is also given the same priority as support for minor children. In other words, support for a Child Attending School can reduce the amount of support that is available for a minor child, particularly among low-income families.

The worksheet has been redesigned to address these issues. The changes begin in Section 2 and continue throughout the worksheet. Essentially, basic support is determined for the total number of children and then apportioned between minor children and the Child Attending School. This allows parenting time and day care credits to be applied to minor children only. The result is a support amount for a Child Attending School that is proportionally much larger than for a minor.

This result raised concerns that the amounts were too high, particularly given that support for a Child Attending School could be paid by both parents. Consequently, the calculator was changed so that basic support for a Child Attending School is apportioned between the parents and the Child Attending School. The Child Attending School is automatically assigned one third of basic support and the remaining two thirds is apportioned between the parents based on income shares. This change reduces support for a Child Attending School to a more appropriate level.

Child Care Credit—Eliminate need to calculate child care tax credit; Section 3

The existing formula takes into consideration the potential child care tax credits that might be available to a parent. The amount of the credits is calculated and then subtracted before child care expenses are apportioned between the parents. The computation adds complexity and additional length to the calculator. In addition, the

tax credits are often quite speculative. A parent who lacks sufficient income to incur a tax liability will never get to use the credit. As a result, low-income parents often are reimbursed for child care expenses at a rate that is lower than actual out-of-pocket costs. This has been counterbalanced in some cases by permitting a parent to claim the full cost of subsidized daycare.

To solve all of these problems, the committee recommends that child care tax credits be removed entirely from the calculator. The recommendation was broadly supported and the current version of the proposed calculator no longer includes a deduction for tax credits. Parties who wish to have the impact of child care tax credits considered in their calculations have the option of proposing a rebuttal.

Medical Support; Sections 4 & 5

Presently, when health insurance is actually available to a parent, the current calculator tests its affordability by comparing that individual parent's reasonable-in-cost cap with the premium cost for insuring only the children. The unintended consequence of the current approach is that fewer insurance policies are affordable because only one parent's reasonable-in-cost cap is considered. The medical support recommendations (see Section III, above) include a recommendation to apportion health insurance premiums between the parents based on income shares after first combining both parents' reasonable-in-cost caps. This has been incorporated into the design of the proposed calculator.

The current calculator also automatically includes contingent cash medical at the full amount of the reasonable-in-cost cap anytime health insurance is not provided. The committee recommended that the calculator be designed to permit users to choose not to include cash medical support. The proposed calculator now permits qualifying parties to choose no cash medical support. To qualify, neither of the parties can be on public assistance, and there must be affordable health insurance available or a provision in an underlying dissolution decree that provides for sharing uninsured expenses. Those users who choose to include cash medical support also will have the option of making it contingent on the provision of health insurance.

The new design raised two policy questions. The first is whether to order a parent's proportionate share of the actual cost of the health insurance or the full reasonable-in-cost cap. A majority of the committee felt that only the actual cost of insurance should be ordered. However, a minority believes that ordering an amount not to exceed the reasonable-in-cost cap is appropriate because it builds flexibility into orders that may avoid the need to modify every time the cost of health insurance rises.

The second policy question is how to decide which parent's health insurance to order when both parents have access to affordable policies. The committee recommends that the parent with the majority of parenting time be given the choice. This is consistent with federal law and places the decision in the hands of the parent with whom the children will spend the most time.

Application of Self-Support Reserve; Section 6

The current calculator is designed to ensure that an obligor is left with enough income to meet the most basic needs. It does this by subtracting a "self-support reserve" amount from adjusted income to cap the amount that will be ordered for support. For low-income parents, the self-support reserve can result in insufficient income available to fully fund all calculated amounts. In practice this means that when support is calculated at \$300, but the self-support reserve results in only \$200 of income being available for support, support will be limited to \$200. In this example, no income would be left to pay medical support.

This problem is compounded in the current version of the proposed calculator. Instead of two categories of support (cash child support and medical support), the proposed calculator produces three categories: cash support for minors, cash support for a Child Attending School, and medical support for all children. This raised an additional policy choice. If there is insufficient income to fully fund everything, which type of support should be given priority? Because of a strong belief that providing for minors should be given the highest priority, it is recommended that cash support for minors should be funded first, medical support for all children should be funded second, and cash support for a Child Attending School should be funded last.

This will be a marked change from current practice. Because support for minors and Children Attending School are currently calculated together, the self-support reserve affects all children equally. The proposed design protects minor children at the expense of the Child Attending School. In some cases there might not be enough income to order any support for a Child Attending School. The committee demonstrated a strong consensus for the proposed priorities.

Summary Page

There have been numerous complaints about the worksheet summary. The current language was borrowed from the in-house calculator for the Division of Child Support and automatically includes contingent medical language. This is confusing whenever an order does not contain contingent medical provisions. The current draft of the proposed summary has been expanded and clarified. It always will reflect only

what is ordered. Additional work may be needed as the design of the calculator interface is refined.

Conclusion

Substantial changes to the current calculator are recommended that will make it more flexible and easier to understand. More changes may be needed as final decisions are made and modeling is completed. The calculator is the public face of the Child Support Program. It is the most important tool the Program provides to all users. The committee is committed to continuing its work on the worksheet and calculator design through completion. Because of the practical implications of implementation, that may not occur until the new guidelines go into effect.

