

**SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.Civ.P. 1910.1, 1910.11, 1910.12, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-3.1, 1910.16-4, 1910.16-5, 1910.16-6, 1910.16-7, 1910.19, 1910.21, 1910.27, and 1910.29**

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the amendment of Pennsylvania Rules of Civil Procedure Proposed Amendment of Pa.R.Civ.P. 1910.1, 1910.11, 1910.12, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-3.1, 1910.16-4, 1910.16-5, 1910.16-6, 1910.16-7, 1910.19, 1910.21, 1910.27, and 1910.29 as part of the quadrennial support guidelines review pursuant to 23 Pa.C.S. § 4322(a) more fully discussed in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Daniel A. Durst, Chief Counsel  
Domestic Relations Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
P.O. Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9541  
domesticrules@pacourts.us**

All communications in reference to the proposal should be received by **February 28, 2025**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Domestic Relations Procedural Rules Committee,

Carolyn Moran Zack, Esq., Chair

## **Rule 1910.1. Scope. Definitions.**

- (a) **Scope.** Except as provided by subdivision (b), the rules of this chapter govern all civil actions or proceedings brought in the court of common pleas to enforce a duty of support, or an obligation to pay alimony *pendente lite*.

**[Note: A duty of support is imposed by the following statutes: 23 Pa.C.S.A. § 4321 and Section 3 of the Support Law of June 24, 1937, P.L. 2045, 62 P.S. § 1973 (repealed) now Act 43-2005, July 7, 2005, P.L. 196. The procedure under the rules of this chapter implements Chapter 43 of Part V of the Domestic Relations Code, Title 23 of the Consolidated Statutes, 23 Pa.C.S.A. § 4301 et seq., relating to support proceedings. The procedure under these rules provides an alternative to the intrastate and interstate procedures under Parts VIII and VIII-A of the Domestic Relations Code, 23 Pa.C.S.A. §§ 7101 et seq. and 8101 et seq. For alimony and alimony pendente lite, see Sections 3701 and 3702 of the Divorce Code, 23 Pa.C.S.A. §§ 3701, 3702.]**

**Note: Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S.A. § 4342(c).]**

- (b) **Exception.** The rules of this chapter shall not govern:
- (1) an action or proceeding for support based upon a contract or agreement which provides that it may not be enforced by an action in accordance with these rules,
  - (2) an application for a temporary order of support and other relief pursuant to **[the Protection from Abuse Act of December 19, 1990, P.L. 1240, No. 206,]** 23 Pa.C.S. §§ 6101 et seq.; or
  - (3) an action for support of an indigent brought pursuant **[to Chapter 46 of the Domestic Relations Code,]** 23 Pa.C.S.**[A.]** §§ 4601 et seq.

**[Note: Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.]**

- (c) **Definitions.** As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

- (1) “Conference officer,” the person who conducts an office conference pursuant to Rule 1910.11.
- (2) **“Default order,” a support order entered when a party fails to respond or appear after proper notice.**
- (3) **“Domestic Relations Section,” the office responsible for establishing paternity, and determining and enforcing child and spousal support orders. For the purpose of these rules, a County Child/Spousal Support Services shall be synonymous with a Domestic Relations Section.**
- (4) “Hearing officer,” the person who conducts a hearing on the record and makes recommendations to the court pursuant to Rule 1910.12.
- (5) “Overdue support,” the amount of delinquent support equal to or greater than one month’s support obligation which accrues after entry or modification of a support order as the result of obligor’s nonpayment of that order.
- (6) “Past due support,” the amount of support which accrues prior to entry or modification of a support order as the result of retroactivity of that order. When nonpayment of the order causes overdue support to accrue, any and all amounts of past due support owing under the order shall convert immediately to overdue support and remain as such until paid in full.
- (7) “Suspend,” eliminate the effect of a support order for a period of time.
- (8) “Terminate,” end not only the support order, but the support obligation as well.
- (9) “Trier-of-fact,” the judge, hearing officer, or conference officer who makes factual determinations.
- (10) “Vacate,” declare a particular support order null and void, as if it were never entered.

**Comment: A duty of support is imposed by 23 Pa.C.S. § 4321 and 23 Pa.C.S. §§ 4601 et seq. The procedure under the rules of this chapter implements 23 Pa.C.S. §§ 4301 et seq. relating to support proceedings. The procedure under these rules provides an alternative to the intrastate and interstate procedures under 23 Pa.C.S.**

**§§ 7101 *et seq.* and 8101 *et seq.* or alimony and alimony *pendente lite*, see 23 Pa.C.S. §§ 3701, 3702.**

**Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S. § 4342(c).**

**Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1994**

Nothing in this rule should be interpreted to eliminate the distinctions between spousal support and alimony pendente lite which are established by case law.

Alimony pendente lite must be distinguished from permanent alimony for purposes of this rule. The rule applies only to alimony pendente lite. The procedure for obtaining permanent alimony is governed by Section 3702 of the Divorce Code, 23 Pa.C.S.A. § 3702, and Rules of Civil Procedure 1920.1 *et seq.* Agreements for alimony approved by the court in connection with actions for divorce under Section 3701 of the Divorce Code are deemed to be court orders enforceable under Section 3703 of the Code.

Section 3105(a) of the Divorce Code provides that all agreements relating to matters under the code, whether or not merged or incorporated into the decree, are to be treated as orders for purposes of enforcement unless the agreement provides otherwise. Subdivision (b)(1) is amended to conform to the statute.

There is considerable diversity in the terminology used throughout the rules, and in the various counties, to describe the individuals who conduct conferences and hearings pursuant to the support rules. The addition of subdivision (c) to the rules standardizes terminology and eliminates the confusion which results from individual counties using inconsistent terms to refer to persons performing the same function. All references in the rules to conference or hearing officers have been amended to conform to the terminology set forth in subdivision (c).

In an effort to further standardize the terminology used in support matters, the additional terms are defined.

### **Explanatory Comment—2000**

Act 1998-127 technically amended Act 1997-58 to define and differentiate between past due and overdue support to clarify that only overdue support constitutes a lien by operation of law against the obligor's real or personal property. 23 Pa.C.S.A. § 4302 now defines overdue support as "support which is delinquent under a payment schedule established by the court." Past due support is defined as "support included in an order of support which has not been paid."

The definitions of past due and overdue support in this rule do not substantively change the legislative definitions. They merely elaborate on them in terms which are more familiar and helpful to the bench and bar. Specifically, past due support consists of the purely retroactive arrearages which accumulate between the date of the filing of the complaint or petition for modification and the date of the hearing and entry of the initial or modified support order. Overdue support refers to the delinquent arrearages which accrue after entry of the order due to the obligor's failure to pay support pursuant to the order.

These definitions are important for determining the remedies available for collecting support arrearages. Pursuant to 23 Pa.C.S.A. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against the obligor's property. Conversely, past due support (retroactive arrears) does not operate as a lien against this property as long as the obligor remains current on the support order.

Rule 1910.20 extends this legislative distinction between overdue and past due support to the following remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S.A. § 4303; (2) suspension of licenses under 23 Pa.C.S.A. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S.A. § 4305(b)(10). Accordingly, these remedies are available only to collect overdue support. They are not available to collect past due support as long as the obligor remains current on the order. If, however, the obligor subsequently defaults on the support order, Rule 1910.20(c) provides that any past due support still owing under the order immediately becomes overdue support subject to the full range of collection remedies. It remains overdue support until collected in full.

Pursuant to Rule 1910.20(c), all overdue support, including past due support which has converted to overdue support, remains subject to Act 58 remedies until paid in full. Any repayment plan subsequently agreed to by the parties, or ordered by the court pursuant to a contempt proceeding (including any arrearage component), does not

preclude the use of these remedies for collecting overdue support more quickly, whenever feasible.

In cases involving past due support only, the obligee is not entirely without remedy in the event that additional income or assets of the obligor are discovered after the hearing which would enable collection of past due support more quickly. In these cases, identification of those income sources or assets provides a basis for modification pursuant to Rule 1910.19. Modification includes increasing the rate of repayment on past due support and, if appropriate, ordering that the past due support be paid in full. In these cases, the obligee may also petition the court for special relief pursuant to Rule 1910.26 to have the income or assets frozen and seized pending the petition for modification in order to secure payment of past due support.

### **Explanatory Comment—2007**

Act 43-2005, July 7, 2005, P. L. 196, repealed the Act of June 24, 1937 (P. L. 2045, No. 397), known as The Support Law and added Chapter 46 to the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq. Section 4 of Act 43-2005 states that the addition of Chapter 46 is a continuation of the Act of June 24, 1937 (P. L. 2045, No. 397). Chapter 46 addresses the responsibility of certain family members to maintain indigent relatives, whether or not the indigent person is a public charge. New subdivision (b)(3) clarifies that the support rules and guidelines do not apply to actions brought under Chapter 46 of the Domestic Relations Code.

## **Rule 1910.11. Office Conference. Subsequent Proceedings. Order.**

### **(a) Office Conference.**

- (1) A conference officer shall conduct the office conference.
- (2) A lawyer serving as a conference officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, or judge of the same judicial district.

**[Note: Conference officers preside at office conferences under Pa.R.C.P. No. 1910.11. Hearing officers preside at hearings under Pa.R.C.P. No. 1910.12. The appointment of a hearing officer to hear actions in divorce or for annulment of marriage is authorized by Pa.R.C.P. No. 1920.51.]**

### **(b) Failure to Appear.** If a party fails to appear at the conference as directed by the court, the conference may proceed **with a default order being entered against the non-appearing party.**

### **(c) Documents.** At the conference, the parties shall provide to the conference officer the following documents:

- the most recently filed individual federal income tax returns, including all schedules, W-2s, and 1099s;
- the partnership or business tax returns with all schedules, including K-1, if the party is self-employed or a principal in a partnership or business entity;
- pay stubs for the preceding six months;
- verification of child care expenses;
- child support, spousal support, alimony *pendente lite*, or alimony orders or agreements for other children or former spouses;
- proof of available medical coverage; and
- an Income Statement and, if necessary, an Expense Statement on the forms provided in **[Pa.R.C.P. No.]**

**Pa.R.Civ.P.** 1910.27(c) and completed as set forth in subdivisions (c)(1) and **(c)(2)**.

**[Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* shall apply.]**

- (1) The parties shall provide the conference officer with a completed:
  - (i) Income Statement as set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.27(c)(1)** in all support cases, including high-income cases under **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3.1**; and
  - (ii) Expense Statement as set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. [1910.27(c)(2)(A)] 1910.27(c)(2)(i)**, if a party:
    - (A) claims that unusual needs and unusual fixed expenses may warrant a deviation from the guideline support amount pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-5**; or
    - (B) seeks expense apportionment pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6**.
- (2) For high-income **child** support cases as set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. [1910.16-3.1] 1910.16-3.1(a)**, the parties shall provide to the conference officer the Expense Statement in **[Pa.R.C.P. No.] Pa.R.Civ.P. [1910.27(c)(2)(B)] 1910.27(c)(2)(ii)**.
- (3) **All parties shall exchange copies of documents prior to or at the conference.**
- (d) **Conference Officer Recommendation.**
  - (1) The conference officer shall calculate and recommend a guideline support amount to the parties.
  - (2) If the parties agree on a support amount at the conference, the conference officer shall:



- (i) prepare a written order consistent with the parties' agreement and substantially in the form set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.27(e)**, which the parties shall sign; and
  - (ii) submit to the court the written order along with the conference officer's recommendation for approval or disapproval.
  - (iii) The court may enter the order in accordance with the agreement without hearing from the parties.
- (3) In all cases in which one or both parties are unrepresented, the parties must provide income information to the domestic relations section so that a guidelines calculation can be performed.
- (4) In cases in which both parties are represented by counsel, the parties shall not be obligated to provide income information and the domestic relations section shall not be required to perform a guidelines calculation if the parties have reached an agreement about the amount of support and the amount of contribution to additional expenses.
- (e) **Conference Summary.** At the conclusion of the conference or not later than 10 days after the conference, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:
  - (1) the facts upon which the parties agree;
  - (2) the contentions of the parties with respect to facts upon which they disagree; and
  - (3) the conference officer's recommendation; if any, of
    - (i) the amount of support and by and for whom the support shall be paid; and
    - (ii) the effective date of any order.
- (f) **No Agreement.** If an agreement for support is not reached at the conference, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Each party shall be provided, either in person at the time of the conference or by mail, with a copy of the interim

order and written notice that any party may, within **[twenty] 20** days after the date of receipt or the date of the mailing of the interim order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

- (g) **No Automatic Stay.** A demand for a hearing before the court shall not stay the interim order entered under subdivision (f) unless the court so directs.
- (h) **No Hearing Demand.** If no party demands a hearing before the court within the **[twenty] 20**-day period, the interim order shall constitute a final order.
- (i) **Hearing Demand.** If a demand is filed, there shall be a hearing *de novo* before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The court shall hear the case and enter a final order substantially in the form set forth in Rule 1910.27(e) within **[sixty] 60** days from the date of the written demand for hearing.
- (j) **Separate Listing.**
  - (1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing **[where] if:**
    - (i) there are complex questions of law, fact or both; or
    - (ii) the hearing will be protracted; or
    - (iii) the orderly administration of justice requires that the hearing be listed separately.
  - (2) If the motion for separate listing is granted, discovery shall be available in accordance with **[Rule] Pa.R.Civ.P. 4001 et seq.**

**[Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.]**

- (k) **Post-Trial Relief Motion.** No motion for post-trial relief may be filed **[to] from** the final order of support.

**Comment: Conference officers preside at office conferences under Pa.R.Civ.P. 1910.11. Hearing officers preside at hearings under Pa.R.Civ.P. 1910.12. The appointment of a hearing officer to hear actions in divorce or for annulment of marriage is authorized by Pa.R.Civ.P. 1920.51.**

**See Pa.R.Civ.P. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions, e.g., divorce, custody, the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania shall apply.**

**Concerning subdivision (j)(2), the rule relating to discovery in domestic relations matters generally is Rule 1930.5.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1994**

The domestic relations office conference provided by Rule 1910.11 constitutes the heart of the support procedure. There are two primary advantages to the inclusion of a conference. First, in many cases the parties will agree upon an amount of support and a final order will be prepared, to be entered by the court, thus dispensing with a judicial hearing. Second, those cases which do go to hearing can proceed more quickly because the necessary factual information has already been gathered by the conference officer.

Subdivision (a)(2) prohibits certain officers of the court from practicing family law before fellow officers of the same court. These officers are the conference officer who is an attorney (Rule 1910.11), the hearing officer (Rule 1910.12), and the standing or permanent master who is employed by the court (Rule 1920.51). The amendments are not intended to apply to the attorney who is appointed occasionally to act as a master in a divorce action.

Subdivision (e)(3) makes clear that even if the parties agree on an amount of support, the conference officer is still empowered to recommend to the court that the agreement be disapproved. This provision is intended to protect the destitute spouse who might out of desperation agree to an amount of support that is unreasonably low or which would in effect bargain away the rights of the children. The officer's disapproval of the agreement serves to prevent an inadequate order being entered unwittingly by the court.

The provision for an interim order in subdivision (f) serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination.

Because the guidelines are income driven, the trier of fact has little need for the expense information required in the Income and Expense Statement. Therefore in guideline cases, the rule no longer requires that expense information be provided. If a party feels that there are expenses so extraordinary that they merit consideration by the trier of fact, that party is free to provide the information. In cases decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), living expenses are properly considered, and therefore must be presented on the Income and Expense Statement.

### **Explanatory Comment—1995**

Rule 1910.11(e) is amended to eliminate the need for a party to request a copy of the conference summary.

Because the court is required to enter a guideline order on the basis of the conference officer's recommendation, there is no need for (g)(2), which provided for a hearing before the court where an order was not entered within five days of the conference. It is eliminated accordingly.

Pursuant to subdivision (g), support payments are due and owing under the interim order which continues in effect until the court enters a final order after the hearing de novo. The provision for an interim order serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination. Therefore, the plaintiff and the dependent children are not prejudiced by allowing the court sixty days, rather than the original forty-five, in which to enter its final order.

### **Explanatory Comment—2006**

The time for filing a written demand for a hearing before the court has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

The amendments reflect the separated Income Statement and Expense Statements in Rule 1910.27(c).

### **Explanatory Comment—2010**

When the parties' combined net income exceeds \$30,000 per month, calculation of child support, spousal support and alimony *pendente lite* shall be pursuant to Rule

1910.16-3.1. Rule 1910.16-2(e) has been amended to eliminate the application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), in high income child support cases.

### **Explanatory Comment—2011**

The rule has been amended to require that income information be provided in all cases, unless both parties are represented in reaching an agreement, so that a guidelines calculation can be performed. The guidelines create a rebuttable presumption that the amount calculated pursuant to them is the correct amount, so there should be a calculation in every case. If parties agree to receive or to pay an order other than the guideline amount, they should know what that amount is so that they can enter an agreement knowingly. If both parties are represented by counsel, it is assumed that their entry into the agreement for an amount other than a guidelines amount is knowing as it is counsels' responsibility to advise the parties. In addition, part of the mandatory quadrennial review of the support guidelines mandates a study of the number of cases in which the support amount ordered varies from the amount that would result from a guidelines calculation. Federal regulations presume that if a large percentage of cases vary from the guideline amount, then the guidelines are not uniform statewide.

**Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.**

- (a) **Office Conference.** There shall be an office conference as provided by **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.11(a) **[through] - (d)**. The provisions of **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.11(d)(3) and **(d)(4)** regarding income information apply in cases proceeding pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.12.
- (b) **Conference Conclusion.**
  - (1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who **[must be a lawyer] shall be an attorney**.
  - (2) If either party, having been properly served, fails to attend the conference, the court may enter an interim **default** order calculated in accordance with the guidelines and substantially in the form set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.27(e). Within 20 days after the date of receipt or the date of mailing of the interim **default** order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.
  - (3) Any **[lawyer] attorney** serving as a hearing officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, or judge of the same judicial district.

**[Note: Conference officers preside at office conferences under Pa.R.C.P. No. 1910.11. Hearing officers preside at hearings under Pa.R.C.P. No. 1910.12. The appointment of a hearing officer to hear actions in divorce or for annulment of marriage is authorized by Pa.R.C.P. No. 1920.51.]**

- (c) **Separate Listing.**

- (1) Except as provided in subdivision (c)(2), promptly after the conference's conclusion, a party may move the court for a separate listing of the hearing if:
  - (i) there are complex questions of law, fact or both;
  - (iii) the hearing will be protracted; or
  - (iv) the orderly administration of justice requires that the hearing be listed separately.
- (2) When the conference and hearing are scheduled on the same day, all requests for separate listing shall be presented to the court at least seven days prior to the scheduled court date.
- (3) If the motion for separate listing is granted, discovery shall be available in accordance with **[Pa.R.C.P. No.] Pa.R.Civ.P. 4001 et seq.**

**[Note: The rule relating to discovery in domestic relations matters generally is Pa.R.C.P. No. 1930.5.]**

- (d) **Hearing Officer Report.** The hearing officer shall receive evidence, hear argument and, not later than 20 days after the close of the record, file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:
  - (1) the amount of support calculated in accordance with the guidelines;
  - (2) by and for whom it shall be paid; and
  - (3) the effective date of the order.
- (e) **Interim Order.** The court, without hearing the parties, shall enter an interim order consistent with the proposed order of the hearing officer. Each party shall be provided, either in person at the time of the hearing or by mail, with a copy of the interim order and written notice that any party may, within **[twenty] 20** days after the date of receipt or the date of mailing of the order, whichever occurs first, file with the domestic relations section written exceptions to the report of the hearing officer and interim order.

**[Note: Objections to the entry of an interim order consistent with the proposed order may be addressed pursuant to Rule 1910.26.]**

- (f) **Exceptions to Report.** Within **[twenty] 20** days after the date of receipt or the date of mailing of the report by the hearing officer, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of facts, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within **[twenty] 20** days of the date of service of the original exceptions.
- (g) **No Exceptions Filed.** If no exceptions are filed within the **[twenty] 20**-day period, the interim order shall constitute a final order.
- (h) **Exceptions Filed.** If exceptions are filed, the interim order shall continue in effect. The court shall hear argument on the exceptions and enter an appropriate final order substantially in the form set forth in Rule 1910.27(e) within **[sixty] 60** days from the date of the filing of exceptions to the interim order. No motion for post-trial relief may be filed to the final order.

**Comment: Conference officers preside at office conferences under Pa.R.Civ.P. 1910.11. Hearing officers preside at hearings under Pa.R.Civ.P. 1910.12. The appointment of a hearing officer to hear actions in divorce or for annulment of marriage is authorized by Pa.R.Civ.P. 1920.51.**

**Concerning subdivision (c)(3), the rule relating to discovery in domestic relations matters generally is Pa.R.Civ.P. 1930.5.**

**Objections to the entry of an interim order consistent with the proposed order may be addressed pursuant to Pa.R.Civ.P. 1910.26.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1995**

Language is added to subdivision (b) to acknowledge that the conference and hearing can be held on the same day, and to provide for the immediate entry of an interim



order in judicial districts where the hearing occurs at a later date. New subdivision (b)(2) permits entry of a guideline order after a conference which the defendant, though properly served, fails to attend. New subdivision (c)(2) is intended to prevent delays in the hearing of complex cases by requiring that requests for separate listing be made at least seven days in advance where the conference and hearing are scheduled on the same day.

In addition, the phrase “record hearing” in subdivision (a) replaces the reference to a “stenographic record” in recognition of the variety of means available to create a reliable record of support proceedings.

Amended subdivision (e) allows an interim order to be entered and served on the parties at the conclusion of the hearing, rather than after the expiration of the exceptions period as was true under the old rule. In addition, the amended subdivision requires that the interim order include language advising the parties of their right to file exceptions within ten days of the date of the order.

Support payments are due and owing under the interim order which continues in effect until the court enters a final order after considering the parties’ exceptions. Therefore, extension of the deadline for entering the final order by fifteen days does not prejudice the persons dependent upon payment of the support.

### **Explanatory Comment—2006**

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

## **Rule 1910.16-1. Support Obligation. Support Guidelines.**

### **(a) Applicability of the Support Guidelines.**

- (1) Except as provided in subdivision (a)(3), the support guidelines determine a spouse's or parent's support obligation based on the parties' combined monthly net income, as defined in **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.16-2, and the number of persons being supported.
- (2) If a person caring for or having custody of a minor child, who does not have a duty of support to the minor child, initiates a child support action as provided in **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.3:
  - (i) the complaint shall name the parents as defendants;
  - (ii) in determining the basic child support obligation, the monthly net income for the individual initiating the action shall not be considered in the support calculation by the trier-of-fact;
  - (iii) the parents' monthly net incomes shall be combined to determine the basic child support obligation, which shall be apportioned based on the parents' respective monthly net incomes consistent with **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.16-4. The parents shall pay the obligee their proportionate share of the basic child support obligation as a separate obligor; and
  - (iv) as with other support actions, the trier-of-fact may adjust or deviate the basic child support, spousal support, or alimony *pendente lite* obligation consistent with the support guidelines based on the evidence presented by the parties.

**[Example 1.** The parents have one child, who is in the custody of the maternal grandmother. Maternal grandmother initiates a support action against the parents. Mother's monthly net income is \$3,000 and Father's monthly net income is \$2,000 for a combined monthly net income of \$5,000. For purposes of the child support calculation, maternal grandmother's income is irrelevant and not part of the calculation. The basic child support obligation for one child at a combined monthly net income of \$5,000 is \$993 per month. Mother's percentage share of the combined monthly net income is 60% (\$3,000/\$5,000) and Father's percentage share of the combined monthly net income is 40% (\$2,000/\$5,000).