IX. Implementation

Proposed Schedule

April 23, 2012 – Modeling preparation done. Begin generating scenarios.

July 1, 2012 – Forward final business requirements, reflecting all final policy choices, to LightningDocs and Department of Justice Information Systems to begin implementation.

October 1, 2012 – Notice of Proposed Rulemaking

November–December – Public hearings on administrative rules

January 1, 2013 – New guidelines effective. Calculators, forms, Program document generation all online and beginning work.

Appendix A. 2011 Guidelines Issues

#1: Medical support

- Parents no longer share medical support costs; medical support is an add-on
- Medical support is based on ability to pay, not on children’s needs
- Contingent cash medical support provisions are not needed in all cases

Medical Support Comments

	Impact	Issue
1	major	Cash medical support amounts are not based on actual medical expenses . <ul style="list-style-type: none"> • Where obligor income is high and child medical expenses low, it often constitutes a windfall to the obligee. • Where medical expenses are high, cash medical is insufficient.
2	major	Health insurance costs are no longer shared between the parties, creating an increased and uneven burden for the paying parent.
3	major	Implementing contingent cash medical support provisions under ORS 25.323(3) has resulted in challenges for Program staff, for the public, the bar, and the bench. How can we ensure that contingent medical support helps avoid unneeded legal actions while maintaining clarity and minimizing workload?
4	major	Appropriateness of presumptive cash medical payment becomes questionable when parenting time is close, equal, or split, especially when the parent with more parenting time is the obligor by virtue of having greater income.
5	moderate	Contingent cash medical only stops if the obligor provides health care coverage that’s reasonable in cost. Should it also stop if the obligor chooses to provide more expensive coverage ?
6	moderate	OAR 137-050-0750 has been interpreted to mean that cash medical must always be the full reasonable in cost amount. However, ORS 25.323 does not compel this. What should the amount of the presumptive cash medical support amount be?
7	moderate	Tribal health coverage is not specifically addressed in statute or rule.
8	moderate	How should the relationship between ORS 25.323/OAR 137-050-0750 medical support and ORS 107.106 provisions for division of unreimbursed expenses be addressed in guideline rule?
9	moderate	The appearance of a cash medical amount for the obligee in the worksheet: <ul style="list-style-type: none"> • is confusing, because the obligee is not typically ordered to pay cash medical • contributes to a perception of unfairness if the obligor pays health care or cash medical on top of the support amount while obligee’s contribution is limited to \$250 per child per year.

10	minor	Clarify in medical support rule that the 4% or greater amount for the cap is applicable to the premium cost for the child only , and does not include the parent's portion of the premium.
11	unknown	What implications do state and federal health care reform – Oregon Healthy Kids and the federal Patient Protection and Affordable Care Act (P.L. 111-148) have for medical child support? Should unsubsidized Healthy Kids be treated as private insurance? See OCSE AT 10-10.

#2: Parenting time

- A high-income custodial parent may be the obligor
- Application of parenting time to adult children who are attending school doesn't necessarily make things simpler
- Several technical issues

Parenting time Comments

	Impact	Issue
1	major	Custodial parent as obligor: A parent with a greater percentage share of income than percentage share of parenting time will always be the obligor where all other factors are held constant, even if that parent has the most parenting time. This has been controversial.
2	major	Parenting time credit should only be granted if the parent receiving the credit can establish that they are actually paying expenses for the child.
3	major	The parenting time credit splits the tax deduction assumptions between the parents even though only one parent can claim the deduction each year. As parenting time for the non-custodial parent increases, this benefits the custodial parent and harms the non-custodial parent.
4	major	Application of parenting time to CAS is inappropriate and produces inequitable results, including no support amount for the obligee (also addressed under child attending school issues).
5	rare but major	Infrequently reported but serious problem: In families with minimal obligor parenting time (about 25%) and significantly higher obligor income, application of the inflated basic support amount and the parenting time credit can result in a slight increase in the obligation, rather than a decrease.
6	moderate	When different children have different parenting time , the net effect can be to eliminate the parenting time credit even when there is significant parenting time for one or more children. Arguably this is an inequitable result.
7	moderate	In some scenarios, with a higher-income obligor, moving different numbers of children from obligee to obligor makes an inconsistent change in the support amount, depending on the number of children.
8	minor	Practitioners typically compute support based on parenting time not yet in place but anticipated as part of the current action. This is not obvious to pro se litigants. Perhaps the rule and calculator could be updated to clarify this is an appropriate practice.

#3: Child Attending School

- Calculation method and results are not clear in rule or calculator
- Inappropriate support amounts when there are both minors and CAS
- (Adult) children attending school are not situated similarly to minor children, particularly when they live away from home

Child Attending School Comments

	Impact	Issue
1	major	It's not always clear how to compute support when there is a child attending school.
2	major	In many cases, the pro rata guideline support result is inappropriate when there are both minor children and children attending school.
3	major	Application of parenting time to CAS is inappropriate and produces inequitable results, including no support amount for the obligee.
4	major change	One practitioner suggests a separate calculation method for children attending school , based not on parental ability to pay but on the student's needs: "Given the nature and purpose of ORS 107.108, financial obligations under that statute should be based on and limited to an assessment of the young adult's actual need for parental financial assistance in order to pursue educational endeavors. For this purpose, evidence of parental incomes (and therefore the application of the Oregon Child Support Guidelines) is irrelevant. Except for the purpose of assessing a parent's ability to pay, parental income should play no part in the determination of whether to impose obligations for parental financial assistance under ORS 107.108. In sum, the primary and critical question is "need," not parental income. In the absence of an evidentiary showing of actual need on the part of the young adult seeking an order under ORS 107.108, the court has no business even getting involved. And if the young adult is able to pursue educational endeavors without an order under ORS 107.108, there is no basis for such an order. And this is true regardless of the incomes of the parent(s)."

#4: Income

- Various minor to moderate policy and technical issues including the deduction of the parent’s own portion of the health care premium, potential income and depreciation.

Income Comments

	Impact	Issue
1	moderate	The additional child deduction , in combination with the self support reserve, reduces support orders significantly at low incomes because the additional child credit itself is not reduced in light of the self-support reserve.
2	moderate	Social Security benefits paid to the child or the child’s representative should be considered income, and an argument can be made under the current rule that they should be.
3	moderate	The income deduction for parent’s own portion of health insurance is particularly confusing when the insurance is not reasonable in cost and it is not counted. Could this be clarified rule or in calculator? <ul style="list-style-type: none"> • One alternative would be to allow a parent to always deduct his/her own portion of the premium in order to both reflect parent’s own basic needs and entirely eliminate technical complexity of recursive calculation.
4	moderate	Should Earned Income Tax Credit be treated as income? If so, based on presumptive eligibility or actual receipt?
5	moderate	Income rule OAR 137-050-0715 provides that income is either potential <i>or</i> actual, based on, among other things, whether an individual is working full time at or above the minimum wage. What about an individual with significant passive income (investments, rent from property, etc) who chooses not to work but has significant earnings? How should income be determined when an individual has both passive income and income from part-time employment?
6	moderate	Former OAR 137-050-0340 made the exclusion of adoption assistance benefits et al a rebuttable presumption ; the commentary explained that because in most cases these benefits are for special needs or associated with a particular child. Current OAR 137-050-0715 excludes these payments as income without the rebuttable presumption, effectively barring their inclusion entirely. CSP Policy doesn’t recall any intent to change the policy here and it may be that the rebuttable presumption was an inadvertent omission.
7	moderate	1) Clarify language in OAR 137-050-0715 regarding the deductibility of depreciation from income: straight-line depreciation is allowed, but not any accelerated method. 2) Is it appropriate to deduct any depreciation on a business asset from income as the actual cost of the asset can already be deducted as a business expense, as can its replacement when the asset is replaced.
8	minor	Clarify that income does not include food stamp benefits?

9	minor	Clarify whether income includes employer-paid portion of medical premium ?
10	minor	Clarify that income deduction for parent's own portion of health insurance premium is only available when medical insurance is reasonable in cost <i>after</i> consideration of said deduction?
11	minor	Per <i>Marriage of Cowden, 172 Or App 343 (2001)</i> , allow deduction of one-half of self-employed person's self-employment tax to put the self-employed on an equal footing with employees whose employer covers half the tax.
12	minor	Prevent adjustments from reducing income below zero? If a parent owes spousal support in excess of their income, adjusted income is negative, and cash medical, at 4% of adjusted income, is also negative. If a minimum order results, the minimum order will exceed \$100 as well.
13	minor	Income rule OAR 137-050-0715 provides for potential income imputation when a parent works less than full time, but not when a parent works full time earning less than another job for which they are qualified and opportunities available.
14	minor	How should we treat payments from a trust that by design makes part of the payment to the parent from the body of the trust, rather than from the principal?
15	minor	When a parent is paid more than full-time minimum wage in unemployment benefits , the rules still requires us to use full-time minimum wage; a rebuttal is required to use the (higher) actual income.
16	minor	The additional child deduction may need clarification. For example, should an additional child deduction be given for a non-joint child whose custody is split 50-50 without a child support award.
18	minor	Restore treatment of overtime income , removed in the 2010 guidelines?

#5: Miscellaneous

- A number of practitioners have remarked that the commentary is missed
- Rebuttal issues including extracurricular activities and the treatment of subsidized child care
- Various technical and policy considerations

Miscellaneous Comments

	Impact	Issue
Commentary		
1	major	<p>A number of useful issues in the former commentary do not appear in the current rules. Some proposed solutions include:</p> <ul style="list-style-type: none"> • Bring back commentary • Don't bring back commentary, but identify issues in former commentary that should be added to rules • Maintain a case law reference document
Rebuttals		
2	moderate	Remove exclusion for extracurricular expenses ; this restriction is contrary to ORS 25.280.
3	moderate	Remove " extraordinary or diminished " from the "needs of the child" criterion; the restriction is contrary to ORS 25.280.
Child care		
4	major	Including the publicly subsidized portion of child care costs continues to result in mammoth orders for low-income families. In many cases it uses all available income, leaving none for medical support. Is this still an acceptable outcome? One option: do not count subsidized costs when there is no copay; e.g. TANF cases.
5	minor	Determining child care tax credits is confusing.
6	minor	Clarify in rule that caretaker can incur child care costs?
Other		
7	major	Clarify in rule who is the obligor?
8	moderate	Social Security/Veterans benefits credit is applied to cash support, not medical support, leading to situations in which an obligor is required to pay cash medical even when the benefits paid to the child far outweigh the total cash child support and medical support that would be owed.