**Mother's preliminary monthly share of the child support obligation is \$596 (\$993 x 60%) and Father's preliminary monthly share of the child support obligation is \$397 (\$993 x 40%). Maternal grandmother is the obligee with Mother and Father as separate obligors owing \$596 and \$397, respectively, to the maternal grandmother.]**

- (3) In an action in which the plaintiff is a public body or private agency pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.3, the basic child support obligation shall be calculated under the guidelines based upon the parent's monthly net income with the public or private entity's monthly net income as zero. In such cases, each parent shall be treated as a separate obligor, and the parent's obligation will be based upon the parent's monthly net income without regard to the other parent's monthly net income.
  - (i) The basic child support obligation owed to a child not in placement shall be deducted from each parent's monthly net income before calculating support for the child in placement, including the direct support the support guidelines assume the custodial parent will provide.

**[Example 2. The parents have three children and do not live in the same household. Mother has primary custody of two children and monthly net income of \$2,500 per month. Father's monthly net income is \$4,000. The parties' third child is in foster care placement. Pursuant to the schedule in Pa.R.C.P. No. 1910.16-3, the basic child support obligation for the two children with Mother is \$1,733. As Father's income is 62% of the parties' combined monthly net income, Father's basic child support obligation to Mother is \$1,074 per month. The guidelines assume that Mother will provide \$659 per month in direct expenditures to the two children. The agency/obligee brings an action against each parent for the support of the child in placement. Father/obligor's monthly net income will be \$2,926 for purposes of this calculation (\$4,000 less \$1,074 in support for the children with Mother). As the agency/obligee's income is zero, Father's support for the child in placement will be 100% of the basic child support obligation for one child at the \$2,926 income level, or \$674 per month. Mother/obligor's net income will be \$1,841 for purposes of this calculation (\$2,500 less \$659 in direct support to the children in Mother's custody). Mother's support obligation will be 100% of the basic child support obligation for one child at that income level, or \$423 per month.]**

**Example 3. The parents have two children in placement. Father owes child support of \$500 per month for two children of a former marriage. At the same income levels as in Example 2, Father's monthly net income for determining his**

obligation to the children in placement would be \$3,500 (\$4,000 less \$500 support for two children of prior marriage). Father's obligation to the agency would be \$1,205 per month (100% of the basic child support obligation for two children at the \$3,500 per month income level). Mother's monthly net income would not be diminished as she owes no other child support. Mother would owe \$877 for the children in placement (100% of the basic child support obligation for two children at the \$2,500 income level).]

- (ii) If the parents reside in the same household, each parent's respective basic child support obligation to a child that remains in the household and is not in placement shall be calculated according to the guidelines, with the parent having the higher income as the obligor, and the calculated basic child support obligation shall be deducted from the parents' monthly net incomes for purposes of calculating support for a child in placement.

**[Example 4.** The parents have four children, two of whom are in placement. Mother's monthly net income is \$4,000 and Father's is \$3,000. The basic child support obligation for the two children in the home is \$1,841, according to the schedule in Pa.R.C.P. No. 1910.16-3. As Mother's monthly net income is 57% of the parties' combined monthly net income, her share would be \$1,049, and Father's 43% share would be \$792. Mother's monthly net income for purposes of calculating support for the two children in placement would be \$2,951 (\$4,000 less \$1,049). She would pay 100% of the basic child support obligation at that income level, or \$1,026, for the children in placement. Father's monthly net income would be \$2,208 (\$3,000 less \$792), and his obligation to the children in placement would be \$772.]

- (iii) If the basic child support obligation exceeds the placement's cost, the trier-of-fact shall:
  - (A) deviate the basic child support obligation downward; and
  - (B) apply the parent's percentage of the combined monthly net income to the reduced basic child support obligation.
- (4) The support of a spouse or child is a priority obligation so that a party is expected to meet this obligation by adjusting the party's other expenditures.

- (b) **Support Obligation.** The support obligation (child support, spousal support, or alimony *pendente lite*) awarded pursuant to the Pa.R.C.P. Nos. 1910.11 and 1910.12 procedures shall be determined in accordance with the support guidelines, which consist of the guidelines expressed as the basic child support schedule in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3**, the **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4** formulas, and the operation of the support guidelines as set forth in these rules.
- (c) **Spousal Support and Alimony *Pendente Lite*.**
- (1) Spousal support and alimony *pendente lite* orders shall not be in effect simultaneously.
- (2) In determining a spousal support or alimony *pendente lite* obligation's duration, the trier-of-fact shall consider the marriage's duration, *i.e.*, the date of marriage to the date of final separation.
- (d) **Rebuttable Presumption.** If the trier-of-fact determines that a party has a duty to pay support, there is a rebuttable presumption that the guideline-calculated support obligation is the correct support obligation.
- (1) The presumption is rebutted if the trier-of-fact concludes in a written finding or states on the record that the guideline support obligation is unjust or inappropriate.
- (2) The trier-of-fact shall consider the child's and parties' special needs and obligations, and apply the **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-5** deviation factors, as appropriate.
- (e) **Support Guidelines Review.** The support guidelines shall be reviewed at least every four years to ensure that their application determines the appropriate support obligation.

**Comment:**

**Subdivision (a)(2) Example: The parents have one child, who is in the custody of the maternal grandmother. Maternal grandmother initiates a support action against the parents. Mother's monthly net income is \$3,000 and Father's monthly net income is \$2,000 for a combined monthly net income of \$5,000. For purposes of the child support calculation, maternal grandmother's income is irrelevant and not part of the calculation. The basic child support obligation for one child at a combined monthly net income of \$5,000 is \$1,080 per month.**

Mother's percentage share of the combined monthly net income is 60% (\$3,000/\$5,000) and Father's percentage share of the combined monthly net income is 40% (\$2,000/\$5,000). Mother's preliminary monthly share of the child support obligation is \$648 (\$1,080 x 60%) and Father's preliminary monthly share of the child support obligation is \$432 (\$1,080 x 40%). Maternal grandmother is the obligee with Mother and Father as separate obligors owing \$648 and \$432, respectively, to the maternal grandmother.

Subdivision (a)(3)(i) Example 1: The parents have three children and do not live in the same household. Mother has primary custody of two children and monthly net income of \$2,500 per month. Father's monthly net income is \$4,000. The parties' third child is in foster care placement. Pursuant to the schedule in Pa.R.Civ.P. 1910.16-3, the basic child support obligation for the two children with Mother is \$1,855. As Father's income is 62% of the parties' combined monthly net income, Father's basic child support obligation to Mother is \$1,150 per month. The guidelines assume that Mother will provide \$705 per month in direct expenditures to the two children. The agency/obligee brings an action against each parent for the support of the child in placement. Father/obligor's monthly net income will be \$2,850 for purposes of this calculation (\$4,000 less \$1,150 in support for the children with Mother). As the agency/obligee's income is zero, Father's support for the child in placement will be 100% of the basic child support obligation for one child at the \$2,850 income level, or \$657 per month. Mother/obligor's net income will be \$1,795 for purposes of this calculation (\$2,500 less \$705 in direct support to the children in Mother's custody). Mother's support obligation will be 100% of the basic child support obligation for one child at that income level, or \$415 per month.

Subdivision (a)(3)(i) Example 2: The parents have two children in placement. Father owes child support of \$500 per month for two children of a former marriage. At the same income levels as in Subdivision (a)(3)(i) Example 1, Father's monthly net income for determining his obligation to the children in placement would be \$3,500 (\$4,000 less \$500 support for two children of prior marriage). Father's obligation to the agency would be \$1,217 per month (100% of the basic child support obligation for two children at the \$3,500 per month income level). Mother's monthly net income would not be diminished as she owes no other child support. Mother would owe \$877 for the children in placement (100% of the basic child support obligation for two children at the \$2,500 income level).

Subdivision (a)(3)(ii) Example: The parents have four children, two of whom are in placement. Mother's monthly net income is \$4,000 and Father's is \$3,000. The basic child support obligation for the two children in the home is \$1,913, according to the schedule in Pa.R.Civ.P. 1910.16-3. As Mother's monthly

net income is 57% of the parties' combined monthly net income, her share would be \$1,090, and Father's 43% share would be \$823. Mother's monthly net income for purposes of calculating support for the two children in placement would be \$2,910 (\$4,000 less \$1,090). She would pay 100% of the basic child support obligation at that income level, or \$1,017, for the children in placement. Father's monthly net income would be \$2,177 (\$3,000 less \$823), and his obligation to the children in placement would be \$772.

### Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

#### **Explanatory Comment—2003**

New subdivision (2) is intended to clarify in particular the calculation of child support when a child is in a foster care or institutional placement and not in the custody of either parent.

#### **Explanatory Comment—2010**

*Introduction.* Pennsylvania law requires that child and spousal support be awarded pursuant to a statewide guideline. 23 Pa.C.S. § 4322(a). That statute further provides that the guideline shall be “established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly.” *Id.*

Pursuant to federal law, The Family Support Act of 1988 (P. L. 100-485, 102 Stat. 2343 (1988)), all states are required to have statewide child support guidelines. Federal regulations, 45 CFR 302.56, further require that the guidelines be reviewed at least once every four years and that such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited. The Pennsylvania statute also requires a review of the support guidelines every four years. 23 Pa.C.S.A. § 4322(a).

The Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania began the mandated review process in early 2007. The committee was assisted in its work by Jane Venohr, Ph.D., an economist with the Center for Policy Research, under contract between the Pennsylvania Department of Public Welfare and Policy Studies, Inc. As a result of the review, the committee recommended to the Supreme Court several amendments to the statewide guidelines.

- A. *Income Shares Model.* Pennsylvania's child support guidelines are based upon the Income Shares Model. That model was developed under the Child

Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The Guidelines Project Advisory Group recommended the Income Shares Model for state guidelines. At present, 37 states use the Income Shares Model as a basis for their child support guidelines.

The Income Shares Model is based upon the concept that the child of separated, divorced or never-married parents should receive the same proportion of parental income that she or he would have received if the parents lived together. A number of authoritative economic studies provide estimates of the average amount of household expenditures for children in intact households. These studies show that the proportion of household spending devoted to children is directly related to the level of household income and to the number of the children. The basic support amounts reflected in the schedule in Rule 1910.16-3 represent average marginal expenditures on children for food, housing, transportation, clothing and other miscellaneous items that are needed by children and provided by their parents, including the first \$250 of unreimbursed medical expenses incurred annually per child.

1. *Economic Measures.* The support schedule in Rule 1910.16-3 is based upon child-rearing expenditures measured by David M. Betson, Ph.D., Professor of Economics, University of Notre Dame. Dr. Betson's measurements were developed for the U.S. Department of Health and Human Services for the explicit purpose of assisting states with the development and revision of child support guidelines. Dr. Betson's research also was used in developing the prior schedule, effective in January 2006. Dr. Betson updates his estimates using data from the Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics. In the current schedule, those figures were converted to 2008 price levels using the Consumer Price Index.
2. *Source of Data.* The estimates used to develop the schedule are based upon national data. The specific sources of the data are the periodic Consumer Expenditure Surveys. Those national surveys are used because they are the most detailed available source of data on household expenditures. The depth and quality of this information is simply not available at the state level and would be prohibitively costly to gather.  
The U. S. Department of Agriculture's Center for Nutrition Policy and Promotion ("CNPP") also develops economic estimates for the major categories of child-rearing expenditures. Although the committee reviewed these estimates, it is aware of only one state that relies upon



the CNPP estimates as a basis for its child support schedule, and even that state makes certain adjustments.

- B. Statutory Considerations. The Pennsylvania statute, 23 Pa.C.S.A. § 4322(a), provides:

Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

1. *Reasonable Needs and Reasonable Ability to Provide Support.* The guidelines make financial support of a child a primary obligation and assume that parties with similar net incomes will have similar reasonable and necessary expenses. After the basic needs of the parents have been met, the child's needs shall receive priority. The guidelines assume that if the obligor's net income is at the poverty level, he or she is barely able to provide for his or her own basic needs. In those cases, therefore, the entry of a minimal order may be appropriate after considering the party's living expenses. In some cases, it may not be appropriate to enter a support order at all. In most cases, however, a party's living expenses are not relevant in determining his or her support obligation. Rather, as the statute requires, the obligation is based upon the reasonable needs of a dependent spouse or child and the reasonable ability of the obligor to pay.
2. *Net Income.* The guidelines use the net incomes of the parties. Each parent is required to contribute a share of the child's reasonable needs in proportion to that parent's share of the combined net income. The custodial parent makes these contributions through direct expenditures for food, shelter, clothing, transportation and other reasonable needs. The non-custodial parent makes contributions through periodic support payments to the custodial parent. Rule 1910.16-2(d) has been

amended to clarify the provisions relating to income and earning capacity.

3. *Allowable Deviations.* The guidelines are designed to treat similarly situated parents, spouses and children in the same manner. However, when there are unavoidable differences, deviations must be made from the guidelines. Failure to deviate from these guidelines by considering a party's actual expenditures where there are special needs and special circumstances constitutes a misapplication of the guidelines.
- C. *Child Support Schedule.* The child support schedule in Rule 1910.16-3 has been amended to reflect updated economic data, as required by federal and state law, to ensure that children continue to receive adequate levels of support. The support amounts in the schedule have been expanded to apply to a combined net monthly income of \$30,000 and remain statistically valid. The economic data support the revised schedule.
- D. *Self-Support Reserve ("SSR").* The amended schedule also incorporates an increase in the "Self-Support Reserve" or "SSR" from \$748 per month to \$867 per month, the 2008 federal poverty level for one person. Formerly designated as the "Computed Allowance Minimum" or "CAM," the Self-Support Reserve, as it is termed in most other states' guidelines, is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor's net income from falling below \$867 per month. Because the schedule in Rule 1910.16-3 applies to child support only, Rule 1910.16-2(e)(1)(B) provides for a similar adjustment in spousal support and alimony pendente lite cases to assure that the obligor retains a minimum of \$867 per month.
- E. *Shared Custody.* In creating the new schedule, the amounts of basic child support were first increased to reflect updated economic data, including 2008 price levels. Next, the amounts of basic child support were adjusted to incorporate into the schedule the assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. That does not mean that the entire schedule was reduced by 30%. Only those variable expenditures, such as food and entertainment, that fluctuate based upon parenting time were adjusted.

The calculation in Rule 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The

revised schedule assumes that the obligor has 30% parenting time. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method may still result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation which may reduce the obligation so that the obligee does not receive a larger portion of the parties' combined income than the obligor.

- F. *Child Care Expenses.* Rule 1910.16-6(a) was amended in 2006 to provide that child care expenses incurred by both parties shall be apportioned between the parties in recognition of the fact that a non-custodial parent also may incur such expenses during his or her custodial periods with the children.
- G. *Spousal Support and Alimony Pendente Lite.* Subdivision (c) has been amended to require the court to consider the duration of the marriage in determining the duration of a spousal support or alimony pendente lite award. The language was moved from Rule 1910.16-5 which deals with deviation. The primary purpose of this provision is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.
- H. *Other Amendments.* All of the examples in the guidelines have been updated to reflect the changes to the basic child support schedule. Prior explanatory comments have been deleted or revised and incorporated into new comments.

### **Explanatory Comment—2013**

The schedule of basic child support has been updated to reflect newer economic data. The schedule was prepared by Jane Venohr, Ph.D., the economist who assisted in the last guideline review using the same methodology. It includes an increase in the Self-Support Reserve to \$931 per month, the 2012 federal poverty level for one person.

### **Explanatory Comment—2017**

Pursuant to Pa.R.C.P. No. 1910.3(a), a person having custody of a child or caring for a child may initiate a support action against the child's parent(s). Previously, this rule only addressed when a public body or private agency had custody of a child but was silent with regard to an individual third party, e.g., grandparent, seeking support. The rule has

been amended by adding a new subdivision (a)(2) and renumbering the previous (a)(2) to (a)(3). In addition, an example illustrating the new (a)(2) calculation has been included.

Subdivision (a)(2) excludes the income of the third party/obligee, as that person does not have a duty of support to the child; instead, the rule uses the combined monthly net income of the parents to determine the basic child support amount, which is then apportioned between the parents consistent with their respective percentage of the combined monthly net income in the same manner as a parent vs. parent support action. However, under this rule, each parent would be a separate obligor, would pay the obligee their proportionate share under a separate support order, and would be subject to separate enforcement proceedings. Under (a)(2), the exclusion of the third party's income is consistent with Pa.R.C.P. No. 1910.16-2(b)(2)(ii) as that rule relates to an action for support by a third party against a surviving parent in which the child receives a Social Security derivative benefit due to the death of the other parent.

In accordance with Pa.R.C.P. No. 1910.16-6(c), payment of the first \$250 of unreimbursed medical expenses per year per child is applicable to third party/obligees in support actions governed by (a)(2). The first \$250 of unreimbursed medical expenses is built into the Basic Child Support Schedule.

**Rule 1910.16-2. Support Guidelines. Calculation of Monthly Net Income.**

Generally, the basic child support, spousal support, or alimony *pendente lite* obligation is based on the parties' monthly net incomes.

- (a) **Monthly Gross Income.** Monthly gross income is ordinarily based on at least a six-month average of a party's income. The support law, 23 Pa.C.S. § 4302, defines the term "income" and includes income from any source. The statute lists many types of income including, but not limited to:
- (1) wages, salaries, bonuses, fees, and commissions;
  - (2) net income from business or dealings in property;
  - (3) interest, rents, royalties, and dividends;
  - (4) pensions and all forms of retirement;
  - (5) income from an interest in an estate or trust;
  - (6) Social Security disability benefits, Social Security retirement benefits, temporary and permanent disability benefits, workers' compensation, and unemployment compensation;
  - (7) alimony if, in the trier-of-fact's discretion, inclusion of part or all of it is appropriate; and
  - (8) other entitlements to money or lump sum awards, without regard to source, including:
    - (i) lottery winnings;
    - (ii) income tax refunds;
    - (iii) insurance compensation or settlements;
    - (iv) awards and verdicts; and
    - (v) payments due to and collectible by an individual regardless of source.

(b) **Treatment of Public Assistance, SSI Benefits, Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement, and Foster Care Payments.**

(1) **Public Assistance and SSI Benefits.** Neither public assistance nor Supplemental Security Income (SSI) benefits shall be included as income for determining support.

(2) **Child's Social Security Derivative Benefits.**

(i) If a child is receiving Social Security derivative benefits due to a parent's retirement or disability:

(A) The trier-of-fact shall determine the basic child support obligation as follows:

(I) add the child's benefit to the monthly net income of the party who receives the child's benefit;

(II) calculate the parties' combined monthly net income, including the child's benefit;

(III) determine the basic child support obligation set forth in the Pa.R.Civ.P. 1910.16-3 schedule; and

(IV) apportion the basic child support obligation between the parties based on the party's percentage of the combined monthly net income.

(B) If the obligee receives the child's benefit, the trier-of-fact shall deduct the child's benefit from the basic child support obligation of the party whose retirement or disability created the child's benefit.

(C) If the obligor receives the child's benefit, the trier-of-fact shall not deduct the child's benefit from the obligor's basic child support obligation, even if the obligor's retirement or disability created the child's benefit. To illustrate for the parties the impact of the obligor receiving the benefit instead of the obligee, the trier-of-fact shall provide the parties with two

calculations theoretically assigning the benefit to each household.

- (D) The trier-of-fact shall allocate the expenses in Pa.R.Civ.P. 1910.16-6(a)—(e) based on the parties' monthly net incomes without considering the child's benefit.
  - (E) In equally shared custody cases, the party with the higher monthly net income, excluding the child's benefit, is the obligor.
- (ii) If a child is receiving Social Security derivative benefits due to a parent's death, the trier-of-fact shall determine the surviving parent's basic child support obligation as follows:
- (A) The non-parent obligee's monthly net income shall include only those funds the obligee is receiving on the child's behalf, including the Social Security derivative benefit.
  - (B) If the surviving-parent obligor receives the Social Security derivative benefit, the benefit shall be added to the parent's monthly net income to calculate child support.
- (3) **Foster Care Payments.** If a party to a support action is a foster parent or is receiving payments from a public or private agency for the care of a child who is not the party's biological or adoptive child, the trier-of-fact shall not include those payments in the party's monthly net income for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive child.

(c) **Monthly Net Income.**

- (1) Unless these rules provide otherwise, the trier-of-fact shall deduct only the following items from monthly gross income to arrive at monthly net income:
  - (i) federal, state, and local income taxes;
  - (ii) unemployment compensation taxes and Local Services Taxes (LST);

- (iii) F.I.C.A. payments (Social Security, Medicare and Self-Employment taxes) and non-voluntary retirement payments;
  - (iv) mandatory union dues; and
  - (v) alimony paid to the other party.
- (2) In computing a spousal support or alimony *pendente lite* obligation, the trier-of-fact shall:
- (i) deduct from the obligor's monthly net income child support, spousal support, alimony *pendente lite*, or alimony amounts paid to children and former spouses, who are not part of this action; and
  - (ii) include in a party's monthly net income alimony *pendente lite* or alimony received from a former spouse that was not included in the party's gross income, as provided in subdivision (a).

(d) **Reduced Income or Fluctuating Earnings.**

- (1) **Voluntary Income Reduction — Existing Orders.** [The trier-of-fact shall not downwardly adjust a party's net income from an existing order if the trier-of-fact finds that:
- (i) the party's income reduction resulted from the party willfully attempting to favorably affect the party's basic support obligation; or
  - (ii) the party voluntarily assumed a lower paying job, quit a job, left employment, changed occupations, changed employment status to pursue an education, or employment is terminated due to willful misconduct.]

The trier-of-fact shall not adjust a party's monthly net income for voluntary decreases in income due to an employment situation over which the party has control, including, but not limited to, assuming a lower paying job, quitting a job, leaving employment, changing occupations, changing employment status to pursue an education, or willful misconduct resulting in the termination of employment.



**(2) Involuntary Income Reduction[. Incarceration.] and Earnings Fluctuations – Existing Orders.**

**(i) Involuntary Income Reduction.** The trier-of-fact shall adjust a party's monthly net income from an existing order for substantial continuing involuntary decreases in income due to an employment situation over which the party has no control, including, but not limited to, illness, lay-off, termination, **incarceration**, or job elimination.

**(ii) [Incarceration.**

**(A) Except as set forth in subdivision (d)(2)(ii)(B), the trier-of-fact shall:**

**(I) consider an incarcerated party's income reduction as an involuntary income reduction as set forth in subdivision (d)(2)(i); and**

**(II) adjust the incarcerated party's monthly net income accordingly.**

**(B) Exception.**

**(I) A party's incarceration shall not constitute an involuntary income reduction when the incarceration is due to support enforcement purposes or a criminal offense in which the party's dependent child or the obligee was the victim; and**

**(II) The trier-of-fact makes a written finding that downwardly adjusting the incarcerated party's monthly net income would be unjust or inappropriate and, in a child support action, takes into consideration the child's best interest.]**

**Rescinded.**

- (iii) **Earnings Fluctuations.** The trier-of-fact shall not adjust a party's monthly net income from an existing order due to normal or temporary earnings fluctuations.
- (3) **Seasonal Employees.** Generally, the trier-of-fact shall base a seasonal employee's monthly net income on a yearly average.
- (4) **Earning Capacity – Initial Orders and Modifications.**
  - (i) When calculating an initial order or modifying an existing order, if a party **[willfully]** fails to obtain or maintain appropriate employment, the trier-of-fact **[may] shall** impute to the party an income equal to the party's earning capacity.
    - (A) **Earning Capacity Limitation.** The trier-of-fact:
      - (I) shall not impute income to the party based on an earning capacity that exceeds the amount the party could earn from one full-time position; and
      - (II) shall determine a reasonable work regimen based upon the party's relevant circumstances, including the jobs available within a particular occupation, working hours and conditions, and whether a party has exerted substantial good faith efforts to find employment.
    - (B) The trier-of-fact shall base the party's earning capacity on the subdivision (d)(4)(ii) factors.
    - (C) After assessing a party's earning capacity, the trier-of-fact shall state the reasons for the assessment in writing or on the record.
    - (D) When the trier-of-fact **[imputes] determines** an earning capacity to a party who would incur childcare expenses if the party were employed, the trier-of-fact shall consider reasonable childcare responsibilities and expenses for the purpose of discretionary allocation pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii).