9	moderate	ORS 25.275 restricts the credit for Social Security or veterans benefits to those based on the obligor's disability or retirement . OAR 137-050-0740 just talks about "a parent".
10	minor	Commentary to former OAR 137-050-0405 specifically excluded from consideration a child's Social Security survivor benefits from a parent's death , because this payment is not derived from either party to the support order. Should this be added back in as a clarification to the current rule, OAR 137-050-0740?

#6: Design (worksheets and calculators)

- How can we improve the calculation tools used to determine support amounts?

Design Comments

	Impact	Issue
1	major	"This thing [the worksheet] should fit on no more than two pages and you guys should figure out how to make that happen."
2	major	Clarify support summary. Make contingent medical provisions optional or remove them for public users.
3	major	Currently there are two calculators for public use; can we meet both the public's needs and the Program's with a single calculator ?
4	major	Address handling of children attending school (CAS) throughout the interview.
5	major	To answer the " compelling factors " question for medical support, the user must know whether the health insurance available is reasonable in cost. This information is not provided.
6	moderate	Social Security and Veterans apportioned benefits are not income but appear with income and adjustments. This is confusing to the user and this question should be moved later in the interview to correspond with their role in the calculation.
7	moderate	The support summary's contingent medical support can leave the user unclear as to what the obligor is ordered to pay/provide.
8	moderate	Make parenting time entry / computation simpler.
9	moderate	If both parents have insurance available but have elected for only one parent to provide it, the user must tell the calculator that the parent doesn't have insurance available. Should there be an instruction to this effect (or entry redesigned for clarity)?
10	moderate	The calculator asks without explanation whether the parent has an exception to the minimum order. This question should only appear if the minimum order will be applied, and should provide some explanation.
11	moderate	The " Guideline amount " and " Agreed amount " pages are confusing to users because they appear to show the bottom line when in fact that information isn't presented until the "final amounts" page.
12	moderate	Clarify expenses screen overall; too much information requested with too little explanation.
13	TBD	Excel worksheet should be available in various program formats.
14	TBD	Develop iPhone calculator app.

Appendix B. Proposed rule language

Draft OAR 137-050-0715 (replacing current rule 137-050-0715 in its entirety)

Income

(1) “Income” means “actual income” and “potential income” or a combination⁸ of the two. Actual and potential income may be combined when a parent has actual income and is unemployed or employed at less than the parent’s potential income as determined under subsection (5)(a) of this rule.

(2) “Actual income” means all earnings and income from any source, except as provided in section (4). Actual income includes but is not limited to:

(a) employment-related income including salaries, wages, commissions, advances, bonuses, dividends, overtime pay to the extent that the overtime is recurring,⁹ severance pay, pensions, and honoraria;

(b) expense reimbursements, allowances,¹⁰ or in-kind payments to a parent are income to the extent they reduce personal living expenses;

(c) annuities, trust income, including distribution of trust assets,¹¹ and return on capital,¹² such as interest and dividends;

⁸ Commentary: This rule was amended in 2012 to recognize that there are circumstances in which a combination of potential and actual income applies. There are circumstances where parents may be unemployed or underemployed, but maintain sources of actual income such as trust income or rental income. In calculating income, the actual income, such as the dividend payment, will be added to the amount determined to be the potential income from employment. There are also circumstances where a parent may be receiving Social Security income due to a disability, but also receive Veterans disability income or a private disability plan payment, or other sources of actual income. In those circumstances, the actual income, such as a dividend payment, would be added to the disability payment in the determination of income.

⁹ Commentary: Overtime is considered if it is regularly occurring. Sporadic overtime generally is not included. Overtime is calculated based on an annual amount, prorated over a twelve-month period. The calculation of annual overtime takes into consideration those occupations that customarily have seasonal overtime.

¹⁰ Commentary: An allowance, such as a car, home or mobile phone allowance provided by an employer, may be considered income to the extent they reduce personal living expenses consistent with (2)(f). For example, if the employer provides the employee a mobile phone subsidy of \$100 per month, that amount could be included in income. If, however, the mobile phone is restricted to business use, it would not be considered in determining income. In calculating income for an active-duty servicemember, income includes housing and subsidy allowances and special pay allowances.

¹¹ Commentary: Distribution of trust assets are intended to be included as income, including income and principal that are either paid directly to the party or an expense paid for the benefit of a party. Example: If a trust rents an apartment in the trust’s name for the party and pays the rent and associated expenses of the apartment for the party,

(d) income replacement benefit payments including Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and Veterans disability benefits;

(e) inheritances,¹³ gifts and prizes, including lottery winnings; and

(f) income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely-held corporation, minus costs of good sold, minus ordinary and necessary expenses required for self-employment or business operation, including one-half of the parent's self-employment tax, if applicable. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income.

(3) To determine average monthly income when wages are paid weekly, multiply the weekly earnings by 52 and divide by 12. To determine average monthly income when wages are paid every two weeks, multiply the bi-weekly income earnings by 26 and divide by 12. To determine average monthly overtime income when overtime is paid on an hourly basis, determine the yearly overtime wages and divide by 12. To determine average monthly allowance income, recurring bonus income, dividend income or trust distribution income, determine the yearly amount and divide by 12.

(4) Child support, food stamps, Social Security benefits resulting from a child's disability, adoption assistance, guardianship assistance, and foster care subsidies are not considered income for purposes of the support calculation.

(5) "Potential income" means:

(a) the parent's probable earnings based on relevant work history, including hours typically worked by or available to the parent, occupational qualifications, education, physical and mental health, prevailing job opportunities in the community, and any other relevant factors, or

the fact that the payment does not go through the party does not prevent the inclusion of those amounts into the party's gross income.

¹² Commentary: A return on capital, including interest and dividends, can be considered regardless of whether the return is paid out to the party, or reinvested to increase the value of the capital investment.

¹³ Commentary: See *In re Marriage of Leif*, 246 Or.App. 511, 266 P.3d 165 (2011).

(b) where sufficient information on the parent's income or earnings history is unavailable, the amount of income a parent could earn working full-time at the minimum wage of the state in which the parent resides.¹⁴

(6) Potential income is appropriate in the following scenarios:

(a) An unemployed parent;

(b) A parent employed less than full-time or a parent with income in an amount less than full-time at the minimum wage of the state where the parent resides, except in those industries, trades, or professions in which most employers, due to custom, practice or agreement, utilize a normal work week of more or less than 40 hours in a week,¹⁵

(c) A parent whose actual income is inconsistent with his or her potential income as determined under subsection (5)(a) of this rule,

(d) A parent with no direct evidence of any income.

(7) Imputation of potential income is not appropriate in the following scenarios:

(a) A parent unable to work full-time due to a verified disability;

(b) A parent receiving workers' compensation benefits;

(c) An incarcerated obligor as defined in OAR 137-055-3300;

(d) When performing a calculation for a temporary modification pursuant to ORS 416.425(13), except as provided in section (8) of this rule.

¹⁴ Commentary: The minimum wage of the state in which the parent resides should be used when assessing potential income. Where there is insufficient information regarding in which state the parent resides, use Oregon minimum wage.

¹⁵ Commentary: There are a number of parents with a consistent employment history of being employed at two or more part-time jobs that do not meet the 40-hour standard, or one employer who consistently will not allow an employee to work more than 32 to 38 hours, which may not be customary to the occupation, but is customary to the employer. In these circumstances, it is discretionary whether to determine the party's income potential based on 40 hours, or what is customary to the employee based on the employee's current employment situation. This provision also is intended to provide for seasonal employees where the parent may have significant earnings for a portion of the year and then traditionally receives unemployment compensation for a portion of the year. Under those circumstances, the parent's imputed income should be based on an annual review of the parent's income, divided over a twelve-month period.

(8) Notwithstanding any other provision of this rule, if the parent is a recipient of Temporary Assistance for Needy Families, the parent's income is presumed to be the amount that could be earned by full-time work at the current state minimum wage. This income presumption is for the sole purpose of the support calculation and not to overcome the rebuttable presumption of inability to pay in ORS 25.245.

(9) As used in this rule, "full-time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom, practice, or agreement, utilize a normal work week of more or less than 40 hours in a week.

Draft OAR 137-050-0730
Parenting Time Credit

- (1) For the purposes of this rule, “split custody” means that there are two or more children and each parent has at least one child more than 50 percent of the time.
- (2) If there is a current written parenting time agreement or court order providing for parenting time, **or a parenting plan will be included in the current action**, the percentage of overall parenting time for each parent must be calculated as follows:
 - (a) Determine the average number of overnights using two consecutive years.
 - (b) Multiply the number of children by 365 to arrive at a total number of child overnights. Add together the total number of overnights the parent is allowed with each child and divide the parenting time overnights by the total number of child overnights.
 - (c) Notwithstanding the calculation provided in subsections (2)(b) and (2)(c), the percentage of parenting time may be determined using a method other than overnights if the parents have an alternative parenting time schedule in which a parent has significant time periods where the child is in the parent’s physical custody but does not stay overnight. For example, in lieu of overnights, 12 continuous hours may be counted as one day. Additionally, four-hour up to 12-hour blocks may be counted as half-days, but not in conjunction with overnights. Regardless of the method used, blocks of time may not be used to equal more than one full day per 24-hour period.
- (3) If the parents have split custody but no written parenting time agreement, determine each parent's percentage share of parenting time by dividing the number of children with the parent by the total number of children.
- (4) If there is no written parenting time agreement or court order providing for parenting time, the parent or party having primary physical custody will be treated as having 100 percent of the parenting time, unless a court or administrative law judge determines actual parenting time.
- (5) If the court or administrative law judge determines actual parenting time exercised by a parent is different than what is provided in a written parenting plan or court order, the percentage of parenting time may be calculated using the actual parenting time exercised by the parent.
- ~~(6) If each parent’s parenting time is at least 25 percent, or the child resides with a caretaker or is in the care of a state agency and the obligated parent has at least 25~~

percent parenting time, a Calculate the parenting time credit will be calculated as follows:

(a) ~~Multiply the combined basic child support obligation by 1.5 (150 percent)~~ Enter the parents' percentage shares of parenting time for the percentage share of parenting time credit (Table 1); and

(b) Except as provided in subsection (c), multiply each parent's percentage share of parenting time credit by the combined basic child support obligation for minor children ~~in subsection (a)~~. The result is the amount of ~~credit~~ to be subtracted from the obligation for minor children ~~determined in subsection (a)~~ for each parent;

(c) If the child resides with a caretaker or is in the care of a state agency, multiply the obligated parent's percentage share of parenting time credit by the combined basic child support obligation for minor children ~~in subsection (a)~~. The result is the amount of ~~credit~~ to be subtracted from the obligation for minor children ~~determined in subsection (a)~~.