- (ii) **Factors.** In determining a party's earning capacity, the trier-of-fact shall consider the party's:
  - (A) child care responsibilities and expenses that would actually be incurred by the party if employed;
  - (B) assets;
  - (C) residence;
  - (D) employment and earnings history;
  - (E) job skills;
  - (F) educational attainment;
  - (G) literacy;
  - (H) age;
  - (I) health;
  - (J) criminal record and other employment barriers;
  - (K) record of seeking work;
  - (L) local job market, including the availability of employers who are willing to hire the party;
  - (M) local community prevailing earnings level; and
  - (N) other relevant factors.

(e) **Net Income Affecting Application of the Support Guidelines.**

(1) **Low-Income Cases.**

(i) **Self-Support Reserve (SSR).**

- (A) The SSR is the minimum monthly net income reserved to the obligor to meet the obligor's basic needs.
- (B) The SSR amount is [~~\$1,063~~] \$1,255 per month.

- (ii) **Action for Child Support Only.** When the obligor's monthly net income and the number of children in the action intersect in the Basic Child Support Schedule's shaded area as set forth in Pa.R.Civ.P. 1910.16-3, the trier-of-fact shall determine the obligor's basic child support obligation utilizing the lesser of the two calculated amounts from the following methodologies.
  - (A) The initial calculation is determined by using the obligor's monthly net income only, the schedule set forth in Pa.R.Civ.P. 1910.16-3, and the number of children.
  - (B) The second calculation is determined by using the parties' combined monthly net income and the basic child support formula in Pa.R.Civ.P. 1910.16-4(a).
  - (C) If the obligor's monthly net income is at or below the SSR, the trier-of-fact may award support only after consideration of the parties' actual financial resources and living expenses.
- (iii) **Action for Spousal Support/Alimony *Pendente Lite* Only.**
  - (A) After calculating the spousal support or alimony *pendente lite* obligation as provided in Pa.R.Civ.P. 1910.16-4, the spousal support obligation shall not reduce the obligor's monthly net income below the SSR.
  - (B) If the obligor's monthly net income after subtracting the spousal support or alimony *pendente lite* obligation is less than the SSR, the trier-of-fact shall adjust the spousal support or alimony *pendente lite* obligation downward by an amount sufficient for the obligor to retain the SSR amount.
- (iv) **Action with Child Support and Spousal Support or Alimony *Pendente Lite*.**

- (A) The trier-of-fact shall calculate the spousal support or alimony *pendente lite* obligation as provided in Pa.R.Civ.P. 1910.16-4.
  - (B) The trier-of-fact shall subtract the calculated spousal support or alimony *pendente lite* obligation from the obligor's monthly net income to determine the obligor's adjusted monthly net income.
  - (C) When the obligor's adjusted monthly net income and the number of children in the action intersect in the Basic Child Support Schedule's shaded area as set forth in Pa.R.Civ.P. 1910.16-3, the trier-of-fact:
    - (I) shall not award spousal support or alimony *pendente lite*; and
    - (II) shall calculate child support as provided in subdivision (e)(1)(ii).
  - (D) When the obligor's monthly net income and the number of children in the action do not intersect in the Basic Child Support Schedule's shaded area as set forth in Pa.R.Civ.P. 1910.16-3, the trier-of-fact shall calculate child support consistent with Pa.R.Civ.P. 1910.16-4.
    - (I) The combined spousal support or alimony *pendente lite* and basic child support obligations shall not reduce the obligor's remaining monthly net income below the SSR.
    - (II) If the obligor's monthly net income after subtracting the spousal support or alimony *pendente lite* and basic child support obligations is less than the SSR, the trier-of-fact shall adjust the support obligation downward by an amount sufficient for the obligor to retain the SSR amount.
- (2) **High-Income Cases.** If the parties' combined monthly net income exceeds \$30,000, the trier-of-fact shall calculate child support, spousal support, or alimony *pendente lite* pursuant to Pa.R.Civ.P. 1910.16-3.1.

- (f) **Child Tax Credit.** In order to maximize the total income available to the parties and children, the trier-of-fact may award, as appropriate, the federal child tax credit to the non-custodial parent, or to either parent in cases of equally shared custody, and require the other party to execute the waiver required by the Internal Revenue Code, 26 U.S.C. § 152(e). The trier-of-fact shall consider the tax consequences associated with the federal child tax credit in calculating the party's monthly net income available for support.

**Comment:** Concerning subdivision (a)(7), in determining the appropriateness of including alimony in gross income, the trier-of-fact shall consider whether the party receiving the alimony must include the amount received as gross income when filing federal income taxes. If the alimony is not includable in the party's gross income for federal income tax purposes, the trier-of-fact may include in the party's monthly net income the alimony received, as appropriate. See Pa.R.Civ.P. 1910.16-2(c)(2)(ii).

Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if the obligor is paying \$1,000 per month in alimony for the express purpose of financing the obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

Concerning subdivision (a)(8), the trier-of-fact determines the most appropriate method for imputing lump-sum awards as income for purposes of establishing or modifying the party's support obligation. These awards may be annualized or averaged over a shorter or longer period depending on the case's circumstances. The trier-of-fact may require all or part of the lump sum award escrowed to secure the support obligation during that period.

The trier-of-fact shall not include income tax refunds in a party's income, if the trier-of-fact factored in the tax refund when calculating the party's actual tax obligation and monthly net income.

Concerning subdivision (b), care must be taken to distinguish Social Security from Supplemental Security Income (SSI) benefits. Social Security benefits are income pursuant to subdivision (a).

Subdivision (b) Example 1. The obligor has monthly net income of \$2,000. The obligee's monthly net income is \$1,500 and the obligee, as primary custodial parent of the parties' two children, receives \$700 per month in Social Security derivative benefits on behalf of the children as a result of the obligor's disability. Add the children's benefit to the obligee's income, which now is \$2,200 per month. At the parties' combined monthly

net income of \$4,200, the basic child support obligation for two children is ~~[\$1,372]~~ **\$1,445**. As the obligor's income is 48% of the parties' combined monthly net income, the obligor's preliminary share of the basic child support obligation is ~~[\$659]~~ **\$694**. However, because the obligor's disability created the children's Social Security derivative benefits that the obligee is receiving, the obligor's obligation is reduced by the amount of the benefit, \$700. As the support obligation cannot be less than zero, the obligor's basic child support obligation is \$0 per month. If it were the obligee's disability that created the benefit, the obligor's basic child support obligation would remain ~~[\$659]~~ **\$694**. If the obligor were receiving the children's benefit as a result of the obligor's retirement or disability, the obligor's monthly net income would include the amount of the benefit and total \$2,700, or 64% of the parties' combined monthly net income. The obligor's share of the basic child support obligation would then be ~~[\$878]~~ **\$925** and would not be reduced by the amount of the children's benefit because the obligor, not the obligee, is receiving the benefit. Therefore, the obligor's basic child support obligation is less if the obligee is receiving the benefit created by the obligor.

Subdivision (b) Example 2. Two children live with Grandmother who receives \$800 per month in Social Security death benefits for the children as a result of Father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$2,000 net per month. For purposes of calculating Mother's basic child support obligation, Grandmother's income will be \$1,300, the amount she receives on the children's behalf in Social Security derivative benefits and the trust income. (If Mother were receiving the benefit on the children's behalf, the benefit would be added to Mother's monthly net income and would be \$2,800. Grandmother's monthly net income would be \$500.) Therefore, Mother's and Grandmother's combined monthly net income totals \$3,300. The basic child support obligation at the \$3,300 monthly net income level for two children is ~~[\$1,137]~~ **\$1,156**. As Mother's monthly net income of \$2,000 is 61% of the parties' combined monthly net income of \$3,300, Mother's basic child support obligation is ~~[\$694]~~ **\$705**. Since Mother's retirement or disability did not generate the child's derivative benefit, the benefit amount is not subtracted from Mother's basic child support obligation, and Mother owes Grandmother ~~[\$694]~~ **\$705**. If Grandmother was not receiving the children's derivative benefits or trust income, Grandmother's monthly net income for purposes of calculating Mother's basic child support obligation would be zero, and Mother would pay 100% of the basic child support obligation because Grandmother has no duty to support the children.

Concerning subdivision (c)(1)(v), because the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's monthly net income must also vary. For example, if the obligor is paying \$1,000 per month in alimony for the express purpose of financing the obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support.

However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

**Concerning subdivision (d)(4), a party's earning capacity may be determined to be \$0.00 in appropriate cases.**

The consideration of child care expenses if the party were employed in subdivision (d)(4)(i)(D) is not for purposes of reducing imputed income when calculating the party's basic child support obligation. The child care expenses that would be payable if a party were employed are subject to discretionary allocation pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii).

Concerning subdivision (d)(4)(ii), see 45 C.F.R. § 302.56(c)(1)(iii) regarding earning capacity factors.

**Concerning subdivision (d)(4)(ii)(A), the trier-of-fact shall consider an unemployed or underemployed parent's child care responsibilities and expenses when determining that parent's earning capacity. The trier-of-fact should consider whether child care is available and appropriate considering the child's needs. Assuming child care is available and appropriate, the trier-of-fact should next consider the child care expenses that the parent would actually pay if employed. This excludes child care provided at no cost to the parent by a family member or other responsible person. Additionally, any portion of a child care expense that would be eligible for subsidization by a third party or through a government program should not be included. If the unallocated hypothetical child care expenses are equal to or exceed the parent's earning capacity, then no income should be imputed for that parent, e.g., earning capacity is \$0.00. If the unallocated hypothetical child care expenses are less than the parent's earning capacity, then the hypothetical child care expenses that would be actually paid by the parent, if employed, may be allocated pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii).**

Subdivision (e)(1)(ii) Example: The parties have two children. The obligee has monthly net income of \$2,500. The obligor has monthly net income of \$1,500, which falls into the shaded area of the schedule for two children. The initial calculation is made using only the obligor's monthly net income. The basic child support obligation for two children would be **[\$397] \$223**. The second calculation uses the parties' combined monthly net income. The parties' combined monthly net income is \$4,000. The basic child support obligation for two children is **[\$1,340] \$1,377**. The obligor's proportionate share of the parties' combined monthly net income is 38% with a basic child support obligation of **[\$509] \$523**. The obligor's basic child support obligation using only the obligor's monthly net income is less than the calculated amount using the parties' combined monthly net income. As a result, the trier-of-fact should award the lesser amount, and the obligor's basic child support obligation is **[\$397] \$223**.



Subdivision (e)(1)(iii) Example: The obligor has ~~[\$1,200]~~ \$1,500 monthly net income, and the obligee has \$300 monthly net income. The formula in Pa.R.Civ.P. 1910.16-4(a)(1)(Part B) would result in a monthly spousal support obligation of ~~[\$276]~~ \$375 (~~[(~~\$1,200~~) ~~\$1,500~~ x 33% = ~~[\$396]~~ \$495)~~ minus (\$300 x 40% = \$120) for a total of ~~[\$276]~~ \$375). Since this amount leaves the obligor with only ~~[\$924]~~ \$1,125 per month, the trier-of-fact should adjust the support obligation so the obligor retains at least ~~[\$1,063]~~ \$1,125 per month. Therefore, the spousal support obligation is ~~[\$137]~~ \$245 per month ~~[(~~\$1,200~~ - ~~\$1,063~~)] (\$1,500 - \$1,125)~~.

Subdivision (e)(1)(iv) Example: Obligor and obligee have monthly net incomes of \$2,000 and \$165, respectively, and have two children. Calculating spousal support under subdivision (e)(1)(iv)(A) results in a spousal support obligation of \$450 (\$2,000 x 25% minus \$165 x 30%). Obligor's adjusted monthly net income (\$2,000 minus \$450) is \$1,550. Obligor's adjusted monthly net income of \$1,550 with two children is in the shaded area of the Basic Child Support Schedule, and as a result, the trier-of-fact shall not award spousal support. Instead, the trier-of-fact should award child support only as provided in subdivision (e)(1)(ii).

Concerning subdivision (e)(2), see *Hanrahan v. Bakker*, 186 A.3d 958 (Pa. 2018).

### Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

### Explanatory Comment—2010

Subdivision (a) addresses gross income for purposes of calculating the support obligation by reference to the statutory definition at 23 Pa.C.S. § 4322. Subdivision (b) provides for the treatment of public assistance, SSI benefits, Social Security derivative benefits, and foster care payments.

Subdivision (c) sets forth the exclusive list of the deductions that may be taken from gross income in arriving at a party's net income. When the cost of health insurance premiums is treated as an additional expense subject to allocation between the parties under Pa.R.C.P. No. 1910.16-6, it is not deductible from gross income. However, part or all of the cost of health insurance premiums may be deducted from the obligor's gross income pursuant to Pa.R.C.P. No. 1910.16-6(b) in cases in which the obligor is paying the premiums and the obligee has no income or minimal income. Subdivision (c) relates to spousal support or alimony *pendente lite* awards when there are multiple families. In these cases, a party's monthly net income must be reduced to account for his or her child support obligations, as well as any pre-existing spousal support, alimony *pendente lite* or

alimony obligations being paid to former spouses who are not the subject of the support action.

Subdivision (d) has been amended to clarify the distinction between voluntary and involuntary changes in income and the imputing of earning capacity. Statutory provisions at 23 Pa.C.S. § 4322, as well as case law, are clear that a support obligation is based upon the ability of a party to pay, and that the concept of an earning capacity is intended to reflect a realistic, rather than a theoretical, ability to pay support. Amendments to subdivision (d) are intended to clarify when imposition of an earning capacity is appropriate.

Subdivision (e) has been amended to reflect the updated schedule in Pa.R.C.P. No. 1910.16-3 and the increase in the Self-Support Reserve (“SSR”). The schedule now applies to all cases in which the parties’ combined monthly net income is \$30,000 or less. The upper income limit of the prior schedule was only \$20,000. The support amount at each income level of the schedule also has changed, so the examples in Pa.R.C.P. No. 1910.16-2 were revised to be consistent with the new support amounts.

The SSR is intended to assure that obligors with low incomes retain sufficient income to meet their basic needs and to maintain the incentive to continue employment. When the obligor’s monthly net income or earning capacity falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in Pa.R.C.P. No. 1910.16-3. There is no need to use the formula in Pa.R.C.P. No. 1910.16-4 to calculate the obligor’s support obligation because the SSR keeps the amount of the obligation the same regardless of the obligee’s income. The obligee’s income may be a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to Pa.R.C.P. No. 1910.16-5 and in considering whether to require the obligor to contribute to any additional expenses under Pa.R.C.P. No. 1910.16-6.

Since the schedule in Pa.R.C.P. No. 1910.16-3 sets forth basic child support only, subdivision (e)(1)(ii) is necessary to reflect the operation of the SSR in spousal support and alimony *pendente lite* cases. It adjusts the basic guideline obligation, which would otherwise be calculated under the formula in Pa.R.C.P. No. 1910.16-4, so that the obligor’s income does not fall below the SSR amount in these cases.

Previously, the SSR required that the obligor retain at least \$748 per month. The SSR now requires that the obligor retain income of at least \$867 per month, an amount equal to the 2008 federal poverty level for one person. When the obligor’s monthly net income is less than \$867, subdivision (e)(1)(iii) provides that the trier-of-fact must consider the parties’ actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs.

In these cases, therefore, entry of a minimal order may be appropriate. In some cases, it may not be appropriate to order support at all.

The schedule at Pa.R.C.P. No. 1910.16-3 sets forth the presumptive amount of basic child support to be awarded. If the circumstances warrant, the trier-of-fact may deviate from that amount under Pa.R.C.P. No. 1910.16-5 and may also consider a party's contribution to additional expenses, which are typically added to the basic amount of support under Pa.R.C.P. No. 1910.16-6. If, for example, the obligor earns only \$900 per month but is living with his or her parents, or has remarried and is living with a fully-employed spouse, the trier-of-fact may consider an upward deviation under Pa.R.C.P. No. 1910.16-5(b)(3) or may order the party to contribute to the additional expenses under Pa.R.C.P. No. 1910.16-6. Consistent with the goals of the SSR, however, the trier-of-fact should ensure that the overall support obligation leaves the obligor with sufficient income to meet basic personal needs and to maintain the incentive to continue working so that support can be paid.

Subdivision (e) also has been amended to eliminate the application of *Melzer v. Witsberger*, 480 A.2d 991 (Pa. 1984), in high-income child support cases. In cases in which the parties' combined net monthly income exceeds \$30,000, child support will be calculated in accordance with the three-step process in Pa.R.C.P. No. 1910.16-3.1(a).

### **Explanatory Comment—2013**

The SSR has been increased to \$931, the 2012 federal poverty level for one person. Subdivision (e) has been amended to require that when the obligor's income falls into the shaded area of the basic child support schedule in Pa.R.C.P. No. 1910.16-3, two calculations must be performed. One calculation uses only the obligor's income and the other is a regular calculation using both parties' incomes, awarding the lower amount to the obligee. The two-step process is intended to address those cases in which the obligor has minimal income and the obligee's income is substantially greater.

### **Explanatory Comment—2015**

The rule has been amended to provide that a party's support obligation will be reduced by the child's Social Security derivative benefit amount if that party's retirement or disability created the benefit and the benefit is being paid to the household in which the child primarily resides or the obligee in cases of equally shared custody. In most cases, payment of the benefit to the obligee's household will increase the resources available to the child and the parties. The rule is intended to encourage parties to direct that the child's benefits be paid to the obligee.

### **Explanatory Comment—2021**

The Self-Support Reserve is determined by the Federal Poverty Guideline for one person converted to a monthly amount—currently \$1,063—for the year the Basic Child Support Schedule was derived.

Subdivision (e)(1) addresses low-income cases and has been completely rewritten and identifies the current monthly Self-Support Reserve (SSR) amount as \$1,063. The SSR is the amount of the obligor's monthly net income that is reserved to meet the obligor's basic needs. Subdivisions (e)(1)(ii)—(iv) adjust the methodology for calculating support when the obligor's monthly net income is at or near the SSR amount.

**Rule 1910.16-3. Support Guidelines. Basic Child Support Schedule.**

The following schedule represents the amounts spent on children of intact families by combined monthly net income and number of children. Combined monthly net income is on the schedule's vertical axis, and the number of children is on the schedule's horizontal axis. This schedule determines the basic child support obligation. Unless these rules provide otherwise, the obligor's basic child support obligation shall be computed using either the formula set forth in [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4(a)(1)(Part C) or (a)(2)(Part I).

<The following scheduled is to be deleted.>

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
1100	33	33	34	34	34	35
1150	78	79	80	81	81	82
1200	123	124	126	127	128	130
1250	168	170	172	174	175	177
1300	213	215	218	220	222	225
1350	258	261	264	267	269	272
1400	303	306	310	313	316	320
1450	334	352	356	360	363	367
1500	346	397	402	406	410	415
1550	357	443	448	453	457	462
1600	369	488	494	499	504	510
1650	380	534	540	546	551	557
1700	392	579	586	592	598	605
1750	403	614	632	639	645	652
1800	415	632	678	685	692	700
1850	426	649	724	732	739	747
1900	438	667	770	778	786	795
1950	449	684	816	825	833	842
2000	461	702	848	871	880	890
2050	472	719	869	918	927	937
2100	484	737	891	964	974	985

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
2150	495	754	912	<b>1011</b>	<b>1021</b>	<b>1032</b>
2200	507	772	933	1042	<b>1068</b>	<b>1080</b>
2250	518	789	954	1066	<b>1115</b>	<b>1127</b>
2300	530	807	976	1090	<b>1162</b>	<b>1175</b>
2350	541	825	997	1113	<b>1209</b>	<b>1222</b>
2400	553	842	1018	1137	1251	<b>1270</b>
2450	565	860	1039	1161	1277	<b>1317</b>
2500	576	877	1060	1184	1303	<b>1365</b>
2550	588	895	1082	1208	1329	<b>1412</b>
2600	599	912	1103	1232	1355	<b>1460</b>
2650	611	930	1124	1255	1381	1501
2700	622	947	1145	1279	1407	1530
2750	634	965	1166	1303	1433	1558
2800	645	980	1184	1322	1455	1581
2850	657	995	1201	1342	1476	1604
2900	668	1010	1219	1361	1497	1628
2950	680	1026	1236	1381	1519	1651
3000	691	1041	1253	1400	1540	1674
3050	703	1056	1271	1420	1562	1697
3100	714	1071	1288	1439	1583	1721
3150	726	1086	1306	1458	1604	1744
3200	737	1103	1325	1479	1627	1769
3250	747	1120	1345	1502	1652	1796
3300	758	1137	1365	1524	1677	1823
3350	768	1154	1385	1547	1702	1850
3400	778	1171	1405	1569	1726	1876
3450	789	1188	1425	1592	1751	1903
3500	799	1205	1445	1614	1776	1930
3550	810	1222	1465	1637	1800	1957
3600	820	1238	1485	1659	1825	1983
3650	828	1251	1500	1676	1843	2003
3700	837	1264	1515	1692	1862	2023
3750	845	1276	1530	1709	1880	2044

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
3800	854	1289	1545	1726	1898	2064
3850	862	1302	1560	1743	1917	2084
3900	871	1314	1575	1759	1935	2104
3950	879	1327	1590	1776	1954	2124
4000	888	1340	1605	1793	1972	2144
4050	894	1349	1616	1805	1986	2159
4100	900	1357	1625	1815	1996	2170
4150	905	1364	1633	1824	2007	2181
4200	910	1372	1642	1834	2017	2193
4250	915	1379	1650	1843	2028	2204
4300	920	1387	1659	1853	2038	2215
4350	926	1394	1667	1862	2048	2227
4400	931	1402	1676	1872	2059	2238
4450	936	1409	1684	1881	2069	2249
4500	941	1414	1688	1886	2074	2255
4550	945	1420	1692	1890	2079	2260
4600	950	1425	1697	1895	2085	2266
4650	955	1431	1701	1900	2090	2272
4700	960	1436	1706	1905	2096	2278
4750	964	1441	1710	1910	2101	2284
4800	969	1447	1714	1915	2107	2290
4850	974	1452	1719	1920	2112	2296
4900	980	1461	1730	1933	2126	2311
4950	986	1473	1745	1949	2144	2330
5000	993	1484	1759	1965	2162	2350
5050	999	1495	1774	1982	2180	2370
5100	1006	1506	1789	1998	2198	2389
5150	1012	1517	1803	2014	2216	2409
5200	1019	1528	1818	2031	2234	2428
5250	1026	1539	1833	2047	2252	2448
5300	1032	1549	1845	2061	2267	2464
5350	1036	1553	1849	2065	2272	2469
5400	1040	1558	1853	2069	2276	2474

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
5450	1044	1562	1856	2073	2281	2479
5500	1048	1567	1860	2078	2285	2484
5550	1052	1571	1864	2082	2290	2489
5600	1056	1576	1867	2086	2294	2494
5650	1060	1581	1871	2090	2299	2499
5700	1064	1585	1875	2094	2304	2504
5750	1069	1592	1881	2101	2312	2513
5800	1074	1599	1889	2110	2321	2523
5850	1080	1606	1896	2118	2330	2532
5900	1085	1614	1903	2126	2339	2542
5950	1091	1621	1911	2134	2348	2552
6000	1097	1628	1918	2143	2357	2562
6050	1102	1636	1926	2151	2366	2572
6100	1108	1643	1933	2159	2375	2582
6150	1114	1651	1942	2169	2386	2594
6200	1122	1663	1955	2184	2402	2611
6250	1131	1675	1968	2198	2418	2628
6300	1139	1686	1981	2212	2434	2645
6350	1147	1698	1993	2227	2449	2662
6400	1155	1709	2006	2241	2465	2680
6450	1164	1721	2019	2255	2481	2697
6500	1172	1733	2032	2270	2497	2714
6550	1180	1744	2045	2284	2512	2731
6600	1188	1756	2058	2298	2528	2748
6650	1197	1767	2070	2313	2544	2765
6700	1205	1779	2083	2327	2560	2783
6750	1213	1791	2096	2341	2576	2800
6800	1220	1801	2109	2356	2591	2817
6850	1226	1811	2122	2370	2607	2834
6900	1232	1821	2135	2385	2623	2851
6950	1238	1831	2148	2399	2639	2869
7000	1244	1841	2161	2414	2655	2886
7050	1250	1851	2174	2428	2671	2903



Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
7100	1256	1861	2187	2443	2687	2921
7150	1262	1871	2200	2457	2703	2938
7200	1268	1881	2213	2472	2719	2955
7250	1274	1891	2226	2486	2735	2972
7300	1281	1901	2239	2500	2750	2990
7350	1287	1911	2251	2515	2766	3007
7400	1293	1921	2264	2529	2782	3024
7450	1297	1928	2272	2538	2792	3035
7500	1302	1934	2279	2546	2801	3044
7550	1307	1941	2287	2554	2809	3054
7600	1312	1947	2294	2562	2818	3064
7650	1316	1954	2301	2570	2827	3073
7700	1321	1960	2308	2578	2836	3083
7750	1326	1967	2315	2586	2845	3092
7800	1330	1973	2322	2594	2854	3102
7850	1335	1980	2330	2602	2862	3111
7900	1340	1987	2337	2610	2871	3121
7950	1345	1993	2344	2618	2880	3131
8000	1349	2000	2351	2626	2889	3140
8050	1354	2006	2359	2635	2898	3150
8100	1360	2015	2367	2644	2908	3161
8150	1366	2023	2375	2653	2918	3172
8200	1372	2031	2384	2662	2929	3183
8250	1379	2039	2392	2672	2939	3194
8300	1385	2047	2400	2681	2949	3206
8350	1391	2055	2408	2690	2959	3217
8400	1397	2063	2417	2699	2969	3228
8450	1403	2071	2425	2709	2980	3239
8500	1409	2079	2433	2718	2990	3250
8550	1415	2087	2442	2727	3000	3261
8600	1421	2095	2450	2737	3010	3272
8650	1427	2103	2458	2746	3020	3283
8700	1433	2111	2466	2755	3031	3294

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
8750	1439	2119	2475	2764	3041	3305
8800	1445	2127	2483	2774	3051	3316
8850	1451	2135	2491	2783	3061	3327
8900	1457	2143	2499	2791	3070	3337
8950	1461	2147	2503	2796	3076	3343
9000	1465	2152	2508	2801	3082	3350
9050	1468	2157	2513	2807	3087	3356
9100	1472	2162	2517	2812	3093	3362
9150	1476	2167	2522	2817	3099	3368
9200	1480	2172	2526	2822	3104	3374
9250	1484	2177	2531	2827	3110	3381
9300	1488	2181	2536	2832	3116	3387
9350	1492	2186	2540	2838	3121	3393
9400	1495	2191	2545	2843	3127	3399
9450	1499	2196	2550	2848	3133	3405
9500	1503	2201	2554	2853	3138	3412
9550	1507	2206	2559	2858	3144	3418
9600	1511	2210	2564	2864	3150	3424
9650	1515	2215	2568	2869	3156	3430
9700	1519	2220	2573	2874	3161	3436
9750	1524	2227	2580	2882	3170	3446
9800	1531	2238	2593	2896	3186	3463
9850	1538	2248	2605	2910	3201	3479
9900	1545	2259	2618	2924	3216	3496
9950	1552	2269	2630	2938	3231	3513
10000	1559	2280	2642	2952	3247	3529
10050	1566	2290	2655	2966	3262	3546
10100	1573	2301	2667	2979	3277	3562
10150	1581	2312	2680	2993	3293	3579
10200	1588	2322	2692	3007	3308	3596
10250	1595	2333	2705	3021	3323	3612
10300	1602	2343	2717	3035	3339	3629
10350	1609	2354	2730	3049	3354	3646

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
10400	1616	2365	2742	3063	3369	3662
10450	1623	2375	2754	3077	3384	3679
10500	1631	2386	2767	3091	3400	3695
10550	1638	2396	2779	3105	3415	3712
10600	1645	2407	2792	3118	3430	3729
10650	1652	2417	2804	3132	3446	3745
10700	1659	2428	2817	3146	3461	3762
10750	1666	2439	2829	3160	3476	3779
10800	1673	2449	2842	3174	3491	3795
10850	1680	2460	2854	3188	3507	3812
10900	1688	2470	2867	3202	3522	3828
10950	1695	2481	2879	3216	3537	3845
11000	1702	2491	2891	3230	3553	3862
11050	1708	2499	2899	3239	3562	3872
11100	1713	2507	2907	3247	3572	3883
11150	1719	2514	2915	3256	3581	3893
11200	1725	2522	2922	3264	3591	3903
11250	1730	2529	2930	3273	3600	3913
11300	1736	2537	2938	3282	3610	3924
11350	1742	2544	2946	3290	3619	3934
11400	1747	2552	2953	3299	3629	3944
11450	1753	2559	2961	3307	3638	3955
11500	1759	2567	2969	3316	3648	3965
11550	1764	2574	2976	3325	3657	3975
11600	1770	2582	2984	3333	3667	3986
11650	1776	2589	2992	3342	3676	3996
11700	1782	2597	3000	3350	3686	4006
11750	1787	2604	3007	3359	3695	4016
11800	1793	2612	3015	3368	3704	4027
11850	1799	2619	3023	3376	3714	4037
11900	1804	2627	3030	3385	3723	4047
11950	1810	2634	3038	3394	3733	4058
12000	1816	2642	3046	3402	3742	4068

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
12050	1821	2649	3053	3411	3752	4078
12100	1827	2657	3061	3419	3761	4089
12150	1833	2664	3069	3428	3771	4099
12200	1838	2672	3077	3437	3780	4109
12250	1844	2679	3084	3445	3790	4119
12300	1850	2687	3092	3454	3799	4130
12350	1855	2695	3100	3462	3809	4140
12400	1861	2702	3107	3471	3818	4150
12450	1867	2710	3115	3480	3828	4161
12500	1873	2717	3123	3488	3837	4171
12550	1878	2725	3131	3497	3847	4181
12600	1884	2732	3138	3505	3856	4191
12650	1890	2740	3146	3514	3865	4202
12700	1895	2747	3154	3523	3875	4213
12750	1900	2756	3166	3536	3890	4228
12800	1905	2764	3177	3549	3904	4244
12850	1910	2773	3189	3562	3918	4259
12900	1915	2782	3200	3575	3932	4274
12950	1920	2790	3212	3588	3947	4290
13000	1925	2799	3224	3601	3961	4305
13050	1930	2807	3235	3614	3975	4321
13100	1935	2816	3247	3627	3989	4336
13150	1940	2825	3258	3640	4004	4352
13200	1945	2833	3270	3652	4018	4367
13250	1950	2842	3281	3665	4032	4383
13300	1955	2850	3293	3678	4046	4398
13350	1960	2859	3305	3691	4060	4414
13400	1965	2868	3316	3704	4075	4429
13450	1970	2876	3328	3717	4089	4445
13500	1975	2885	3339	3730	4103	4460
13550	1980	2893	3351	3743	4117	4476
13600	1985	2902	3363	3756	4132	4491
13650	1990	2910	3374	3769	4146	4506

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
13700	1995	2919	3386	3782	4160	4522
13750	2000	2928	3397	3795	4174	4537
13800	2005	2936	3409	3808	4188	4553
13850	2010	2945	3420	3821	4203	4568
13900	2015	2953	3432	3834	4217	4584
13950	2020	2962	3444	3847	4231	4599
14000	2025	2971	3455	3859	4245	4615
14050	2030	2979	3467	3872	4260	4630
14100	2035	2988	3478	3885	4274	4646
14150	2040	2996	3490	3898	4288	4661
14200	2045	3005	3502	3911	4302	4677
14250	2050	3014	3513	3924	4317	4692
14300	2055	3022	3525	3937	4331	4708
14350	2060	3031	3536	3950	4345	4723
14400	2065	3039	3548	3963	4359	4738
14450	2070	3048	3559	3976	4373	4754
14500	2075	3056	3571	3989	4388	4769
14550	2080	3065	3583	4002	4402	4785
14600	2085	3074	3594	4015	4416	4800
14650	2090	3082	3606	4028	4430	4816
14700	2095	3091	3617	4041	4445	4831
14750	2100	3099	3629	4053	4459	4847
14800	2105	3108	3640	4066	4473	4862
14850	2110	3117	3652	4079	4487	4878
14900	2115	3125	3664	4092	4502	4893
14950	2120	3134	3675	4105	4516	4909
15000	2125	3142	3687	4118	4530	4924
15050	2130	3151	3698	4131	4544	4940
15100	2135	3160	3710	4144	4558	4955
15150	2140	3168	3722	4157	4573	4970
15200	2145	3177	3733	4170	4587	4986
15250	2150	3185	3744	4182	4600	5000
15300	2155	3192	3752	4191	4610	5011

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
15350	2161	3200	3760	4200	4620	5022
15400	2166	3207	3769	4210	4631	5034
15450	2171	3215	3777	4219	4641	5045
15500	2176	3222	3786	4229	4651	5056
15550	2181	3229	3794	4238	4662	5067
15600	2186	3237	3802	4247	4672	5078
15650	2192	3244	3811	4257	4682	5090
15700	2197	3252	3819	4266	4693	5101
15750	2202	3259	3828	4275	4703	5112
15800	2207	3266	3836	4285	4713	5123
15850	2212	3274	3844	4294	4724	5135
15900	2218	3281	3853	4304	4734	5146
15950	2223	3289	3861	4313	4744	5157
16000	2228	3296	3870	4322	4754	5168
16050	2233	3304	3878	4332	4765	5179
16100	2238	3311	3886	4341	4775	5191
16150	2244	3318	3895	4350	4785	5202
16200	2249	3326	3903	4360	4796	5213
16250	2254	3333	3911	4369	4806	5224
16300	2259	3341	3920	4378	4816	5235
16350	2264	3348	3928	4388	4827	5247
16400	2269	3355	3937	4397	4837	5258
16450	2275	3363	3945	4407	4847	5269
16500	2280	3370	3953	4416	4858	5280
16550	2285	3378	3962	4425	4868	5291
16600	2290	3385	3970	4435	4878	5303
16650	2295	3393	3979	4444	4888	5314
16700	2301	3400	3987	4453	4899	5325
16750	2306	3407	3995	4463	4909	5336
16800	2311	3415	4004	4472	4919	5347
16850	2316	3422	4012	4482	4930	5359
16900	2321	3430	4021	4491	4940	5370
16950	2327	3437	4029	4500	4950	5381

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
17000	2332	3445	4037	4510	4961	5392
17050	2337	3452	4046	4519	4971	5403
17100	2342	3459	4054	4528	4981	5415
17150	2347	3467	4062	4538	4992	5426
17200	2352	3474	4071	4547	5002	5437
17250	2358	3482	4079	4557	5012	5448
17300	2363	3489	4088	4566	5023	5459
17350	2368	3496	4096	4575	5033	5471
17400	2373	3504	4104	4585	5043	5482
17450	2378	3511	4113	4594	5053	5493
17500	2384	3519	4121	4603	5064	5504
17550	2389	3526	4130	4613	5074	5515
17600	2394	3534	4138	4622	5084	5527
17650	2399	3541	4146	4632	5095	5538
17700	2404	3548	4155	4641	5105	5549
17750	2410	3556	4163	4650	5115	5560
17800	2415	3563	4172	4660	5126	5572
17850	2420	3571	4180	4669	5136	5583
17900	2425	3578	4188	4678	5146	5594
17950	2430	3585	4197	4688	5157	5605
18000	2435	3593	4205	4697	5167	5616
18050	2441	3600	4214	4706	5177	5628
18100	2446	3608	4222	4716	5187	5639
18150	2451	3615	4230	4725	5198	5650
18200	2456	3623	4239	4735	5208	5661
18250	2461	3630	4247	4744	5218	5672
18300	2467	3637	4255	4753	5229	5684
18350	2472	3645	4264	4763	5239	5695
18400	2477	3652	4272	4772	5249	5706
18450	2482	3660	4281	4781	5260	5717
18500	2487	3667	4289	4791	5270	5728
18550	2493	3674	4297	4800	5280	5740
18600	2498	3682	4306	4810	5291	5751

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
18650	2503	3689	4314	4819	5301	5762
18700	2508	3697	4323	4828	5311	5773
18750	2513	3704	4331	4838	5321	5784
18800	2519	3712	4339	4847	5332	5796
18850	2524	3719	4348	4856	5342	5807
18900	2529	3726	4356	4866	5352	5818
18950	2534	3734	4365	4875	5363	5829
19000	2539	3741	4373	4885	5373	5840
19050	2544	3749	4381	4894	5383	5852
19100	2550	3756	4390	4903	5394	5863
19150	2555	3763	4398	4913	5404	5874
19200	2560	3771	4406	4922	5414	5885
19250	2565	3778	4415	4931	5425	5896
19300	2570	3786	4423	4941	5435	5908
19350	2576	3793	4432	4950	5445	5919
19400	2581	3801	4440	4960	5455	5930
19450	2586	3808	4448	4969	5466	5941
19500	2591	3815	4457	4978	5476	5953
19550	2596	3823	4465	4988	5486	5964
19600	2602	3830	4474	4997	5497	5975
19650	2607	3838	4482	5006	5507	5986
19700	2612	3845	4490	5016	5517	5997
19750	2617	3852	4499	5025	5528	6009
19800	2622	3860	4507	5034	5538	6020
19850	2627	3867	4516	5044	5548	6031
19900	2633	3875	4524	5053	5559	6042
19950	2638	3882	4532	5063	5569	6053
20000	2643	3890	4541	5072	5579	6065
20050	2648	3897	4549	5081	5589	6076
20100	2653	3904	4557	5091	5600	6087
20150	2659	3912	4566	5100	5610	6098
20200	2664	3919	4574	5109	5620	6109
20250	2669	3927	4583	5119	5631	6121



Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
20300	2674	3934	4591	5128	5641	6132
20350	2679	3941	4599	5138	5651	6143
20400	2685	3949	4608	5147	5662	6154
20450	2690	3956	4616	5156	5672	6165
20500	2695	3964	4625	5166	5682	6177
20550	2700	3971	4633	5175	5693	6188
20600	2705	3979	4641	5184	5703	6199
20650	2710	3986	4650	5194	5713	6210
20700	2716	3993	4658	5203	5723	6221
20750	2721	4001	4667	5213	5734	6233
20800	2726	4008	4675	5222	5744	6244
20850	2731	4016	4683	5231	5754	6255
20900	2736	4023	4692	5241	5765	6266
20950	2742	4030	4700	5250	5775	6277
21000	2747	4038	4709	5259	5785	6289
21050	2752	4045	4717	5269	5796	6300
21100	2757	4053	4725	5278	5806	6311
21150	2762	4060	4734	5288	5816	6322
21200	2768	4068	4742	5297	5827	6333
21250	2773	4075	4750	5306	5837	6345
21300	2778	4082	4759	5316	5847	6356
21350	2783	4090	4767	5325	5858	6367
21400	2788	4097	4776	5334	5868	6378
21450	2793	4105	4784	5344	5878	6390
21500	2799	4112	4792	5353	5888	6401
21550	2804	4119	4801	5362	5899	6412
21600	2809	4127	4809	5372	5909	6423
21650	2814	4134	4818	5381	5919	6434
21700	2819	4142	4826	5391	5930	6446
21750	2825	4149	4834	5400	5940	6457
21800	2830	4157	4843	5409	5950	6468
21850	2835	4164	4851	5419	5961	6479
21900	2840	4171	4860	5428	5971	6490

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
21950	2845	4173	4862	5430	5974	6493
22000	2850	4174	4862	5431	5974	6494
22050	2854	4174	4863	5432	5975	6495
22100	2859	4175	4863	5432	5976	6495
22150	2864	4175	4864	5433	5976	6496
22200	2869	4176	4864	5434	5977	6497
22250	2873	4176	4865	5434	5978	6498
22300	2878	4177	4866	5435	5978	6498
22350	2883	4177	4866	5435	5979	6499
22400	2888	4178	4867	5436	5980	6500
22450	2892	4178	4867	5437	5980	6501
22500	2897	4179	4868	5437	5981	6501
22550	2902	4179	4868	5438	5982	6502
22600	2907	4179	4869	5439	5982	6503
22650	2911	4180	4869	5439	5983	6504
22700	2916	4180	4870	5440	5984	6504
22750	2921	4181	4871	5440	5984	6505
22800	2926	4181	4871	5441	5985	6506
22850	2930	4182	4872	5442	5986	6507
22900	2935	4182	4872	5442	5986	6507
22950	2940	4183	4873	5443	5987	6508
23000	2945	4183	4873	5443	5988	6509
23050	2949	4184	4874	5444	5989	6510
23100	2954	4184	4874	5445	5989	6510
23150	2959	4185	4875	5445	5990	6511
23200	2963	4185	4876	5446	5991	6512
23250	2968	4186	4876	5447	5991	6513
23300	2973	4186	4877	5447	5992	6513
23350	2978	4187	4877	5448	5993	6514
23400	2982	4187	4878	5448	5993	6515
23450	2987	4188	4878	5449	5994	6515
23500	2992	4188	4879	5450	5995	6516
23550	2997	4189	4879	5450	5995	6517

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
23600	3001	4189	4880	5451	5996	6518
23650	3006	4189	4881	5452	5997	6518
23700	3011	4190	4881	5452	5997	6519
23750	3016	4190	4882	5453	5998	6520
23800	3020	4191	4882	5453	5999	6521
23850	3025	4191	4883	5454	5999	6521
23900	3030	4192	4883	5455	6000	6522
23950	3035	4192	4884	5455	6001	6523
24000	3039	4193	4884	5456	6002	6524
24050	3044	4193	4885	5457	6002	6524
24100	3049	4194	4886	5457	6003	6525
24150	3054	4194	4886	5458	6004	6526
24200	3058	4195	4887	5458	6004	6527
24250	3063	4195	4887	5459	6005	6527
24300	3068	4196	4888	5460	6006	6528
24350	3072	4196	4888	5460	6006	6529
24400	3077	4197	4889	5461	6007	6530
24450	3082	4197	4889	5462	6008	6530
24500	3087	4198	4890	5462	6008	6531
24550	3091	4198	4891	5463	6009	6532
24600	3096	4199	4891	5463	6010	6533
24650	3101	4199	4892	5464	6010	6533
24700	3106	4200	4892	5465	6011	6534
24750	3110	4200	4893	5465	6012	6535
24800	3115	4200	4893	5466	6012	6536
24850	3120	4201	4894	5466	6013	6536
24900	3125	4201	4894	5467	6014	6537
24950	3129	4202	4895	5468	6014	6538
25000	3134	4202	4896	5468	6015	6538
25050	3139	4203	4896	5469	6016	6539
25100	3144	4203	4897	5470	6017	6540
25150	3148	4204	4897	5470	6017	6541
25200	3153	4204	4898	5471	6018	6541

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
25250	3158	4205	4898	5471	6019	6542
25300	3162	4205	4899	5472	6019	6543
25350	3167	4206	4899	5473	6020	6544
25400	3172	4206	4900	5473	6021	6544
25450	3177	4207	4901	5474	6021	6545
25500	3181	4207	4901	5475	6022	6546
25550	3186	4208	4902	5475	6023	6547
25600	3191	4208	4902	5476	6023	6547
25650	3196	4209	4903	5476	6024	6548
25700	3200	4209	4903	5477	6025	6549
25750	3205	4210	4904	5478	6025	6550
25800	3210	4210	4904	5478	6026	6550
25850	3215	4210	4905	5479	6027	6551
25900	3219	4211	4906	5480	6027	6552
25950	3224	4211	4906	5480	6028	6553
26000	3229	4212	4907	5481	6029	6553
26050	3234	4212	4907	5481	6030	6554
26100	3238	4213	4908	5482	6030	6555
26150	3243	4213	4908	5483	6031	6556
26200	3248	4214	4909	5483	6032	6556
26250	3253	4214	4909	5484	6032	6557
26300	3257	4215	4910	5484	6033	6558
26350	3262	4215	4911	5485	6034	6559
26400	3267	4216	4911	5486	6034	6559
26450	3271	4216	4912	5486	6035	6560
26500	3276	4217	4912	5487	6036	6561
26550	3281	4217	4913	5488	6036	6562
26600	3286	4218	4913	5488	6037	6562
26650	3290	4218	4914	5489	6038	6563
26700	3295	4219	4914	5489	6038	6564
26750	3300	4219	4915	5490	6039	6564
26800	3305	4220	4916	5491	6040	6565
26850	3309	4220	4916	5491	6040	6566

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
26900	3314	4221	4917	5492	6041	6567
26950	3319	4221	4917	5493	6042	6567
27000	3324	4221	4918	5493	6042	6568
27050	3328	4222	4918	5494	6043	6569
27100	3333	4222	4919	5494	6044	6570
27150	3338	4223	4919	5495	6045	6570
27200	3343	4223	4920	5496	6045	6571
27250	3347	4224	4921	5496	6046	6572
27300	3352	4224	4921	5497	6047	6573
27350	3357	4225	4922	5498	6047	6573
27400	3362	4225	4922	5498	6048	6574
27450	3366	4226	4923	5499	6049	6575
27500	3371	4226	4923	5499	6049	6576
27550	3376	4227	4924	5500	6050	6576
27600	3380	4227	4924	5501	6051	6577
27650	3385	4228	4925	5501	6051	6578
27700	3390	4228	4926	5502	6052	6579
27750	3395	4229	4926	5502	6053	6579
27800	3399	4229	4927	5503	6053	6580
27850	3404	4230	4927	5504	6054	6581
27900	3409	4230	4928	5504	6055	6582
27950	3414	4231	4928	5505	6055	6582
28000	3418	4231	4929	5506	6056	6583
28050	3423	4231	4929	5506	6057	6584
28100	3428	4232	4930	5507	6058	6585
28150	3433	4232	4931	5507	6058	6585
28200	3437	4233	4931	5508	6059	6586
28250	3442	4233	4932	5509	6060	6587
28300	3447	4234	4932	5509	6060	6587
28350	3452	4234	4933	5510	6061	6588
28400	3456	4235	4933	5511	6062	6589
28450	3461	4235	4934	5511	6062	6590
28500	3466	4236	4934	5512	6063	6590