(7) The parenting time credit is ~~applied to the entire~~ applies only to the support obligation for minor children, ~~including any support obligation for a child attending school.~~

Appendix C. Proposed commentary topics for administrative rules

OAR 137-050-0700 General Provisions

(5) Commentary may be needed for one-parent calculations.

OAR 137-050-0710 Calculating Support

(7) Commentary may be needed for the separation of the Child Attending School from the minor children in the calculation of the support obligation.

OAR 137-050-0715 Income

See draft rule and commentary

(4) Commentary may be needed to explain self-employed income determination relating to the use of depreciation.

OAR 137-050-0720 Adjusted Income

Commentary may be needed for the change to non-joint child deduction from additional child credit.

Add commentary explaining why a non-joint Child Attending School in home with no support order does not qualify for non-joint credit.

Commentary may be needed to explain treating an in-home 18-year-old in high school in the same manner as a minor child, both for the support calculation and for non-joint credit.

OAR 137-050-0725 Basic Support Obligation

Commentary may be needed for explanation of the separate calculation of support for a Child Attending School and a minor child.

OAR 137-050-0730 Parenting Time Credit

Commentary may be needed for explanation of the “flip.”

Commentary may be needed to explain the new “curve” and the removal of the 1.5 multiplier and 25% limit.

OAR 137-050-0735 Child Care Costs

Commentary may be needed to explain the removal of the tax credits calculation.

Commentary may be needed to clarify giving a caretaker child care costs credit.

Commentary may be needed on removing the state-subsidized amount from the calculation of the credit.

Add commentary on determinable future child care costs being used if the costs are known.

OAR 137-050-0740 Social Security and Veterans Benefits

Commentary may be needed to explain that the credit is against only the cash child support, not cash medical or other medical provisions.

OAR 137-050-0745 Self-Support Reserve

Commentary may be needed to explain the priority of application of the self-support reserve.

OAR 137-050-0750 Medical Support

(1) Add commentary to explain \$250 unreimbursed medical costs

(2)(a) Commentary may be needed to explain how the reasonable-in-cost cap is applied and under what circumstances it could be exceeded.

Commentary may be needed to clarify the relationship among ORS 107.106, health insurance, and cash medical.

Commentary may be needed to explain ordering health care costs at the actual premium costs.

Commentary may be needed to explain who should choose the health coverage if both parents have health care costs available.

Commentary may be needed to explain the contingency of medical provisions.

OAR 137-050-0755 Minimum Order

OAR 137-050-0760 Rebuttals

Add commentary on (o)(A) explaining extracurricular expenses, “needs vs. wants.”

Add commentary to explain return on capital (p).

Add commentary on the application of rebuttals in the calculation of support.

OAR 137-050-0765 Agreed Support Amount

Commentary may be needed to explain the use of the agreed amount.

Appendix D. Draft child support worksheet

Enter information in yellow-shaded boxes

Parents

Abby	Ben
father	mother

Click here if the child is with a caretaker or in state care and the calculation is only for one of the parents.

1. Income

1a	Income	\$3,750.00	\$1,600.00	
1b	Additions to and subtractions from income			
	Add spousal support owed to the parent by anyone		\$500.00	
	Subtract spousal support the parent owes to anyone	\$500.00		
	Subtract mandatory union dues	\$50.00		
	Subtract cost of the parent's own health care coverage if required to enroll this child. Do not deduct this amount if the deductions would make the health coverage unreasonable in cost (reference).			
	Income after additions and subtractions	\$3,200.00	\$2,100.00	
1c	Number of additional children each parent supports	1		
1d	Nonjoint child deduction Reference the guidelines scale using the parent's income after additions and subtractions (line 1b) and the parent's total number of children (1c, 2a, and 2b). Divide the result by the total number of children and multiply by the number of nonjoint children only (1c).	\$ 247.80	\$ -	combined
1e	Adjusted income Subtract nonjoint child deduction (line 1d) from income after additions and subtractions (line 1b). Sum the parents' adjusted incomes in the "combined" column.	\$2,952.20	\$2,100.00	\$5,052.20
1f	Each parent's income share percentage (each parent's share from line 1e divided by the combined total)	58.43%	41.57%	

2. Basic support

					total
2a	Number of joint minor children. Include 18-year-olds attending high school.		3		
2b	Number of joint children ages 18 to 20 and attending school Exclude 18-year-olds attending high school.		1		4
2c	Total basic support for all joint children (from obligation scale) Reference the scale using combined adjusted income (line 1e) and total number of children (2a + 2b). Enter this combined basic support obligation in the "combined" column.				\$1,502.00
2d	Basic support for all joint minor children Divide basic support by the number of children (2a+2b) and multiply by the number of minor children (2a). Multiply by each parent's income share percentage (1f) to determine each parent's share.		Abby	Ben	
		\$658.26	\$468.24		\$1,126.50
2e	Basic support for all joint children attending school per ORS 107.108 Divide basic support by the number of children (2a+2b), multiply by the number of children attending school (2b), and then multiply by two-thirds. Multiply by each parent's income share percentage (1f) to determine each parent's share.		\$146.28	\$104.05	\$250.33
2f	Child attending school self-support responsibility Divide basic support by the number of children (2a+2b), multiply by the number of children attending school (2a), and then multiply by one third.				\$125.17