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
28550	3471	4236	4935	5512	6064	6591
28600	3475	4237	4936	5513	6064	6592
28650	3480	4237	4936	5514	6065	6593
28700	3485	4238	4937	5514	6066	6593
28750	3489	4238	4937	5515	6066	6594
28800	3494	4239	4938	5516	6067	6595
28850	3499	4239	4938	5516	6068	6596
28900	3504	4240	4939	5517	6068	6596
28950	3508	4240	4939	5517	6069	6597
29000	3513	4241	4940	5518	6070	6598
29050	3518	4241	4941	5519	6070	6599
29100	3523	4242	4941	5519	6071	6599
29150	3527	4242	4942	5520	6072	6600
29200	3532	4242	4942	5520	6073	6601
29250	3537	4243	4943	5521	6073	6602
29300	3542	4243	4943	5522	6074	6602
29350	3546	4244	4944	5522	6075	6603
29400	3551	4244	4944	5523	6075	6604
29450	3556	4245	4945	5524	6076	6605
29500	3561	4245	4946	5524	6077	6605
29550	3565	4246	4946	5525	6077	6606
29600	3570	4246	4947	5525	6078	6607
29650	3575	4247	4947	5526	6079	6608
29700	3580	4247	4948	5527	6079	6608
29750	3584	4248	4948	5527	6080	6609
29800	3589	4248	4949	5528	6081	6610
29850	3594	4249	4949	5529	6081	6611
29900	3598	4249	4950	5529	6082	6611
29950	3603	4250	4951	5530	6083	6612
30000	3608	4250	4951	5530	6083	6613

<The following scheduled is to be added.>

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
1300	41	41	41	42	42	43
1350	86	86	87	88	89	90
1400	131	132	133	135	136	138
1450	176	177	179	181	183	185
1500	221	223	225	228	230	233
1550	266	268	271	274	277	280
1600	311	314	317	321	324	328
1650	356	359	363	367	371	375
1700	392	405	409	414	418	423
1750	403	450	455	460	465	470
1800	415	496	501	507	512	518
1850	426	541	547	553	559	565
1900	438	587	593	600	606	613
1950	449	632	639	646	653	660
2000	461	678	685	693	700	708
2050	472	719	731	739	747	755
2100	484	737	777	786	794	803
2150	495	754	823	832	841	850
2200	507	772	869	879	888	898
2250	518	789	915	925	935	945
2300	530	807	961	972	982	993
2350	541	825	997	1018	1029	1040
2400	553	842	1018	1065	1076	1088
2450	565	860	1039	1111	1123	1135
2500	576	877	1060	1158	1170	1183
2550	588	895	1082	1204	1217	1230
2600	599	912	1103	1232	1264	1278
2650	611	930	1124	1255	1311	1325
2700	622	947	1145	1279	1358	1373
2750	634	965	1166	1303	1405	1420
2800	645	982	1188	1327	1452	1468
2850	657	1000	1209	1350	1485	1515

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
2900	668	1017	1230	1374	1511	<b>1563</b>
2950	680	1035	1251	1398	1537	<b>1610</b>
3000	691	1053	1272	1421	1563	<b>1658</b>
3050	703	1070	1294	1445	1589	1705
3100	714	1088	1315	1469	1616	1753
3150	726	1105	1336	1492	1642	1784
3200	737	1123	1357	1516	1668	1813
3250	749	1140	1378	1540	1694	1841
3300	760	1156	1396	1560	1716	1865
3350	772	1171	1414	1579	1737	1888
3400	783	1186	1431	1599	1759	1912
3450	795	1201	1449	1618	1780	1935
3500	806	1217	1466	1638	1801	1958
3550	818	1232	1484	1657	1823	1981
3600	829	1247	1501	1677	1844	2005
3650	841	1262	1518	1696	1866	2028
3700	853	1277	1536	1715	1887	2051
3750	864	1293	1553	1735	1908	2074
3800	875	1309	1573	1757	1932	2101
3850	885	1326	1593	1779	1957	2127
3900	895	1343	1613	1802	1982	2154
3950	906	1360	1633	1824	2007	2181
4000	916	1377	1653	1847	2031	2208
4050	927	1394	1673	1869	2056	2235
4100	937	1411	1693	1892	2081	2262
4150	948	1428	1713	1914	2105	2289
4200	958	1445	1734	1936	2130	2315
4250	968	1462	1754	1959	2155	2342
4300	977	1476	1770	1977	2174	2364
4350	986	1489	1785	1994	2193	2384
4400	994	1501	1800	2010	2211	2404
4450	1003	1514	1815	2027	2230	2424
4500	1011	1527	1830	2044	2248	2444
4550	1020	1539	1845	2061	2267	2464



Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
4600	1028	1552	1860	2077	2285	2484
4650	1037	1565	1875	2094	2303	2504
4700	1045	1577	1890	2111	2322	2524
4750	1054	1590	1905	2128	2340	2544
4800	1060	1599	1915	2139	2353	2557
4850	1065	1606	1923	2148	2363	2569
4900	1070	1614	1932	2158	2374	2580
4950	1075	1621	1940	2167	2384	2591
5000	1080	1629	1949	2177	2394	2603
5050	1086	1636	1957	2186	2405	2614
5100	1091	1644	1966	2196	2415	2625
5150	1096	1651	1974	2205	2426	2637
5200	1101	1659	1983	2215	2436	2648
5250	1107	1666	1991	2224	2447	2660
5300	1111	1672	1997	2230	2453	2667
5350	1116	1677	2001	2235	2459	2673
5400	1121	1683	2006	2240	2464	2679
5450	1126	1688	2010	2245	2470	2684
5500	1130	1694	2014	2250	2475	2690
5550	1135	1699	2019	2255	2480	2696
5600	1140	1704	2023	2260	2486	2702
5650	1144	1710	2028	2265	2491	2708
5700	1149	1715	2032	2270	2497	2714
5750	1154	1721	2036	2275	2502	2720
5800	1160	1730	2048	2288	2517	2736
5850	1166	1741	2063	2304	2535	2755
5900	1173	1752	2078	2321	2553	2775
5950	1180	1763	2092	2337	2571	2794
6000	1186	1774	2107	2353	2589	2814
6050	1193	1785	2121	2370	2607	2833
6100	1199	1797	2136	2386	2625	2853
6150	1206	1808	2151	2402	2643	2873
6200	1212	1819	2165	2419	2661	2892
6250	1219	1830	2180	2435	2679	2912

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
6300	1224	1836	2187	2443	2687	2921
6350	1228	1841	2191	2447	2692	2926
6400	1232	1845	2195	2451	2696	2931
6450	1236	1850	2198	2455	2701	2936
6500	1240	1855	2202	2460	2706	2941
6550	1244	1859	2206	2464	2710	2946
6600	1248	1864	2209	2468	2715	2951
6650	1252	1868	2213	2472	2719	2956
6700	1256	1873	2217	2476	2724	2961
6750	1260	1877	2221	2480	2728	2966
6800	1265	1884	2227	2487	2736	2974
6850	1270	1891	2234	2496	2745	2984
6900	1276	1898	2242	2504	2754	2994
6950	1281	1906	2249	2512	2763	3004
7000	1287	1913	2256	2520	2772	3014
7050	1293	1920	2264	2529	2781	3023
7100	1298	1928	2271	2537	2791	3033
7150	1304	1935	2278	2545	2800	3043
7200	1309	1942	2286	2553	2809	3053
7250	1315	1950	2293	2562	2818	3063
7300	1322	1960	2304	2574	2831	3078
7350	1330	1971	2317	2588	2847	3095
7400	1339	1983	2330	2603	2863	3112
7450	1347	1994	2343	2617	2879	3129
7500	1355	2006	2356	2631	2894	3146
7550	1363	2018	2368	2646	2910	3163
7600	1372	2029	2381	2660	2926	3180
7650	1380	2041	2394	2674	2942	3198
7700	1388	2052	2407	2689	2958	3215
7750	1396	2064	2420	2703	2973	3232
7800	1405	2076	2433	2717	2989	3249
7850	1413	2087	2446	2732	3005	3266
7900	1421	2099	2458	2746	3021	3283
7950	1430	2110	2471	2760	3036	3301

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
8000	1438	2122	2484	2775	3052	3318
8050	1445	2133	2497	2789	3068	3335
8100	1451	2143	2510	2804	3084	3352
8150	1457	2153	2523	2818	3100	3370
8200	1463	2162	2536	2833	3116	3387
8250	1469	2172	2549	2847	3132	3404
8300	1475	2182	2562	2861	3148	3421
8350	1481	2192	2575	2876	3163	3439
8400	1487	2202	2588	2890	3179	3456
8450	1493	2212	2601	2905	3195	3473
8500	1499	2222	2613	2919	3211	3491
8550	1505	2232	2626	2934	3227	3508
8600	1511	2242	2639	2948	3243	3525
8650	1517	2252	2652	2963	3259	3542
8700	1523	2262	2665	2977	3275	3560
8750	1529	2272	2678	2992	3291	3577
8800	1535	2280	2688	3002	3303	3590
8850	1539	2286	2695	3010	3311	3599
8900	1544	2293	2702	3018	3320	3609
8950	1549	2300	2709	3026	3329	3619
9000	1553	2306	2717	3034	3338	3628
9050	1558	2313	2724	3042	3347	3638
9100	1563	2319	2731	3050	3355	3647
9150	1567	2326	2738	3058	3364	3657
9200	1572	2332	2745	3066	3373	3667
9250	1577	2339	2752	3075	3382	3676
9300	1582	2345	2760	3083	3391	3686
9350	1586	2352	2767	3091	3400	3695
9400	1591	2359	2774	3099	3408	3705
9450	1596	2365	2781	3107	3417	3715
9500	1600	2372	2788	3115	3426	3724
9550	1606	2379	2796	3123	3436	3735
9600	1612	2387	2804	3133	3446	3746
9650	1618	2395	2813	3142	3456	3757

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
9700	1624	2403	2821	3151	3466	3768
9750	1630	2411	2829	3160	3476	3779
9800	1636	2419	2838	3170	3487	3790
9850	1642	2427	2846	3179	3497	3801
9900	1648	2435	2854	3188	3507	3812
9950	1654	2443	2863	3197	3517	3823
10000	1661	2452	2871	3207	3527	3834
10050	1667	2460	2879	3216	3538	3845
10100	1673	2468	2887	3225	3548	3856
10150	1679	2476	2896	3235	3558	3868
10200	1685	2484	2904	3244	3568	3879
10250	1691	2492	2912	3253	3578	3890
10300	1697	2500	2921	3262	3589	3901
10350	1703	2508	2929	3272	3599	3912
10400	1709	2516	2937	3281	3609	3923
10450	1715	2524	2946	3290	3619	3934
10500	1721	2532	2954	3299	3629	3945
10550	1726	2539	2960	3307	3637	3954
10600	1730	2543	2965	3312	3643	3960
10650	1734	2548	2970	3317	3649	3966
10700	1738	2553	2974	3322	3654	3972
10750	1742	2558	2979	3327	3660	3979
10800	1745	2563	2984	3333	3666	3985
10850	1749	2568	2988	3338	3672	3991
10900	1753	2573	2993	3343	3677	3997
10950	1757	2577	2997	3348	3683	4003
11000	1761	2582	3002	3353	3689	4010
11050	1765	2587	3007	3358	3694	4016
11100	1769	2592	3011	3364	3700	4022
11150	1772	2597	3016	3369	3706	4028
11200	1776	2602	3021	3374	3711	4034
11250	1780	2606	3025	3379	3717	4041
11300	1784	2611	3030	3384	3723	4047
11350	1788	2616	3035	3390	3729	4053

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
11400	1792	2621	3039	3395	3734	4059
11450	1796	2626	3044	3400	3740	4065
11500	1799	2631	3048	3405	3746	4071
11550	1805	2638	3057	3414	3756	4082
11600	1812	2649	3069	3428	3771	4099
11650	1819	2659	3081	3442	3786	4116
11700	1826	2670	3094	3456	3801	4132
11750	1833	2680	3106	3470	3817	4149
11800	1840	2691	3119	3484	3832	4165
11850	1848	2702	3131	3498	3847	4182
11900	1855	2712	3144	3511	3863	4199
11950	1862	2723	3156	3525	3878	4215
12000	1869	2733	3169	3539	3893	4232
12050	1876	2744	3181	3553	3909	4249
12100	1883	2754	3193	3567	3924	4265
12150	1890	2765	3206	3581	3939	4282
12200	1897	2776	3218	3595	3954	4298
12250	1905	2786	3231	3609	3970	4315
12300	1912	2797	3243	3623	3985	4332
12350	1919	2807	3256	3637	4000	4348
12400	1926	2818	3268	3651	4016	4365
12450	1933	2829	3281	3664	4031	4382
12500	1940	2839	3293	3678	4046	4398
12550	1947	2850	3305	3692	4061	4415
12600	1955	2860	3318	3706	4077	4431
12650	1962	2871	3330	3720	4092	4448
12700	1969	2881	3343	3734	4107	4465
12750	1976	2892	3355	3748	4123	4481
12800	1983	2903	3368	3762	4138	4498
12850	1990	2913	3380	3776	4153	4515
12900	1997	2924	3393	3790	4169	4531
12950	2004	2934	3405	3803	4184	4548
13000	2012	2945	3418	3817	4199	4564
13050	2018	2954	3428	3829	4212	4579

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
13100	2024	2962	3436	3838	4222	4589
13150	2030	2969	3444	3847	4231	4599
13200	2035	2977	3451	3855	4241	4610
13250	2041	2984	3459	3864	4250	4620
13300	2047	2992	3467	3872	4260	4630
13350	2052	2999	3474	3881	4269	4640
13400	2058	3007	3482	3890	4279	4651
13450	2064	3014	3490	3898	4288	4661
13500	2069	3022	3498	3907	4297	4671
13550	2075	3029	3505	3915	4307	4682
13600	2081	3037	3513	3924	4316	4692
13650	2086	3044	3521	3933	4326	4702
13700	2092	3052	3528	3941	4335	4713
13750	2098	3060	3536	3950	4345	4723
13800	2104	3067	3544	3958	4354	4733
13850	2109	3075	3552	3967	4364	4743
13900	2115	3082	3559	3976	4373	4754
13950	2121	3090	3567	3984	4383	4764
14000	2126	3097	3575	3993	4392	4774
14050	2132	3105	3582	4002	4402	4785
14100	2138	3112	3590	4010	4411	4795
14150	2143	3120	3598	4019	4421	4805
14200	2149	3127	3606	4027	4430	4815
14250	2155	3135	3613	4036	4440	4826
14300	2160	3142	3621	4045	4449	4836
14350	2166	3150	3629	4053	4458	4846
14400	2172	3157	3636	4062	4468	4857
14450	2177	3165	3644	4070	4477	4867
14500	2183	3172	3652	4079	4487	4877
14550	2189	3180	3659	4088	4496	4888
14600	2195	3187	3667	4096	4506	4898
14650	2200	3195	3675	4105	4515	4908
14700	2206	3202	3683	4113	4525	4918
14750	2212	3210	3690	4122	4534	4929

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
14800	2217	3217	3698	4131	4544	4939
14850	2223	3225	3706	4139	4553	4949
14900	2229	3232	3713	4148	4563	4960
14950	2234	3240	3721	4157	4572	4970
15000	2240	3247	3729	4165	4582	4980
15050	2246	3255	3738	4175	4592	4992
15100	2251	3264	3749	4188	4607	5007
15150	2256	3272	3761	4201	4621	5023
15200	2261	3281	3772	4214	4635	5038
15250	2266	3290	3784	4227	4649	5054
15300	2271	3298	3796	4240	4664	5069
15350	2276	3307	3807	4253	4678	5085
15400	2281	3315	3819	4265	4692	5100
15450	2286	3324	3830	4278	4706	5116
15500	2290	3333	3842	4291	4720	5131
15550	2295	3341	3853	4304	4735	5147
15600	2300	3350	3865	4317	4749	5162
15650	2305	3358	3877	4330	4763	5178
15700	2310	3367	3888	4343	4777	5193
15750	2315	3376	3900	4356	4792	5208
15800	2320	3384	3911	4369	4806	5224
15850	2325	3393	3923	4382	4820	5239
15900	2330	3401	3934	4395	4834	5255
15950	2335	3410	3946	4408	4849	5270
16000	2340	3418	3958	4421	4863	5286
16050	2345	3427	3969	4434	4877	5301
16100	2350	3436	3981	4447	4891	5317
16150	2355	3444	3992	4459	4905	5332
16200	2360	3453	4004	4472	4920	5348
16250	2365	3461	4016	4485	4934	5363
16300	2370	3470	4027	4498	4948	5379
16350	2375	3479	4039	4511	4962	5394
16400	2380	3487	4050	4524	4977	5410
16450	2385	3496	4062	4537	4991	5425

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
16500	2390	3504	4073	4550	5005	5440
16550	2395	3513	4085	4563	5019	5456
16600	2400	3522	4097	4576	5034	5471
16650	2405	3530	4108	4589	5048	5487
16700	2410	3539	4120	4602	5062	5502
16750	2415	3547	4131	4615	5076	5518
16800	2420	3556	4143	4628	5090	5533
16850	2425	3564	4155	4641	5105	5549
16900	2430	3573	4166	4654	5119	5564
16950	2435	3582	4178	4666	5133	5580
17000	2440	3590	4189	4679	5147	5595
17050	2445	3599	4201	4692	5162	5611
17100	2450	3607	4212	4705	5176	5626
17150	2455	3616	4224	4718	5190	5642
17200	2460	3625	4236	4731	5204	5657
17250	2465	3633	4247	4744	5218	5672
17300	2470	3642	4259	4757	5233	5688
17350	2475	3650	4270	4770	5247	5703
17400	2480	3659	4282	4783	5261	5719
17450	2485	3668	4293	4796	5275	5734
17500	2490	3676	4305	4809	5290	5750
17550	2495	3685	4317	4822	5304	5765
17600	2500	3693	4328	4835	5318	5781
17650	2505	3702	4340	4848	5332	5796
17700	2510	3710	4351	4860	5347	5812
17750	2515	3719	4363	4873	5361	5827
17800	2520	3728	4375	4886	5375	5843
17850	2525	3736	4386	4899	5389	5858
17900	2530	3745	4398	4912	5403	5874
17950	2535	3753	4409	4925	5418	5889
18000	2540	3762	4421	4938	5432	5904
18050	2545	3770	4432	4951	5446	5919
18100	2551	3778	4440	4960	5456	5931
18150	2556	3785	4449	4969	5466	5942



Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
18200	2561	3793	4457	4979	5477	5953
18250	2566	3800	4466	4988	5487	5964
18300	2571	3808	4474	4997	5497	5975
18350	2577	3815	4482	5007	5507	5987
18400	2582	3822	4491	5016	5518	5998
18450	2587	3830	4499	5026	5528	6009
18500	2592	3837	4508	5035	5538	6020
18550	2597	3845	4516	5044	5549	6031
18600	2602	3852	4524	5054	5559	6043
18650	2608	3859	4533	5063	5569	6054
18700	2613	3867	4541	5072	5580	6065
18750	2618	3874	4549	5082	5590	6076
18800	2623	3882	4558	5091	5600	6087
18850	2628	3889	4566	5101	5611	6099
18900	2634	3897	4575	5110	5621	6110
18950	2639	3904	4583	5119	5631	6121
19000	2644	3911	4591	5129	5642	6132
19050	2649	3919	4600	5138	5652	6144
19100	2654	3926	4608	5147	5662	6155
19150	2660	3934	4617	5157	5672	6166
19200	2665	3941	4625	5166	5683	6177
19250	2670	3948	4633	5176	5693	6188
19300	2675	3956	4642	5185	5703	6200
19350	2680	3963	4650	5194	5714	6211
19400	2685	3971	4659	5204	5724	6222
19450	2691	3978	4667	5213	5734	6233
19500	2696	3986	4675	5222	5745	6244
19550	2701	3993	4684	5232	5755	6256
19600	2706	4000	4692	5241	5765	6267
19650	2711	4008	4701	5250	5776	6278
19700	2717	4015	4709	5260	5786	6289
19750	2722	4023	4717	5269	5796	6300
19800	2727	4030	4726	5279	5806	6312
19850	2732	4037	4734	5288	5817	6323

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
19900	2737	4045	4742	5297	5827	6334
19950	2743	4052	4751	5307	5837	6345
20000	2748	4060	4759	5316	5848	6356
20050	2753	4067	4768	5325	5858	6368
20100	2758	4075	4776	5335	5868	6379
20150	2763	4082	4784	5344	5879	6390
20200	2769	4089	4793	5354	5889	6401
20250	2774	4097	4801	5363	5899	6412
20300	2779	4104	4810	5372	5910	6424
20350	2784	4112	4818	5382	5920	6435
20400	2789	4119	4826	5391	5930	6446
20450	2794	4126	4835	5400	5940	6457
20500	2800	4134	4843	5410	5951	6468
20550	2805	4141	4852	5419	5961	6480
20600	2810	4149	4860	5429	5971	6491
20650	2815	4156	4868	5438	5982	6502
20700	2820	4164	4877	5447	5992	6513
20750	2826	4171	4885	5457	6002	6525
20800	2831	4178	4893	5466	6013	6536
20850	2836	4186	4902	5475	6023	6547
20900	2841	4193	4910	5485	6033	6558
20950	2846	4201	4919	5494	6044	6569
21000	2852	4208	4927	5504	6054	6581
21050	2857	4215	4935	5513	6064	6592
21100	2862	4223	4944	5522	6074	6603
21150	2867	4230	4952	5532	6085	6614
21200	2872	4238	4961	5541	6095	6625
21250	2877	4245	4969	5550	6105	6637
21300	2883	4253	4977	5560	6116	6648
21350	2888	4260	4986	5569	6126	6659
21400	2893	4267	4994	5578	6136	6670
21450	2898	4275	5003	5588	6147	6681
21500	2903	4282	5011	5597	6157	6693
21550	2909	4290	5019	5607	6167	6704

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
21600	2914	4297	5028	5616	6178	6715
21650	2919	4304	5036	5625	6188	6726
21700	2924	4312	5044	5635	6198	6737
21750	2929	4319	5053	5644	6208	6749
21800	2935	4327	5061	5653	6219	6760
21850	2940	4334	5070	5663	6229	6771
21900	2945	4342	5078	5672	6239	6782
21950	2950	4349	5086	5682	6250	6793
22000	2955	4356	5095	5691	6260	6805
22050	2960	4364	5103	5700	6270	6816
22100	2966	4371	5112	5710	6281	6827
22150	2971	4379	5120	5719	6291	6838
22200	2976	4386	5128	5728	6301	6849
22250	2981	4393	5137	5738	6312	6861
22300	2986	4401	5145	5747	6322	6872
22350	2992	4408	5154	5757	6332	6883
22400	2997	4416	5162	5766	6342	6894
22450	3002	4423	5170	5775	6353	6905
22500	3007	4431	5179	5785	6363	6917
22550	3012	4438	5187	5794	6373	6928
22600	3018	4445	5196	5803	6384	6939
22650	3023	4453	5204	5813	6394	6950
22700	3028	4460	5212	5822	6404	6962
22750	3033	4468	5221	5832	6415	6973
22800	3038	4475	5229	5841	6425	6984
22850	3043	4483	5237	5850	6435	6995
22900	3049	4490	5246	5860	6446	7006
22950	3054	4497	5254	5869	6456	7018
23000	3059	4505	5263	5878	6466	7029
23050	3064	4512	5271	5888	6477	7040
23100	3069	4520	5279	5897	6487	7051
23150	3075	4527	5288	5906	6497	7062
23200	3080	4534	5296	5916	6507	7074
23250	3085	4542	5305	5925	6518	7085

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
23300	3090	4549	5313	5935	6528	7096
23350	3095	4557	5321	5944	6538	7107
23400	3101	4564	5330	5953	6549	7118
23450	3106	4572	5338	5963	6559	7130
23500	3111	4579	5347	5972	6569	7141
23550	3116	4586	5355	5981	6580	7152
23600	3121	4594	5363	5991	6590	7163
23650	3126	4601	5372	6000	6600	7174
23700	3132	4609	5380	6010	6611	7186
23750	3137	4616	5388	6019	6621	7197
23800	3142	4623	5397	6028	6631	7208
23850	3147	4631	5405	6038	6641	7219
23900	3152	4638	5414	6047	6652	7230
23950	3158	4646	5422	6056	6662	7242
24000	3163	4653	5430	6066	6672	7253
24050	3168	4661	5439	6075	6683	7264
24100	3173	4668	5447	6085	6693	7275
24150	3178	4675	5456	6094	6703	7286
24200	3184	4683	5464	6103	6714	7298
24250	3189	4690	5472	6113	6724	7309
24300	3194	4698	5481	6122	6734	7320
24350	3199	4705	5489	6131	6745	7331
24400	3204	4712	5498	6141	6755	7343
24450	3209	4720	5506	6150	6765	7354
24500	3215	4727	5514	6160	6775	7365
24550	3220	4735	5523	6169	6786	7376
24600	3225	4742	5531	6178	6796	7387
24650	3230	4750	5540	6188	6806	7399
24700	3235	4757	5548	6197	6817	7410
24750	3241	4764	5556	6206	6827	7421
24800	3246	4772	5565	6216	6837	7432
24850	3251	4779	5573	6225	6848	7443
24900	3256	4787	5581	6234	6858	7455
24950	3261	4794	5590	6244	6868	7466

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
25000	3267	4801	5598	6253	6879	7477
25050	3272	4809	5607	6263	6889	7488
25100	3277	4816	5615	6272	6899	7499
25150	3282	4824	5623	6281	6909	7511
25200	3287	4831	5632	6291	6920	7522
25250	3292	4839	5640	6300	6930	7533
25300	3298	4846	5649	6309	6940	7544
25350	3303	4853	5657	6319	6951	7555
25400	3308	4861	5665	6328	6961	7567
25450	3313	4868	5674	6338	6971	7578
25500	3318	4876	5682	6347	6982	7589
25550	3324	4883	5691	6356	6992	7600
25600	3329	4890	5699	6366	7002	7611
25650	3334	4898	5707	6375	7013	7623
25700	3339	4905	5716	6384	7023	7634
25750	3344	4913	5724	6394	7033	7645
25800	3350	4920	5732	6403	7043	7656
25850	3355	4928	5741	6413	7054	7667
25900	3360	4935	5749	6422	7064	7679
25950	3365	4942	5758	6431	7074	7690
26000	3370	4943	5758	6432	7075	7691
26050	3375	4944	5759	6433	7076	7692
26100	3379	4944	5760	6433	7077	7692
26150	3384	4944	5760	6434	7077	7693
26200	3389	4945	5761	6435	7078	7694
26250	3394	4945	5761	6435	7079	7695
26300	3398	4946	5762	6436	7079	7695
26350	3403	4946	5762	6436	7080	7696
26400	3408	4947	5763	6437	7081	7697
26450	3413	4947	5763	6438	7081	7698
26500	3417	4948	5764	6438	7082	7698
26550	3422	4948	5765	6439	7083	7699
26600	3427	4949	5765	6440	7084	7700
26650	3431	4949	5766	6440	7084	7701

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
26700	3436	4950	5766	6441	7085	7701
26750	3441	4950	5767	6441	7086	7702
26800	3446	4951	5767	6442	7086	7703
26850	3450	4951	5768	6443	7087	7704
26900	3455	4952	5768	6443	7088	7704
26950	3460	4952	5769	6444	7088	7705
27000	3465	4953	5770	6445	7089	7706
27050	3469	4953	5770	6445	7090	7706
27100	3474	4954	5771	6446	7090	7707
27150	3479	4954	5771	6446	7091	7708
27200	3484	4954	5772	6447	7092	7709
27250	3488	4955	5772	6448	7092	7709
27300	3493	4955	5773	6448	7093	7710
27350	3498	4956	5773	6449	7094	7711
27400	3503	4956	5774	6450	7094	7712
27450	3507	4957	5775	6450	7095	7712
27500	3512	4957	5775	6451	7096	7713
27550	3517	4958	5776	6451	7097	7714
27600	3522	4958	5776	6452	7097	7715
27650	3526	4959	5777	6453	7098	7715
27700	3531	4959	5777	6453	7099	7716
27750	3536	4960	5778	6454	7099	7717
27800	3540	4960	5778	6454	7100	7718
27850	3545	4961	5779	6455	7101	7718
27900	3550	4961	5780	6456	7101	7719
27950	3555	4962	5780	6456	7102	7720
28000	3559	4962	5781	6457	7103	7721
28050	3564	4963	5781	6458	7103	7721
28100	3569	4963	5782	6458	7104	7722
28150	3574	4964	5782	6459	7105	7723
28200	3578	4964	5783	6459	7105	7724
28250	3583	4965	5783	6460	7106	7724
28300	3588	4965	5784	6461	7107	7725
28350	3593	4965	5785	6461	7107	7726

Basic Child Support Schedule						
Combined Adjusted Net Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
28400	3597	4966	5785	6462	7108	7727
28450	3602	4966	5786	6463	7109	7727
28500	3607	4967	5786	6463	7109	7728
28550	3612	4967	5787	6464	7110	7729
28600	3616	4968	5787	6464	7111	7730
28650	3621	4968	5788	6465	7112	7730
28700	3626	4969	5788	6466	7112	7731
28750	3631	4969	5789	6466	7113	7732
28800	3635	4970	5790	6467	7114	7732
28850	3640	4970	5790	6468	7114	7733
28900	3645	4971	5791	6468	7115	7734
28950	3649	4971	5791	6469	7116	7735
29000	3654	4972	5792	6469	7116	7735
29050	3659	4972	5792	6470	7117	7736
29100	3664	4973	5793	6471	7118	7737
29150	3668	4973	5793	6471	7118	7738
29200	3673	4974	5794	6472	7119	7738
29250	3678	4974	5795	6472	7120	7739
29300	3683	4975	5795	6473	7120	7740
29350	3687	4975	5796	6474	7121	7741
29400	3692	4975	5796	6474	7122	7741
29450	3697	4976	5797	6475	7122	7742
29500	3702	4976	5797	6476	7123	7743
29550	3706	4977	5798	6476	7124	7744
29600	3711	4977	5798	6477	7125	7744
29650	3716	4978	5799	6477	7125	7745
29700	3721	4978	5800	6478	7126	7746
29750	3725	4979	5800	6479	7127	7747
29800	3730	4979	5801	6479	7127	7747
29850	3735	4980	5801	6480	7128	7748
29900	3740	4980	5802	6481	7129	7749
29950	3744	4981	5802	6481	7129	7750
30000	3749	4981	5803	6482	7130	7750

**Comment: To the extent the parties share physical custody with the obligor having 40% or more of the annual overnights as set forth in Pa.R.Civ.P. 1910.16-4(c), the formula in Pa.R.Civ.P. 1910.16-4(a)(1)(Part D) or (a)(2)(Part II) should be used to calculate the appropriate shared custody adjustment.**

### **Historical Commentary**

**The following commentary related to Pa.R.Civ.P. 1910.16-3 is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—2010**

The basic child support schedule has been amended to reflect updated economic data. The schedule has been expanded to include all cases in which the parties' combined net monthly income is \$30,000 or less. It also reflects an increase in the Self-Support Reserve to \$867, the 2008 poverty level for one person. The schedule was further adjusted to incorporate an assumption that the children spend 30% of the time with the obligor.

#### **Explanatory Comment—2013**

The basic child support schedule has been amended to reflect updated economic data. It also reflects an increase in the Self-Support Reserve to \$931, the 2012 poverty level for one person, which has been incorporated into the schedule.

#### **Explanatory Comment—2021**

Previously, the Basic Child Support Schedule incorporated a 30% child custody presumption, which created approximately a 5% decrease in the basic child support obligation across all combined monthly net incomes regardless of the actual custody schedule. The new Basic Child Support Schedule reflects the actual expenses of an intact family living in a single household at the various combined monthly net incomes and the number of children with no shared custody adjustment.

To the extent the parties share physical custody with the obligor having 40% or more of the annual overnights as set forth in Pa.R.C.P. No. 1910.16-4(c), the formula in Pa.R.C.P. No. 1910.16-4(a)(1)(Part D) or (a)(2)(Part II) should be used to calculate the appropriate shared custody adjustment.



**Rule 1910.16-3.1. Support Guidelines. High-Income Cases.**

**(a) Child Support.**

**(1) Presumptive Minimum Basic Child Support Obligation.**

- (i) The presumptive minimum basic child support obligation is the support obligation that the trier-of-fact would have awarded if the parties' combined monthly net income was \$30,000.
- (ii) When the parties' combined monthly net income exceeds \$30,000, the calculated support obligation shall not be less than the presumptive minimum basic child support obligation.

**(2) High-Income Child Support Calculation.** With the following three-step process, the trier-of-fact shall calculate the total child support obligation.

- (i) **Preliminary Analysis.** Using the following formula, the trier-of-fact shall:
  - (A) calculate the basic child support obligation based on the parties' combined monthly net income; and
  - (B) apportion the basic child support obligation based on the parties' respective monthly net incomes.

One child: **[\$3,608] \$3,749** + 4.0% of combined monthly net income above \$30,000.

Two children: **[\$4,250] \$4,981** + 4.0% of combined monthly net income above \$30,000.

Three children: **[\$4,951] \$5,803** + 4.7% of combined monthly net income above \$30,000.

Four children: **[\$5,530] \$6,482** + 5.3% of combined monthly net income above \$30,000.

Five children: **[\$6,083] \$7,103** + 5.8% of combined monthly net income above \$30,000.

Six children: **[\$6,613] \$7,750** + 6.3% of combined monthly net income above \$30,000.

(ii) **Substantial or Equally Shared Custody Adjustment.** The trier-of-fact shall adjust the basic child support obligation calculated in subdivision (a)(2)(i) for substantial or equally shared custody as set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4(c).**

(iii) **Final Analysis—Reasonable Needs.**

(A) In determining the total child support obligation, the trier-of-fact shall consider the child's reasonable needs based on:

(I) the deviation factors in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-5;**

(II) the additional expenses set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6;** and

(III) the parties' expense statements required by **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.11(c)(2)** and **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.27(c)(2)(B).**

(B) Subject to the presumptive minimum basic child support obligation, the trier-of-fact may upwardly or downwardly adjust the support obligation calculated in subdivisions (a)(2)(i) and (ii) based on the child's reasonable needs.

(3) **Final Order.** As part of the final order, the trier-of-fact shall state on the record or in writing:

(i) findings of fact; and

(ii) the reasons for awarding the total child support obligation, including:

(A) a discussion of the child's reasonable needs; and

(B) the adjustments or deviations made to the basic child support obligation.

(b) **Spousal Support or Alimony *Pendente Lite*.**

- (1) **Preliminary Analysis.** When the parties' combined monthly net income exceeds \$30,000, the trier-of-fact shall apply the formula in either **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4(a)(1)(Part B)** or **(a)(2)(Part IV)** in calculating spousal support or alimony *pendente lite*.
- (2) **Final Analysis.** In determining the total spousal support or alimony *pendente lite* obligation, the trier-of-fact shall consider:
  - (i) the deviation factors in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-5; and**
  - (ii) the additional expenses set forth in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6[; and].**
  - [(iii) the parties' expense statements required by Pa.R.C.P. No. 1910.11(c)(2) and Pa.R.C.P. No. 1910.27(c)(2)(B).]**
- (3) **Final Order.** As part of the final order, the trier-of-fact shall state on the record or in writing:
  - (i) findings of fact; and
  - (ii) the reasons for awarding the final spousal support or alimony *pendente lite* obligation, including the adjustments or deviations made to the basic spousal support or alimony *pendente lite* obligation.

**Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

**Explanatory Comment—2010**

Pa.R.C.P. No. 1910.16-3.1 is intended to bring all child support cases under the guidelines and treat similarly situated parties similarly. Thus, high-income child support cases no longer will be decided pursuant to *Melzer v. Witsberger*, 480 A.2d 991 (Pa. 1984). Economic data support the basic child support schedule up to combined net incomes of \$30,000 per month. Above that amount, economic data are not readily

available. Thus, for cases in which the parties' combined monthly net income is above \$30,000, the formula first applies a fixed percentage to calculate the support amount. The formula is an extrapolation of the available economic data to high-income cases. Spousal support and alimony *pendente lite* awards in high-income cases are preliminarily calculated pursuant to the formulas in either Pa.R.C.P. No. 1910.16-4(a)(1)(Part B) or (2)(Part IV). However, in both high-income child support and spousal support and high-income child support and alimony *pendente lite* cases, the trier-of-fact is required to consider the factors in Pa.R.C.P. No. 1910.16-5 before entering a final order and to make findings of fact on the record or in writing. Pursuant to Pa.R.C.P. No. 1910.11(c)(2), in all high-income cases, the parties must submit an Income Statement and the Expense Statement at Pa.R.C.P. No. 1910.27(c)(2)(B) to enable the trier-of-fact to consider the factors in Pa.R.C.P. No. 1910.16-5.

### **Explanatory Comment—2011**

The rule has been amended to clarify that the provisions of Pa.R.C.P. No. 1910.16-4(c), regarding support adjustments if the obligor has substantial or shared custody, apply in high-income cases. Previously, when high-income cases were decided pursuant to *Melzer v. Witsberger*, 480 A.2d 991 (Pa. 1984), case law held that because the time and resources each parent provided to a child were factored into the Melzer formula, the substantial or shared parenting time reductions did not apply to cases decided pursuant to *Melzer*. See, e.g., *Sirio v. Sirio*, 951 A.2d 1188 (Pa. Super. 2008); *Bulgarelli v. Bulgarelli*, 934 A.2d 107 (Pa. Super. 2007). As *Melzer* no longer applies to calculate support in high-income cases, the prohibition against substantial or shared parenting time reductions in such cases is no longer applicable.

#### **Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.**

- (a) The trier-of-fact shall use either the subdivision (1) or subdivision (2) formula to calculate the obligor's share of basic child support, either from the schedule in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3** or the formula in **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3.1(a)**, as well as spousal support and alimony *pendente lite* obligations. In high-income cases, the trier-of-fact shall use either the subdivision (1)(Part B) or subdivision (2)(Part IV) formula, as appropriate, as a preliminary analysis in the calculation of spousal support or alimony *pendente lite* obligations.
- (1) The formula in Parts A through E is for an order entered on or after January 1, 2019, or for a modification of an order entered before January 1, 2019 that includes spousal support or alimony *pendente lite* in which the amendments to the Internal Revenue Code made by Section 11051 of the Tax Cuts and Jobs Act of 2017 (Pub. L. No. 115-97) expressly apply.

**[Note: Section 11051 of the Tax Cuts and Jobs Act of 2017 (Pub.L. No. 115-97) amended the Internal Revenue Code by repealing the alimony deduction—the amount of spousal support, alimony *pendente lite*, and alimony paid or received—from the payor's gross income and the alimony inclusion into the payee's gross income.]**

**See subdivision (2) for a modification of an order entered before January 1, 2019 that includes spousal support or alimony *pendente lite* in which the amendments to the Internal Revenue Code made by Tax Cuts and Jobs Act of 2017 (Pub.L. No. 115-97) do not apply to the modification.]**

#### **Part A. Calculation of Monthly Net Income**

	Obligor	Obligee
1. Total Gross Income per pay period (See <b>[Pa.R.C.P. No.] <u>Pa.R.Civ.P.</u> 1910.16-2(a)</b> )	_____	_____
2. Deductions (See <b>[Pa.R.C.P. No.] <u>Pa.R.Civ.P.</u> 1910.16-2(c)</b> )	( _____ )	( _____ )
3. Net Income (line 1 minus line 2)	_____	_____

- |    |   |       |       |
|----|---|-------|-------|
| 4. | Conversion to Monthly Net Income<br>(if pay period is other than monthly) | _____ | _____ |
|----|---|-------|-------|

**Part B. Spousal Support or *Alimony Pendente Lite***

- |     | Without<br>Dependent<br>Children   | With<br>Dependent<br>Children |
|-----|--|-------------------------------|
| 5.  | Obligor's Monthly Net Income<br>(line 4)   | _____                         |
| 6.  | Obligor's child support,<br>spousal support, alimony <i>pendente lite</i> , or alimony obligations to children<br>or former spouses who are not part<br>of this action, if any.<br>(See <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b><br>1910.16-2(c)(2)) | ( _____ )                     |
| 7.  | Obligor's Net Income available<br>for spousal support or<br>alimony <i>pendente lite</i><br>(line 5 minus line 6)  | _____                         |
| 8.  | Obligor's Net Income percentage<br>for spousal support or alimony<br><i>pendente lite</i>  | x _____ 33%                   |
| 9.  | Obligor's proportionate share of<br>spousal support or alimony<br><i>pendente lite</i><br>(line 7 multiplied by line 8)  | x _____ 25%                   |
| 10. | Obligee's Monthly Net Income<br>(line 4)   | _____                         |
| 11. | Obligee's Net Income percentage<br>for spousal support or alimony<br><i>pendente lite</i>  | x _____ 40%                   |
| 12. | Obligee's proportionate share of   | x _____ 30%                   |

spousal support or alimony  
*pendente lite*  
 (line 10 multiplied by line 11)

- |     |   |       |
|-----|---|-------|
| 13. | Preliminary Monthly Spousal Support or Alimony <i>Pendente Lite</i> Obligation<br>(line 9 minus line 12 - if the result is less than zero, enter a zero on line 13) | _____ |
| 14. | Adjustments for Part E Additional Expenses<br>(See <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-6)  | _____ |
| 15. | Total Monthly Spousal Support or Alimony <i>Pendente Lite</i> Obligation<br>(line 13 plus or minus line 14, as appropriate)   | _____ |

**Part C[—]. Basic Child Support**

- |     | Obligor   | Obligee                |
|-----|---|------------------------|
| 16. | Monthly Net Income<br>(line 4 and add the child's monthly Social Security Disability or Retirement Derivative benefit amount, if any, to the Monthly Net Income of the party receiving the benefit pursuant to <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-2(b)(2)(i) or (ii). | _____                  |
| 17. | Preliminary Monthly Spousal Support or Alimony <i>Pendente Lite</i> Obligation, if any. (line 13)   | ( _____ )      + _____ |
| 18. | Adjusted Monthly Net Income<br>(for obligor, line 16 minus line 17;<br>for obligee, line 16 plus line 17)   | _____                  |
| 19. | Combined Monthly Net Income<br>(obligor's line 18 plus obligee's line 18)   | _____                  |
| 20. | Basic Child Support Obligation  | _____                  |

(determined from child support schedule  
in **[Pa.R.C.P. No.] Pa.R.Civ.P.**  
1910.16-3 based on the  
number of children and line 19)

- |     |   |         |         |
|-----|---|---------|---------|
| 21. | Net Income expressed as a<br>percentage of Combined<br>Monthly Net Income<br>(line 18 divided by line 19<br>and multiplied by 100)  | _____ % | _____ % |
| 22. | Preliminary Monthly Basic Child<br>Support Obligation<br>(line 20 multiplied by line 21)  | _____   | _____   |
| 23. | Child's Social Security Derivative<br>Disability or Retirement Benefit.<br>(if the benefits are paid to the obligee,<br>enter the benefit amount on the line for<br>the party whose retirement or disability<br>created the child's benefit pursuant to<br><b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-2(b)) | _____   | _____   |
| 24. | Adjusted Monthly Basic Child<br>Support Obligation (line 22 minus<br>line 23 - if the result is less than zero,<br>enter a zero on line 24)   | _____   | _____   |

**Part D. Substantial or Shared Physical Custody Adjustment, If Applicable (See  
subdivision (c))**

- |     |    |  |              |
|-----|----|--|--------------|
| 25. | a. | Percentage of time obligor spends<br>with the child (divide number of overnights<br>with the obligor by 365 and multiply by 100) | _____ %      |
|     | b. | Subtract 30%   | ( _____ 30%) |
|     | c. | Difference<br>(line 25a minus line 25b)  | _____ %      |
|     | d. | Obligor's Adjusted Percentage Share<br>of the Basic Child Support Obligation   | _____ %      |



(line 21 minus line 25c)

- e. Obligor's Preliminary Adjusted Basic Child Support Obligation (line 20 multiplied by line 25d) \_\_\_\_\_
- f. Further adjustment, if necessary, under subdivision (c)(2) \_\_\_\_\_
- g. Obligor's Adjusted Basic Child Support Obligation \_\_\_\_\_

**Part E. Additional Expenses (See [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6)**

- 26. a. Obligor's Share of Child Care Expenses \_\_\_\_\_
- b. Obligor's Share of Health Insurance Premium (if the obligee is paying the premium) \_\_\_\_\_
- c. Obligor's Share of the Health Insurance Premium (if the obligor is paying the premium) (\_\_\_\_\_) \_\_\_\_\_
- d. Obligor's Share of Unreimbursed Medical Expenses \_\_\_\_\_
- e. Other Additional Expenses \_\_\_\_\_
- f. Total Additional Expenses (add lines 26a, b, d, and e, then subtract line 26c) \_\_\_\_\_
- 27. Obligor's Total Monthly Child Support Obligation (line 24 or 25g plus line 26f, if applicable) \_\_\_\_\_

- (2) The formula in Parts I through IV is for a modification of an order entered before January 1, 2019 that includes spousal support or alimony *pendente lite*.