3. Child care adjustment		Abby	Ben	caretaker
3a	Child care costs for children under 13 or disabled. Enter the cost in the column of the parent (or caretaker) paying the cost. Costs may not exceed cap. See OAR 137-050-0735.	\$50.00	\$200.00	
3b	Parents' shares of child care costs Add all child care expenses (3a). Multiply by each parent's income share (1f).	\$146.08	\$103.92	combined \$250.00
3c	Support for minor children, adjusted for child care Add each parent's share of child care costs (3b) to the parent's basic support for joint minor children (2d).	\$804.34	\$572.16	

4. Health insurance		Abby	Ben	combined
4a	Health insurance premium cost for the children only. <ul style="list-style-type: none"> • If appropriate insurance is available at no cost, enter \$0. • Enter "none" if appropriate insurance is not available. • If both parents have insurance available but have agreed that only one parent will provide it, enter only that parent's premium cost. Enter "none" for the other parent. • If dual coverage is reasonable in cost, it may be ordered. Enter each parent's premium. • When there are multiple reasonable-in-cost policies, the parent with more parenting time may select which coverage to order. Enter only the selected policy. Enter "none" for the other parent. 	\$ 120.00	\$20.00	\$140.00
4b	Reasonable cost cap for health insurance Enter 4% of each parent's adjusted income (1e). Enter \$0 if the parent has income at or below the minimum wage.	\$118.00	\$84.00	\$ 202.00
4c	Is the health insurance reasonable in cost? Yes , if the premium costs in the combined column of line 4a are equal to or less than the combined reasonable in cost cap, or there are compelling factors (4d). No , if neither parent has insurance at or below the reasonable in cost cap. See instructions at 4a.			yes
4d	Are there compelling factors to exceed 4% of the parent's income for private health care coverage? Select "yes" to order health insurance even though it exceeds the reasonable cost cap (4c).	no		
4e	Parents' shares of health insurance costs Divide each parent's individual reasonable in cost cap by the combined cap (4b).	58.42%	41.58%	
4f	Each parent's share of health insurance premiums If health insurance is reasonable in cost (4c), multiply the combined cost of health care premiums (4a) by each parent's medical cost share (4c).	\$ 81.78	\$ 58.22	

5. Cash medical support

		<u>Abby</u>	<u>Ben</u>	
5a	Cash medical support in place of health care coverage Enter each parent's reasonable in cost cap (4b). The obligor may be ordered to pay up to this amount towards the child's health insurance premium and uncovered expenses. This amount may be used to repay the cost of providing Oregon Health Plan benefits. Yes for cash medical in place of health insurance. Contingent for cash medical effective whenever the paying parent does not provide health insurance. The order may provide for no cash medical support if: a) the paying parent provides health insurance and no contingent cash medical provisions are desired; or b) the order contains findings explaining why cash medical support is not ordered.			contingent
		\$118.00	\$84.00	

				<u>Available income</u>	
		<u>Abby</u>	<u>Ben</u>	<u>Abby</u>	<u>Ben</u>
6a	Income available for support Subtract the self-support reserve of \$1059 from the parent's adjusted income (1e). If less than zero, enter zero.			\$1,893.20	\$1,041.00
6b	Support for minor children after child care Enter the lesser of the support for minor children, adjusted for child care (3c), and income available for support (6a). In right-hand columns, subtract from 6a for running balance.	\$804.34	\$572.16	\$1,088.86	\$468.84
6c	Health insurance Yes , if insurance is reasonable in cost (4c), and the parent has enough available income (6b) to pay his/her share of the premium (4f). If yes, subtract each parent's share of the premium (4f) from available income remaining. No , if insurance is not available, not reasonable in cost, or there is not enough available income.	yes			
		\$81.78	\$58.22	\$1,007.07	\$410.63
6d	Cash medical support Enter the lesser of cash medical support (5a) or income available after basic support for minor children (6b). Subtract each parent's cash medical support from available income remaining after basic support for minor children (6b).	\$118.00	\$84.00	\$970.86	\$384.84
6e	Support for adult children attending school (CAS) Enter the lesser of: • basic support for adult children attending school (2e), • available income remaining after health insurance (6c), or • available income remaining after cash medical support (6d).	\$146.28	\$104.05		

7. Credits for minor children		<u>Abby</u>	<u>Ben</u>	<u>caretaker</u>
7a	Average overnights (or equivalent) with minor children	170.00	195.00	
7b	Credit percentage Apply credit formula to overnights (7a).	42.69%	57.31%	cash child support
7c	Support for minor children before credits Enter the parents' figures from 6b.			<u>Abby</u> \$804.34 <u>Ben</u> \$572.16
7d	Parenting time credit Multiply each parenting time credit percentage (7b) by the combined basic support obligation for minor children (2d). Subtract from the parent's support after child care (7c) to adjust cash child support, but do not reduce below zero.	\$480.89	\$645.61	\$323.45 \$0.00