**[Note: See subdivision (1) for an order entered on or after January 1, 2019, or for a modification of an order entered before January 1, 2019 that includes spousal support or alimony *pendente lite* in which the amendments to the Internal Revenue**

**Code made by Tax Cuts and Jobs Act of 2017 (Pub.L. No. 115-97) expressly apply to the modification.]**

**Part I. Basic Child Support**

	Obligor	Obligee
1. Total Gross Income Per Pay Period (See <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-2(a))	_____	_____
2. Deductions (See <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-2(c))	(_____)	(_____)
3. Net Income (line 1 minus line 2)	_____	_____
4. Conversion to Monthly Net Income (if pay period is other than monthly) Include the child's monthly Social Security derivative benefit amount, if any, in the monthly net income of the party receiving the benefit pursuant to <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-2(b)(2)(i) or (ii).	_____	_____
5. Combined Monthly Net Income (obligor's line 4 plus obligee's line 4)	_____	
6. Basic Child Support Obligation (determined from schedule at <b>[Pa.R.C.P. No.] Pa.R.Civ.P.</b> 1910.16-3 based on  number of children and line 5)	_____	
7. Net Income Expressed as a Percentage of Combined Monthly Net Income (divide line 4 by line 5 and multiply by 100)	_____ %	_____ %
8. Preliminary Basic Child Support Obligation		

(multiply line 6 and 7) \_\_\_\_\_

9. Child's Social Security Derivative  
Disability or Retirement Benefit  
(if the benefits are paid to the obligee, enter  
the benefit amount on the line for the party  
whose retirement or disability created the  
child's benefit) \_\_\_\_\_

10. Adjusted Basic Child Support Obligation  
(line 8 minus line 9 - if the result is  
less than zero, enter a zero  
on line 10) \_\_\_\_\_

**Part II. Substantial or Shared Physical Custody Adjustment, If Applicable (See subdivision (c))**

11. a. Percentage of Time Obligor spends  
with Children (divide number of overnights  
with the obligor by 365 and multiply by 100) \_\_\_\_\_ %

b. Subtract 30% ( \_\_\_\_\_ %)

c. Obligor's Adjusted Percentage Share  
of the Basic Child Support Obligation  
(subtract result of calculation in line 11b  
from line 7) \_\_\_\_\_ %

d. Obligor's Preliminary Adjusted  
Basic Child Support Obligation  
(multiply line 11c and line 6) \_\_\_\_\_

e. Further adjustment, if necessary under  
subdivision (c)(2) \_\_\_\_\_

f. Obligor's Adjusted Basic  
Child Support Obligation  
(Total of line 11d and line 11e) \_\_\_\_\_

**Part III. Additional Expenses (See [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6)**

12. a. Obligor's Share of Child Care Expenses \_\_\_\_\_

- b. Obligor's Share of Health Insurance  
Premium (if the obligee is paying the premium) \_\_\_\_\_
- c. Obligee's Share of the Health Insurance  
Premium (if the obligor is paying the premium) (\_\_\_\_\_)
- d. Obligor's Share of Unreimbursed Medical  
Expenses \_\_\_\_\_
- e. Other Additional Expenses \_\_\_\_\_
- f. Total Additional Expenses \_\_\_\_\_  
(add lines 12a, b, d, and e, then subtract line 12c)
- 13. Obligor's Total Monthly Support Obligation \_\_\_\_\_  
(add line 10 or 11f and line 12f, if applicable)

**Part IV. Spousal Support or APL with Dependent Children**

- 14. Obligor's Monthly Net Income (line 4) \_\_\_\_\_
- 15. Obligor's Support, Alimony  
*Pendente Lite*, or Alimony Obligations,  
to Children or Former Spouses who  
are not part of this action, if any  
(See [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-2(c)(2)) (\_\_\_\_\_)
- 16. Obligee's Monthly Net Income (line 4) (\_\_\_\_\_)
- 17. Difference  
(line 14 minus lines 15 and 16) \_\_\_\_\_
- 18. Obligor's Total Monthly Child  
Support Obligation without Part II Substantial  
or Shared Custody Adjustment, if any  
(Obligor's line 10 plus line 12f) (\_\_\_\_\_)
- 19. Difference  
(line 17 minus line 18) \_\_\_\_\_
- 20. Multiply by 30% x 30%
- 21. Monthly Spousal Support or \_\_\_\_\_

Alimony Pendente Lite Obligation  
(line 19 multiplied by line 20)

**Without Dependent Children**

22. Obligor's Monthly Net Income (line 4) \_\_\_\_\_
23. Obligor's Child and Spousal Support, Alimony *Pendente Lite* or Alimony Obligations to Children or Former Spouses who are not part of this action, if any ([Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-2(c)(2)) (\_\_\_\_\_) \_\_\_\_\_
24. Obligee's Monthly Net Income (line 4) (\_\_\_\_\_) \_\_\_\_\_
25. Difference  
(line 22 minus lines 23 and 24) \_\_\_\_\_
26. Multiply by 40% x 40%
27. Preliminary Monthly Spousal Support or Alimony *Pendente Lite* Obligation  
(line 25 multiplied by line 26) \_\_\_\_\_
28. Adjustments for Other Expenses  
(See [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6)  
(line 12f) \_\_\_\_\_
29. Total Monthly Spousal Support or Alimony *Pendente Lite* Obligation  
(line 27 plus or minus line 28, as appropriate) \_\_\_\_\_

(b) **Order For More Than Six Children.** When there are more than six children who are the subject of a single support order, the trier-of-fact shall:

- (1) calculate the basic child support obligations for six children and five children;
- (2) subtract the basic child support obligation for five children from the basic child support obligation for six children;

- (3) multiply the difference from subdivision (b)(2) by the number of children in excess of six; and
  - (4) add the amount from subdivision (b)(3) to the basic child support obligation for six children as determined in subdivision (b)(1).
- (c) **Substantial or Equally Shared Physical Custody.**
- (1) **Substantial Physical Custody.** When a child spends 40% or more of the annual overnights with the obligor, a rebuttable presumption arises that the obligor is entitled to a reduction in the basic child support obligation to reflect the obligor's increased direct spending on the child during the obligor's custodial time.
    - (i) This rebuttable presumption also applies in high income cases decided pursuant to [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3.1.
    - (ii) Except as provided in subdivision (c)(2), the trier-of-fact shall calculate the adjustment pursuant to the formula set forth in subdivision (a)(1)(Part D) or (a)(2)(Part II).
  - (2) **Equally Shared Physical Custody.** Without regard to which party initiated the support action, when a child spends an equal number of annual overnights with the parties:
    - (i) The formula in subdivision (a)(1)(Part D) or (a)(2)(Part II) cannot be applied unless the obligor is the party with the higher monthly net income.
    - (ii) The trier-of-fact shall not require the party with the lower monthly net income to pay basic child support to the party with the higher monthly net income. However, this subdivision shall not preclude the entry of an order requiring the party with less monthly net income to contribute to additional expenses pursuant to [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6.
    - (iii) Based upon the evidence presented, the trier-of-fact may enter a support order against either party.
    - (iv) If the support calculation results in the obligee receiving a larger share of the parties' combined monthly net income, the trier-of-fact:

- (A) shall adjust the obligor's basic child support obligation so that the combined monthly net income is allocated equally between the two parties; and
- (B) shall not award spousal support or alimony *pendente lite*.

**[Example 1.** If the obligor and the obligee have monthly net incomes of \$5,000 and \$2,300, respectively, the basic child support obligation is \$1,901 for two children. Using the income shares formula in Part I, the obligor's basic child support obligation is 68%, or \$1,293. If the children spend 40% of the annual overnights with the obligor, the formula in Part D or Part II applies to reduce the obligor's basic child support obligation to 58%, or \$1,103. If the children spend 45% of the annual overnights with the obligor, the obligor's basic child support obligation is reduced to 53%, or \$1,008. If the children spend an equal number of the annual overnights with the obligor and obligee, the obligor's basic child support obligation is reduced to 48%, or \$912.

**Example 2.** Mother and Father have monthly net incomes of \$3,000 and \$2,700, respectively. Mother has filed for support for the parties' two children with whom the parties share time equally. As the parties have equal custody and Mother has the higher monthly net income, Mother cannot be the obligee. Although Mother initiated the support action, she would be the obligor. Pursuant to the Basic Child Support Schedule in Pa.R.C.P. No. 1910.16-3, the basic child support obligation for two children at the parties' combined monthly net income is \$1,585 per month. Mother's share is 53%, or \$840. Application of the Part II or Part D formula results in a 20% reduction in support when the obligor has 50% custody of the children. Mother's adjusted percentage share of the basic support obligation is 33% ( $53\% - 20\% = 33\%$ ) and the preliminary adjusted basic child support obligation is \$523 (33% of \$1,585). However, as this amount would result in Father having a greater share of the parties' combined monthly net income (\$3,223 vs. \$2,477), Mother's basic child support obligation would be adjusted to \$150 per month to allocate the parties' combined monthly net income equally between the two parties and would be the presumptive basic child support obligation payable to Father under these circumstances.

**Example 3.** If the obligor and the obligee have monthly net incomes of \$3,000 and \$2,500, respectively, the basic child support obligation for two children is \$1,567. The obligor's share is 55%, or \$862 ( $\$1,567 \times 55\%$ ). If the children spend equal time with the parties, the formula in Part II or Part D results in a basic child support obligation of \$548 ( $\$1,567 \times 35\%$ ) payable to the obligee. Since this amount results in the obligee having monthly net income of \$3,048 and the obligor having monthly

net income of \$2,452, the obligor's basic child support obligation would be adjusted to \$250 to equalize the combined monthly net income between the parties and would be the presumptive basic child support obligation payable to the obligee under these circumstances.]

(d) **Divided or Split Physical Custody.** When Each Party Owes Child Support to the Other Party. Varied Partial or Shared Custodial Schedules.

(1) **Divided or Split Physical Custody.** When Each Party Owes Child Support to the Other Party. When calculating a basic child support obligation and each party owes child support to the other party as a result of the custodial arrangement, the trier-of-fact shall offset the parties' respective basic child support obligations and award the net difference to the obligee as child support.

**[Example 1.** If the parties have three children, one child resides with Mother and two children reside with Father, and the parties' monthly net incomes are \$4,000 and \$2,000 respectively, Mother's basic child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined monthly net income of \$6,000. The basic child support obligation is \$1,628. As Mother's income is 67% of the parties' combined monthly net income, Mother's basic child support obligation for the two children living with Father is \$1,091. Father's basic child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of \$6,000. The basic child support obligation is \$1,097. Father's basic child support obligation for the child living with Mother is \$362. Subtracting \$362 from \$1,091 produces a basic child support obligation of \$729 payable to Father as child support.

**Example 2.** If the parties have two children, one child resides with Mother and the parties equally share custody (50% - 50%) of the other child, and the parties' monthly net incomes are as set forth in Example 1. The basic child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for the one child primarily residing with Mother at the parties' combined monthly net income of \$6,000, the basic child support obligation is \$1,097. Father's income is 33% of the parties' combined monthly net income, and the basic child support obligation for the child living with Mother is \$362. For Mother's obligation for the child with the equally shared custody arrangement, using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of \$6,000, the basic child support obligation is \$1,097. Mother's proportionate share of the combined monthly net incomes is 67%, but it is reduced to 47% after applying the shared parenting time adjustment for 50% custody under subdivision (c). Mother's basic child support obligation for the shared custody child is \$516 (\$1,097 x 47%).



**As Mother's obligation is greater than Father's obligation, Father is the obligee and receives the net of the two obligations by subtracting \$362 from \$516, or \$154.]**

**(2) Varied Partial or Shared Physical Custodial Schedule.**

- (i) The trier-of-fact may reduce a party's basic child support obligation when the parties have more than one child and each child spends either different amounts of:
  - (A) partial or equally shared custodial time with the higher monthly net income party; or
  - (B) partial custodial time with the lower monthly net income party.
- (ii) In determining whether a party is entitled to a reduction as provided in subdivision (d)(2)(i):
  - (A) the trier-of-fact shall:
    - (I) add the percentage of annual overnights each child spends with that party; and
    - (II) divide by the number of children to determine the party's average percentage of custodial time.
  - (B) If the average percentage of custodial time is 40% or more:
    - (I) subdivision (c) applies; and
    - (II) the trier-of-fact shall reduce the party's basic child support obligation accordingly.

**[Example 1. The parties have two children and one child spends 50% of the annual overnights with Mother, who has the higher monthly net income, and the other child spends 20% of the annual overnights with Mother. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average time with Mother). Pursuant to subdivision (d)(2)(ii)(B), Mother is not entitled to a reduction in the support order for substantial parenting time.]**

**Example 2.** The parties have three children. Two children spend 50% of the annual overnights with Mother, who has the higher monthly net income, and the third child spends 30% of the annual overnights with Mother. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with Mother). Pursuant to subdivision (d)(2)(ii)(B), Mother is entitled to a reduction in the support order for substantial parenting time.

**Example 3.** The parties have three children, Mother has primary custody (60% - 40%) of one child, Father has primary custody (60% - 40%) of one child, and the parties share custody (50% - 50%) of the third child. The parties' monthly net incomes are \$2,500 (Mother) and \$2,000 (Father). As a result of the custodial arrangement, Father owes support for the child in the primary custody of Mother and Mother owes support for the child in the primary custody of Father and for the child shared equally between the parties. Father's basic child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for one child at the parties' combined monthly net income of \$4,500. The basic child support obligation is \$941. Father's proportionate share of the combined monthly net incomes is 44%, but is reduced to 34% after applying the shared parenting time adjustment for 40% custody under subdivision (c). Father's basic child support obligation for this child is \$320 (\$941 x 34%). Mother's basic child support obligation is calculated using the schedule in Pa.R.C.P. No. 1910.16-3 for two children at the parties' combined monthly net income of \$4,500. The basic child support obligation is \$1,414. Mother has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. Mother's proportionate share of the combined monthly net incomes is 56%, but it is reduced to 41% after applying the shared parenting time adjustment for 45% custody under subdivision (c). Mother's basic child support obligation for these children is \$580 (\$1,414 x 41%). Offsetting the support obligations consistent with subdivision (d)(1), Mother's obligation is greater than Father's obligation, and Father is the obligee receiving the net of the two obligations by subtracting \$320 from \$580, or \$260.

**Note:** In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.]

- (3) **Combined Child Support and Spousal Support or Alimony *Pendente Lite*. When Each Party Owes Child Support to the Other Party.**

- (i) When one or more children reside with each party, the trier-of-fact shall offset the obligor's combined spousal support or alimony *pendente lite* and basic child support obligations with the obligee's basic child support obligation.
  - (ii) The trier-of-fact shall award the net difference to the obligee as spousal support or alimony *pendente lite* and basic child support.
- (e) **Support Obligations When Custodial Parent Owes Spousal Support.** If a child is residing with the spouse (custodial parent) obligated to pay spousal support or alimony *pendente lite* and the other spouse (non-custodial parent) has a legal obligation to support the child, the guideline spousal support or alimony *pendente lite* obligation is determined by offsetting the non-custodial parent's basic child support obligation and the custodial parent's spousal support or alimony *pendente lite* obligation, and awarding the net difference either to the non-custodial parent as spousal support or alimony *pendente lite* or to the custodial parent as child support as the circumstances warrant. The calculation is a five-step process:
  - (1) Calculate the custodial parent's spousal support or alimony *pendente lite* obligation to the non-custodial parent based on the parties' monthly net incomes using the "without dependent children" formula in either **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4(a)(1)(Part B) or (a)(2)(Part IV)**, as appropriate.
  - (2) Recalculate the parties' monthly net incomes by adjusting for the spousal support or alimony *pendente lite* payment paid or received in subdivision (e)(1).
  - (3) Using the recomputed monthly net incomes from subdivision (e)(2), calculate the non-custodial parent's basic child support obligation to the custodial parent.
  - (4) The final support amount is the difference calculated in subdivision (e)(1) and (e)(3).
    - (i) If the amount in subdivision (e)(1) is greater than the amount in subdivision (e)(3), the final amount is spousal support or alimony *pendente lite* payable to the non-custodial parent.
    - (ii) If the amount in subdivision (e)(1) is less than the amount in subdivision (e)(3), the final amount is basic child support payable to the custodial parent.

- (5) If the proceeding is a modification of an order entered before January 1, 2019 that has federal tax consequences associated with spousal support or alimony *pendente lite* payments and the final order is spousal support or alimony *pendente lite* as in subdivision (e)(4)(i), the offset spousal support or alimony *pendente lite* amount is federally taxable, and the trier-of-fact may deviate the final order due to the tax effect, as appropriate.

[Note: See Pa.R.C.P. No. 1910.19(h).]

Comment: Section 11051 of the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, amended the Internal Revenue Code by repealing the alimony deduction—the amount of spousal support, alimony *pendente lite*, and alimony paid or received—from the payor’s gross income and the alimony inclusion into the payee’s gross income. Subdivision (a)(1) governs an order entered on or after January 1, 2019, or for a modification of an order entered before January 1, 2019, that includes spousal support or alimony *pendente lite* in which the Act expressly apply to the modification. Subdivision (a)(2) governs a modification of an order entered before January 1, 2019 that includes spousal support or alimony *pendente lite* in which the Act does not apply to the modification.

Subdivision (c) Example 1. If the obligor and the obligee have monthly net incomes of \$5,000 and \$2,300, respectively, the basic child support obligation is \$1,960 for two children. Using the income shares formula in Part I, the obligor’s basic child support obligation is 68%, or \$1,333. If the children spend 40% of the annual overnights with the obligor, the formula in Part D or Part II applies to reduce the obligor’s basic child support obligation to 58%, or \$1,137. If the children spend 45% of the annual overnights with the obligor, the obligor’s basic child support obligation is reduced to 53%, or \$1,039. If the children spend an equal number of the annual overnights with the obligor and obligee, the obligor’s basic child support obligation is reduced to 48%, or \$941.

Subdivision (c) Example 2. Mother and Father have monthly net incomes of \$3,000 and \$2,700, respectively. Mother has filed for support for the parties’ two children with whom the parties share time equally. As the parties have equal custody and Mother has the higher monthly net income, Mother cannot be the obligee. Although Mother initiated the support action, she would be the obligor. Pursuant to the Basic Child Support Schedule in Pa.R.Civ.P. 1910.16-3, the basic child support obligation for two children at the parties’ combined monthly net income is \$1,715 per month. Mother’s share is 53%, or \$909. Application of the Part II or Part D formula results in a 20% reduction in support when the obligor has 50% custody of the children. Mother’s adjusted percentage share of the basic

support obligation is 33% ( $53\% - 20\% = 33\%$ ) and the preliminary adjusted basic child support obligation is \$566 (33% of \$1,715). However, as this amount would result in Father having a greater share of the parties' combined monthly net income (\$3,266 vs. \$2,434), Mother's basic child support obligation would be adjusted to \$150 per month to allocate the parties' combined monthly net income equally between the two parties and would be the presumptive basic child support obligation payable to Father under these circumstances.

Subdivision (c) Example 3. If the obligor and the obligee have monthly net incomes of \$3,000 and \$2,500, respectively, the basic child support obligation for two children is \$1,694. The obligor's share is 55%, or \$932 ( $\$1,694 \times 55\%$ ). If the children spend equal time with the parties, the formula in Part II or Part D results in a basic child support obligation of \$593 ( $\$1,694 \times 35\%$ ) payable to the obligee. Since this amount results in the obligee having monthly net income of \$3,093 and the obligor having monthly net income of \$2,407, the obligor's basic child support obligation would be adjusted to \$250 to equalize the combined monthly net income between the parties and would be the presumptive basic child support obligation payable to the obligee under these circumstances.

Subdivision (d)(1) Example 1: If the parties have three children, one child resides with Mother and two children reside with Father, and the parties' monthly net incomes are \$4,000 and \$2,000 respectively, Mother's basic child support obligation is calculated using the schedule in Pa.R.Civ.P. 1910.16-3 for two children at the parties' combined monthly net income of \$6,000. The basic child support obligation is \$1,774. As Mother's income is 67% of the parties' combined monthly net income, Mother's basic child support obligation for the two children living with Father is \$1,189. Father's basic child support obligation is calculated using the schedule in Pa.R.Civ.P. 1910.16-3 for one child at the parties' combined monthly net income of \$6,000. The basic child support obligation is \$1,186. Father's basic child support obligation for the child living with Mother is \$392. Subtracting \$392 from \$1,189 produces a basic child support obligation of \$797 payable to Father as child support.

Subdivision (d)(1) Example 2: If the parties have two children, one child resides with Mother and the parties equally share custody (50% - 50%) of the other child, and the parties' monthly net incomes are as set forth in Subdivision (d)(1) Example 1. The basic child support obligation is calculated using the schedule in Pa.R.Civ.P. 1910.16-3 for the one child primarily residing with Mother at the parties' combined monthly net income of \$6,000, the basic child support obligation is \$1,186. Father's income is 33% of the parties' combined monthly net income, and the basic child support obligation for the child living with Mother is \$392. For Mother's obligation for the child with the equally shared custody arrangement, using the schedule in Pa.R.Civ.P. 1910.16-3 for one child at the parties' combined

monthly net income of \$6,000, the basic child support obligation is \$1,186. Mother's proportionate share of the combined monthly net incomes is 67%, but it is reduced to 47% after applying the shared parenting time adjustment for 50% custody under subdivision (c). Mother's basic child support obligation for the shared custody child is \$557 ( $\$1,186 \times 47\%$ ). As Mother's obligation is greater than Father's obligation, Father is the obligee and receives the net of the two obligations by subtracting \$392 from \$557, or \$162.

Subdivision (d)(2) Example 1: The parties have two children and one child spends 50% of the annual overnights with Mother, who has the higher monthly net income, and the other child spends 20% of the annual overnights with Mother. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average time with Mother). Pursuant to subdivision (d)(2)(ii)(B), Mother is not entitled to a reduction in the support order for substantial parenting time.

Subdivision (d)(2) Example 2: The parties have three children. Two children spend 50% of the annual overnights with Mother, who has the higher monthly net income, and the third child spends 30% of the annual overnights with Mother. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with Mother). Pursuant to subdivision (d)(2)(ii)(B), Mother is entitled to a reduction in the support order for substantial parenting time.

Subdivision (d)(2) Example 3: The parties have three children, Mother has primary custody (60% - 40%) of one child, Father has primary custody (60% - 40%) of one child, and the parties share custody (50% - 50%) of the third child. The parties' monthly net incomes are \$2,500 (Mother) and \$2,000 (Father). As a result of the custodial arrangement, Father owes support for the child in the primary custody of Mother and Mother owes support for the child in the primary custody of Father and for the child shared equally between the parties. Father's basic child support obligation is calculated using the schedule in Pa.R.Civ.P. 1910.16-3 for one child at the parties' combined monthly net income of \$4,500. The basic child support obligation is \$1,011. Father's proportionate share of the combined monthly net incomes is 44%, but is reduced to 34% after applying the shared parenting time adjustment for 40% custody under subdivision (c). Father's basic child support obligation for this child is \$344 ( $\$1,011 \times 34\%$ ). Mother's basic child support obligation is calculated using the schedule in Pa.R.Civ.P. 1910.16-3 for two children at the parties' combined monthly net income of \$4,500. The basic child support obligation is \$1,527. Mother has varying partial or shared custody of the two children (40% and 50%). Under subdivision (d)(2), the custodial time is averaged or in this case 45%. Mother's proportionate share of the combined

monthly net incomes is 56%, but it is reduced to 41% after applying the shared parenting time adjustment for 45% custody under subdivision (c). Mother's basic child support obligation for these children is \$626 (\$1,527 x 41%). Offsetting the support obligations consistent with subdivision (d)(1), Mother's obligation is greater than Father's obligation, and Father is the obligee receiving the net of the two obligations by subtracting \$344 from \$626, or \$282.

In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

Concerning subdivision (e), see Pa.R.Civ.P. 1910.19(h).

### **Historical Commentary**

The following commentary related to Pa.R.Civ.P. 1910.16-4 is historical in nature and represents statements of the Committee at the time of rulemaking:

### **Explanatory Comment—2005**

Pa.R.C.P. No. 1910.16-4(a) sets forth the income shares formula used to establish the support obligation. Subdivision (b) provides the method for calculating support for seven or more children as the basic support schedule in Pa.R.C.P. No. 1910.16-3 sets forth the presumptive amount of support for up to six children.

Subdivision (c) sets forth the method for calculating the presumptive amount of support in cases where the children spend 40% or more of their time during the year with the obligor. If there is equal time sharing, subdivision (2) reduces the support obligation further so that the obligor does not pay more than is necessary to equalize the parties' combined monthly net income between the two households. Subdivision (3) expressly excludes SSR cases from the application of this rule. Since the SSR already reduces support to a minimal level, a further reduction should not be given for the amount of time spent with the children.