7e Child care credit Enter each parent's allowed child care costs (3a). Subtract from the parent's cash child support after parenting time credit (7d) but do not reduce below zero.	\$50.00	\$200.00	\$273.45	\$0.00
7f Credit for Social Security or veterans' benefits If a child (or a child's representative payee) receives benefits as a result of a parent's disability or retirement, you may enter the amount of the benefit in the disabled or retired parent's column. If that parent is the obligor, the amount will be deducted from the support obligation. Subtract from the parent's support after child care credit (7e) but do not reduce below zero.	\$50.00	\$25.00	\$223.45	\$0.00
7g Credit for minors' health insurance premium If health care coverage will be ordered (4c), enter the minor children's pro-rated portion (2a divided by (2a+2b)) of the parent's out-of-pocket premium cost (3a). Subtract from the parent's support after Social Security or veterans' benefits (7f), but do not reduce below zero.	\$90.00	\$15.00	\$133.00	\$0.00

8. Credits for children attending school

		<u>cash child support</u>	
		<u>Abby</u>	<u>Ben</u>
8a Support for adult children attending school before credits Enter the parents' figures from 6e.	Abby	Ben	
			\$146.28 \$104.05
8b Credit for adult children's health insurance premium If health care coverage will be ordered (4c), enter the adult children's pro-rated portion (2b divided by (2a+2b)) of the parent's out-of-pocket premium cost (3a). Subtract from the parent's support for adult children before credits (8a), but do not reduce below zero.	\$30.00	\$5.00	\$116.00 \$99.00

9. Apply \$100 minimum order

		Abby	Ben
9a Does the parent owe cash child support? Yes , if the parent's cash child support after credits (7g+8b) is greater than zero. No , if the parent's cash child support after credits is zero.		yes	yes
9b Parent's net payment? If the parent owes cash child support (9a), add the parent's cash child support for minor children (7g) and children attending school (8b), child care credit (7e), and the greater of health insurance premium (7g) or cash medical support (6d). Zero , if the parent does not owe cash child support (9a).		\$419.00	\$383.00
9c Amount needed to meet minimum order If the parent owes cash child support (9a) and has a net payment of less than \$100 (9b), subtract the parent's net payment from \$100. This is the increase needed to reach the \$100 minimum order.		\$0.00	\$0.00
9d Cash support for minor children after minimum order If cash child support will be ordered for minor children (7g), add 9c to that amount		\$133.00	\$0.00
9e Cash support for adult children attending school after minimum order If cash child support will be ordered only for adult children attending school (8b), add 9c to that amount		\$116.00	\$99.00

CALCULATION SUMMARY

The parents, Abby and Ben, have 3 minor child(ren) and 1 adult child(ren) attending school.

'Minor child', for purposes of this calculation, includes an 18-year-old child living at home and attending high school.

Abby could be ordered to:

- pay \$133 per month for the support of the 3 minor child(ren).
- pay \$116 per month for the support of the 1 adult child(ren) attending school. This amount is ordinarily paid in equal shares to each adult child attending school.
- pay up to \$118 per month to provide private health care coverage for the child(ren).
- pay \$118 per month as cash medical support, for a total of \$367, any time Abby does not provide appropriate private health insurance.

Ben could be ordered to:

- pay \$99 per month for the support of the 1 adult child(ren) attending school. This amount is ordinarily paid in equal shares to each adult child attending school.
- pay up to \$84 per month to provide private health care coverage for the child(ren).

The adult children attending school are responsible for approximately \$125.17 of their own support.

Abby's support obligation has been adjusted to reflect that:

- Abby incurs about \$481 per month in direct parenting expenses based on 170 average annual overnights with the minor children.
- Abby pays \$50 per month in out-of pocket child care expenses.
- \$50 per month in Social Security or veterans benefits are paid to the child(ren) as a result of Abby's disability or retirement.
- Abby pays \$90 in monthly insurance premium payments for the minor child(ren).

- Abby pays \$30 in monthly insurance premium payments for the adult child(ren) attending school.

Ben's support obligation has been adjusted to reflect that:

- Ben incurs about \$646 per month in direct parenting expenses based on 195 average annual overnights with the minor child(ren).
- Ben pays \$200 per month in out-of pocket child care expenses.
- \$25 per month in Social Security or veterans benefits are paid to the child(ren) as a result of Ben's disability or retirement.
- Ben pays \$15 in monthly insurance premium payments for the minor child(ren).

- Ben pays \$5 in monthly insurance premium payments for the adult child(ren) attending school.

This calculation summary is not an order. It is a summary of the type and amount of support that could be ordered based on this calculation. An individual's actual obligation can only be established by court or administrative order in accordance with the laws of Oregon.
For the actual terms of the judgment, see the judgment and money award.

Appendix E. Draft one-page worksheet

Case Name _____ Number _____

Parent Names: _____

Number of Joint Children _____

<i>Item</i>	<i>[parent name]</i>	<i>[parent name]</i>
Income		
Spousal support obligation		
Spousal support owed to the parent		
Mandatory union dues		
Parent's health insurance premium (if tied to coverage for children)		
Children's health insurance premium		
Social Security or veterans benefits paid to child or representative payee		
Number of non-joint children		
Parenting time percentage		
Daycare expense		
<i>Cash child support for minors</i>		
<i>Cash child support for Children Attending School</i>		
<i>Cash medical support if private health insurance unavailable</i>		