Subdivision (d) relates to the calculation of support in divided or split custody cases. It retains the existing method for offsetting the parties' respective support obligations when one or more of the children resides with each party. Subdivision (e) governs spousal support obligations when the custodial parent owes spousal support. It has not been amended, other than to update the example to be consistent with the new schedule at Pa.R.C.P. No. 1910.16-3.

### **Explanatory Comment—2010**

The basic support schedule incorporates an assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. Variable expenditures, such as food and entertainment, that fluctuate based upon parenting time were adjusted in the schedule to build in the assumption of 30% parenting time. Upward deviation should be considered in cases in which the obligor has little or no contact with the children. However, an upward deviation may not be appropriate if an obligor has infrequent overnight contact with the child, but provides meals and entertainment during daytime contact. Fluctuating expenditures should be considered rather than the extent of overnight time. A downward deviation may be appropriate when the obligor incurs substantial fluctuating expenditures during parenting time but has infrequent overnights with the children.

The calculation in Pa.R.C.P. No. 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method still may result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation so that the obligee does not receive a larger portion of the parties' combined monthly net income than the obligor.



**Rule 1910.16-5. Support Guidelines. Deviation.**

**(a) Deviation.**

- (1) The trier-of-fact may deviate from the basic child support, **additional expenses**, spousal support, or alimony *pendente lite* obligation.
- (2) If the trier-of-fact determines a deviation is appropriate based on the factors in subdivision (b), the trier-of-fact shall specify on the record or in writing:
  - (i) the calculated basic child support, **additional expenses**, spousal support, or alimony *pendente lite* obligation;
  - (ii) the reason for the deviation;
  - (iii) the findings of fact justifying the deviation;
  - (iv) the deviation amount; and
  - (v) in a spousal support or an alimony *pendente lite* action, the obligation's duration.

**[Note: The deviation applies to the support obligation amount or duration, and not to the party's monthly net income.]**

- (b) Factors.** In deciding whether to deviate from the basic child support, **additional expenses**, spousal support, or alimony *pendente lite* obligation, the trier-of-fact shall consider:
- (1) unusual needs and unusual fixed obligations;
  - (2) a party's other support obligations;
  - (3) other household income;
  - (4) the child's age;
  - (5) the parties' relative assets and liabilities;
  - (6) medical expenses not covered by insurance;
  - (7) the parties' and the child's standard of living;
  - (8) in a spousal support or alimony *pendente lite* case, the duration of the marriage from the date of marriage to the date of final separation; and
  - (9) other relevant and appropriate factors, including the child's best interest.

**Comment: The deviation applies to the total support obligation amount or duration, and not to the party's monthly net income.**

**Concerning subdivision (b)(9), "other relevant and appropriate factors," may include, but are not limited to, maintaining a self-support reserve.**

### **Historical Commentary**

**The following commentary related to Pa.R.Civ.P. 1910.19 is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—2005**

Rule 1910.16-5 sets forth the factors for deviation from the presumptive amount of support. Subdivision (c) and subsection (b)(8) permit the court to consider the length of the marriage in determining the amount and duration of a spousal support or alimony pendente lite award. The primary purpose of these provisions is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

#### **Explanatory Comment—2010**

The provisions of subdivision (c), which provided that the court must consider the duration of the parties' marriage in determining the duration of an award of spousal support or alimony pendente lite, were moved to new Rule 1910.16-1(c)(2). The duration of the marriage, from the date of marriage to the date of final separation, remains a factor to consider in determining whether or not deviation from the amount of the award is warranted.

**Rule 1910.16-6. Support Guidelines. Basic Support Obligation Adjustments. Additional Expenses Allocation.**

**[The trier-of-fact may allocate between the parties the additional expenses in subdivisions (a)—(e).]** Even **[when] if** a basic support order is inappropriate under the facts of the case, the trier-of-fact **[may] shall determine whether to** allocate between the parties the additional expenses **as provided below**.

Except for the subdivisions (b)(4) and (e) expenses, the trier-of-fact shall calculate the parties' proportionate share of the additional expenses after adjusting the parties' monthly net income by the spousal support or alimony *pendente lite* obligation received or paid, and dividing each party's adjusted monthly net income by the parties' combined monthly net income. However, the trier-of-fact shall not adjust the parties' monthly net incomes when **[apportioning] allocating** the expenses in child support only cases.

**(a) Child Care Expenses.**

- (1) The trier-of-fact:
  - (i) shall allocate reasonable child care expenses paid by the parties, if necessary to maintain employment or appropriate education in pursuit of income.
  - (ii) may allocate reasonable child care expenses that would be paid by the parties when the trier-of-fact imputes an earning capacity to a party pursuant to Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D).
- (2) The trier-of-fact may require that the obligor's share be added to the basic child support obligation, paid directly to the service provider, or paid directly to the obligee.
- (3) When a party is receiving a child care subsidy through the Department of Human Services, the expense allocated between the parties is the amount actually paid by the party receiving the subsidy.
- (4) The party seeking allocation of child care expenses shall provide to the other party the expense's documentation, such as a receipt or an invoice, promptly after receipt unless the service provider invoices the parties separately, **or a written proposal or estimate from the service provider for the imputation of earning capacity**, for the party's proportionate share of the expense.

- (5) The trier-of-fact shall have the discretion to not allocate expenses if documentation is not timely provided to the other party.
- (6) Except as provided in subdivision (a)(7), the total child care expenses shall be reduced to reflect the federal child care tax credit available to the eligible party, regardless of whether the credit is actually claimed by that party, up to the maximum annual cost allowable under the Internal Revenue Code.
- (7) If the eligible party is not qualified to receive the credit, the federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties.

**(b) Health Insurance Premium.**

- (1) The trier-of-fact shall allocate the health insurance premium paid by the parties, including the premium attributable to the party paying the premium, provided that a statutory duty of support is owed to the party or child covered by the health insurance.
  - (i) If the party paying the health insurance premium is the obligor, the obligee's share is deducted from the obligor's basic support obligation.
  - (ii) If the obligee is paying the health insurance premium, the obligor's share is added to the obligor's basic support obligation.
  - (iii) A health insurance premium allocated between the parties shall also include health insurance that is provided and paid by a third-party resident of a party's household (e.g., step-parent) for a child who is the subject of the support order.
- (2) The trier-of-fact shall not allocate an employer-paid premium or a premium paid for a party, person, or child to whom no statutory duty of support is owed.
  - (i) If the parties present evidence of the excluded premium's actual amount—the amount attributed to a party, person, or child not owed a statutory duty of support—the trier-of-fact shall deduct the actual amount excluded from the total

premium before allocating the health insurance premium between the parties.

(ii) If the parties do not present evidence of the excluded premium's actual amount, the trier-of-fact shall calculate the excluded amount as follows:

(A) determine the premium's cost per person by dividing the total premium by the number of persons covered under the policy;

(B) multiply the cost per person by the number of persons who are not owed a statutory duty of support, or are not parties to, or the subject of, the support action; and

(C) the resulting amount is excluded from allocation.

(3) Pursuant to 23 Pa.C.S. § 4326(a), in every support proceeding, the trier-of-fact shall ascertain a parent's ability to provide medical support for the parties' child and the support "order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children."

(i) The obligor bears the initial responsibility of providing the child's health care coverage if it is available at a reasonable cost.

(A) "Reasonable cost" to an obligor shall be defined as an amount that does not exceed 5% of the obligor's monthly net income and, when added to the basic child support obligation plus additional expenses the obligor is ordered to pay, does not exceed 50% of the obligor's monthly net income.

(B) If the obligee is providing the coverage, the "reasonable cost" of the obligor's share shall be defined as an amount that does not exceed 5% of the obligor's monthly net income and, when added to the basic child support obligation plus additional expenses the obligor is ordered to pay, does not exceed 50% of the obligor's monthly net income.

- (ii) Unless the child's health care coverage is provided by the obligee or a third party, the court shall issue the National Medical Support Notice required by 23 Pa.C.S. § 4326(d.1) to the obligor's employer in response to notification that the obligor is employed.
  - (A) The notice shall direct the employer to enroll the obligor's child who is the subject of the support proceeding if the coverage is available at a reasonable cost to the obligor.
  - (B) However, the notice shall direct that enrollment shall not occur earlier than 25 days from the date of the National Medical Support Notice to allow the obligor time to object.
  - (C) Concurrent with the issuance of the National Medical Support Notice, the court shall provide notice to the obligor setting forth the process to object to the enrollment based upon unreasonable cost, mistake of fact, or availability of alternative health care coverage for the child.
  - (D) If there is more than one employer-provided health care coverage option, the obligor shall select the coverage, subject to the obligee's right to seek a court order designating a different option.
- (iii) Absent the availability of health care coverage to the obligor for the parties' child at a reasonable cost, the court shall order the obligee to provide health care coverage for the child if it is available at a reasonable cost. "Reasonable cost" to the obligee shall be defined as an amount not to exceed 5% of the obligee's monthly net income.
- (iv) If health care coverage is not available to the parties at a reasonable cost, the court may order the party having primary custody to apply for government-sponsored coverage, such as the Children's Health Insurance Program ("CHIP"), with any co-premium or other cost apportioned between the parties in proportion to the parties' respective monthly net incomes.

- (v) Within 30 days after the entry of the support order, the party ordered to provide health care coverage shall provide written proof to the other party that medical insurance has been obtained, including insurance cards and all other materials set forth in the form order in Pa.R.Civ.P. 1910.27(e). There shall be a continuing obligation to provide the other party and the domestic relations section with proof of any changes in coverage.
  - (vi) The trier-of-fact shall give preference to health care coverage that is readily accessible to the child, as defined by geographic coverage area, access to local treatment providers, or other relevant factors.
- (4) If the obligor is paying for the health insurance, the obligee has no income or minimal income, and the obligor will bear 90% or more of the health insurance premium:
  - (i) the trier-of-fact may, as fairness requires, deduct part or all of the premium actually paid by the obligor to provide coverage for the other party or the child from the obligor's gross income to determine monthly net income for support purposes.
  - (ii) If such a deduction is taken from the obligor's gross income, the premium allocation as set forth in subdivision (b)(1) shall not be applied.
- (c) **Unreimbursed Medical Expenses.** The trier-of-fact shall allocate the obligee's or child's unreimbursed medical expenses. However, the trier-of-fact shall not allocate unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party. The trier-of-fact may require that the obligor's expense share be included in the basic support obligation, paid directly to the health care provider, or paid directly to the obligee.
- (1) **Medical Expenses.**
  - (i) For purposes of this subdivision, medical expenses are annual unreimbursed medical expenses in excess of \$250 per person.
  - (ii) Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably

necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia.

- (iii) Medical expenses do not include cosmetic, chiropractic, psychiatric, psychological, or other services unless specifically directed in the order of court.
- (2) The trier-of-fact may impose an annual limitation when the burden on the obligor would otherwise be excessive.
- (3) Annual expenses shall be calculated on a calendar year basis.
  - (i) In the year in which the initial support order is entered, or in any period in which support is being paid that is less than a full year, the \$250 threshold shall be pro-rated.
  - (ii) The party seeking allocation for an unreimbursed medical expense shall provide to the other party the expense's documentation, such as a receipt or an invoice, promptly upon receipt, but not later than March 31st of the year following the calendar year in which the final bill was received by the party seeking allocation.
  - (iii) For purposes of subsequent enforcement, unreimbursed medical bills need not be submitted to the domestic relations section prior to March 31st.
  - (iv) The trier-of-fact shall have the discretion to not allocate an expense if documentation is not timely provided to the other party.
- (4) If the trier-of-fact determines that out-of-network medical expenses were not obtained due to medical emergency or other compelling factors, the trier-of-fact may decline to assess the expenses against the other party.
- (d) **Private School Tuition or Summer Camp. Other Additional Expenses.** Expenses outside the scope of typical child-rearing expenses, such as private school tuition, summer camp fees, and other additional expenses as set forth in subdivision (d)(2), have not been factored into the Basic Child Support Schedule.



- (1) **Private School Tuition or Summer Camp.** If the trier-of-fact determines that private school or summer camp is reasonable under the parties' circumstances, the trier-of-fact shall apportion the expense to the parties.
- (2) **Other Additional Expenses.** The trier-of-fact shall apportion an additional expense to the parties, if the trier-of-fact determines that the expense:
  - (i) is related to the child's educational, extra-curricular, or developmental activities; and
  - (ii) is reasonable under the parties' circumstances.
- (3) The trier-of-fact may require that a party's proportionate share of a subdivision (d)(1) or (d)(2) expense is:
  - (i) included in or excluded from the basic child support obligation;
  - (ii) paid directly to the service provider; or
  - (iii) paid directly to the other party.
- (4) **Documentation.**
  - (i) The party seeking allocation of an expense shall provide the other party with the expense's documentation, such as a receipt or an invoice, promptly upon receipt, but not later than March 31st of the year following the calendar year in which the party incurred the expense, unless the service provider invoices the parties separately.
  - (ii) For subsequent enforcement purposes, a party does not need to submit the expense's documentation to the domestic relations section before March 31.
  - (iii) The trier-of-fact shall have the discretion to not allocate an expense if documentation is not timely provided to the other party.
- (e) **Mortgage Payment.** The support guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the trier-

of-fact shall assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise.

- (1) If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's monthly net income (including amounts of spousal support, alimony *pendente lite*, and child support), the trier-of-fact may require the obligor to assume up to 50% of the excess amount in the obligor's support obligation.
- (2) If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal support, alimony *pendente lite*, and child support the obligor is paying), the trier-of-fact may downwardly adjust the obligor's support obligation.
- (3) This rule shall not be applicable after a final resolution of the outstanding economic claims in the parties' divorce action.
- (4) For purposes of this subdivision, "mortgage" shall include a first mortgage, real estate taxes, and homeowners' insurance and may include a subsequent mortgage, a home equity loan, and other marital obligations secured by the marital residence.

**Comment: The allocation of additional expenses may be subject to a deviation analysis pursuant to Pa.R.Civ.P. 1910.16-5. For example, a deviation may be considered if the allocation of additional expenses would reduce a party's monthly net income below the self-support reserve.**

Subdivision (a)(1)(i) Example: Mother has primary custody of the parties' two children and Father has partial custody. The parties' respective monthly net incomes are \$2,000 and \$3,500. At the combined monthly net income of \$5,500 for two children, the basic child support obligation is ~~[\$1,567]~~ \$1,694. As Father's income represents 64% of the parties' combined monthly net income, Father's basic child support obligation is ~~[\$1,003]~~ 1,084. Mother incurs monthly child care expenses of \$400, and Father incurs \$100 per month. The total child care expenses, \$500, will be apportioned between the parties, with Father paying 64%, or \$320. As Father is paying \$100 for the children's child care during in his partial custody, he would pay the remaining \$220 to Mother for a total child support obligation of ~~[\$1,223 (\$1,003 + \$220)]~~ \$1,304 (\$1,084 + \$220).

**Concerning subdivision (a)(1)(ii), see Pa.R.Civ.P. 1910.16-2(d)(4) for earning capacity determination. Hypothetical child care expenses that are less than a**

**parent's earning capacity may be allocated pursuant to subdivision (a)(1)(ii). Only those hypothetical child care expenses that the parent would actually pay, if employed, should be allocated. See Pa.R.Civ.P. 1910.16-2, cmt.**

Subdivision (b) does not apply to Medical Assistance. See 23 Pa.C.S. § 4326(l).

Subdivision (b)(1)-(b)(2) Example 1: If the parties are separated, but not divorced, and Husband pays \$200 monthly for employer-provided health insurance for himself, Wife, the parties' child, and two additional children from a previous marriage, the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total of \$80 to be excluded from allocation. Deduct this amount from the total premium to arrive at the premium to be allocated between the parties—\$120. Since Husband is paying the premium, and spouses have a statutory duty to support one another pursuant to 23 Pa.C.S. § 4321, Wife's percentage share of the \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, Husband's percentage share would be added to his basic support obligation.

Subdivision (b)(1)-(b)(2) Example 2: If the parties are divorced and Father pays \$200 monthly for employer-provided health insurance for himself, the parties' child, and two additional children from a previous marriage, the premium attributable to Father and the two additional children will not be allocated between the parties. Thus, using the same calculations in Example 1, the premium attributable to Father and the two other children is \$150 (\$200 premium divided among four covered persons equals \$50 per person multiplied by three) and that amount is deducted from the total premium, leaving \$50 (\$200 - \$150 = \$50) to be allocated between the parties.

Subdivision (b)(1)-(b)(2) Example 3: The parties are divorced, and Mother is the obligee of a child support order. Father, the obligor, pays \$200 monthly for employer-provided health insurance for himself and the parties' child. Mother pays \$400 per month for her employer-provided health insurance that covers only herself. The premium Father pays to cover the parties' child, \$100 (\$200 premium divided between two covered persons, Father and the child), will be allocated between the parties in proportion to their respective monthly net incomes. The premium that covers Father will not be allocated because the parties are no longer married, and he is not owed a duty of support by Mother. The premium Mother pays to provide her own coverage will not be allocated because the parties are no longer married and she is not owed a duty of support by Father.

Concerning subdivision (b)(3), the maximum amount of any attachment for child and medical support is set forth by the federal Consumer Credit Protection Act, 15 U.S.C. §§ 1601 *et seq.*

Concerning subdivision (c), if the trier-of-fact determines that the obligee acted reasonably in obtaining services that were not specifically set forth in the order of support, payment for such services may be ordered retroactively.

Concerning subdivision (c)(1), while cosmetic, chiropractic, psychiatric, psychological, or other expenses are not required to be apportioned between the parties, the trier-of-fact may apportion such expenses that it determines to be reasonable and appropriate under the circumstances.

### **Historical Commentary**

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

#### **Explanatory Comment—2004**

Subdivision (a), relating to the federal child care tax credit, has been amended to reflect recent amendments to the Internal Revenue Code, 26 U.S.C. § 21. By generally referencing the Tax Code, rather than incorporating current Code provisions in the rule, further amendments will be incorporated into the support calculation.

#### **Explanatory Comment—2005**

Pa.R.C.P. No. 1910.16-6 governs the treatment of additional expenses that warrant an adjustment to the basic support obligation.

Subdivision (a) relates to child care expenses. Subdivision (a) has been amended to require that child care expenses incurred by either party are to be allocated between the parties in proportion to their respective net incomes. Subsection (a)(1), relating to the federal child care tax credit, was amended in 2004 to reflect recent amendments to the Internal Revenue Code. 26 U.S.C. § 21. By referring to the Tax Code in general, rather than incorporating current Code provisions in the rule, any further amendments will be incorporated into the support calculation. Since the tax credit may be taken only against taxes owed, it cannot be used when the eligible parent does not incur sufficient tax liability to fully realize the credit. For this reason, subsection (2) provides that no adjustment to the total child care expenses may be made if the eligible parent does not qualify to receive the credit.

Subdivision (b) addresses health insurance premiums. The cost of the premiums is generally treated as an additional expense to be allocated between the parties in proportion to their net incomes. Subdivision (b)(1) of the rule permits allocation of the entire premium, including the portion of the premium covering the party carrying the

insurance, when the insurance benefits the other party and/or the children. Subdivision (b)(2) clarifies that, in calculating the amount of the health care premium to be allocated between the parties, subdivision (b)(1) requires the inclusion of that portion of the health insurance premium covering the party who is paying the premium, so long as there is a statutory duty of support owed to that party, but not the portion of the premium attributable to non-parties and children who are not the subjects of the support order. Subdivision (b)(2) provides for proration of the premium when the health insurance covers other persons who are not subject to the support action or owed a statutory duty of support. Subdivision (b) also permits an alternative method for dealing with the cost of health insurance premiums in certain circumstances. While, in general, the cost of the premiums will be treated as an additional expense to be allocated between the parties in proportion to their net incomes, in cases in which the obligee has no income or minimal income, subsection (4) authorizes the trier-of-fact to reduce the obligor's gross income for support purposes by some or all of the amount of the health insurance premiums. This is to avoid the result under a prior rule in which the entire cost of health insurance would have been borne by the obligor, with no resulting reduction in the amount of support he or she would otherwise be required to pay under the support guidelines. The goal of this provision is to encourage and facilitate the maintenance of health insurance coverage for dependents by giving the obligor a financial incentive to maintain health insurance coverage.

Subdivision (c) deals with unreimbursed medical expenses. Since the first \$250 of medical expenses per year per child is built into the basic guideline amount in the child support schedule, only medical expenses in excess of \$250 per year per child are subject to allocation under this rule as an additional expense to be added to the basic support obligation. The same is true with respect to spousal support so that the obligee-spouse is expected to assume the first \$250 per year of these expenses and may seek contribution under this rule only for unreimbursed expenses which exceed \$250 per year. The definition of "medical expenses" includes insurance co-payments, deductibles and orthodontia and excludes chiropractic services.

Subdivision (d) governs apportionment of private school tuition, summer camp and other unusual needs not reflected in the basic guideline amounts of support. The rule presumes allocation in proportion to the parties' net incomes consistent with the treatment of the other additional expenses.

Subdivision (e) provides for the apportionment of mortgage expenses. It defines "mortgage" to include the real estate taxes and homeowners' insurance. While real estate taxes and homeowners' insurance must be included if the trier-of-fact applies the provisions of this subdivision, the inclusion of second mortgages, home equity loans and other obligations secured by the marital residence is within the trier-of-fact's discretion based upon the circumstances of the case.

### **Explanatory Comment—2006**

A new introductory sentence in Pa.R.C.P. No. 1910.16-6 clarifies that additional expenses contemplated in the rule may be allocated between the parties even if the parties' respective incomes do not warrant an award of basic support. Thus, even if application of either formula Pa.R.C.P. No. 1910.16-4 results in a basic support obligation of zero, the trier-of-fact may enter a support order allocating between the parties any or all of the additional expenses addressed in this rule.

The amendment of subdivision (e) recognizes that the obligor may be occupying the marital residence and that, in particular circumstances, justice and fairness may warrant an adjustment in his or her support obligation.

### **Explanatory Comment—2008**

Federal and state statutes require clarification to subdivision (b) to ensure that all court orders for support address the children's ongoing need for medical care. In those instances where the children's health care needs are paid by the state's medical assistance program, and eligibility for the Children's Health Insurance Program ("CHIP") is denied due to the minimal income of the custodial parent, the obligor remains required to enroll the parties' children in health insurance that is, or may become, available that is reasonable in cost.

Government-sponsored health care plans represent a viable alternative to the often prohibitive cost of health insurance obtainable by a parent. Except for very low income children, every child is eligible for CHIP, for which the parent with primary physical custody must apply and which is based on that parent's income. A custodial parent may apply for CHIP by telephone or on the Internet. While co-premiums or co-pays increase as the custodial parent's income increases, such costs are generally modest and should be apportioned between the parties. Moreover, health care coverage obtained by the custodial parent generally yields more practical results, as the custodial parent resides in the geographic coverage area, enrollment cards are issued directly to the custodial parent, and claims may be submitted directly by the custodial parent.

### **Explanatory Comment—2010**

Subdivision (e), relating to mortgages on the marital residence, has been amended to clarify that the rule cannot be applied after a final order of equitable distribution has been entered. To the extent that *Isralsky v. Isralsky*, 824 A.2d 1178 (Pa. Super. 2003), holds otherwise, it is superseded. At the time of resolution of the parties' economic claims, the former marital residence will either have been awarded to one of the parties or otherwise addressed.

### **Explanatory Comment—2018**

The amendments provide for an adjustment to the parties' monthly net incomes prior to determining the percentage each party pays toward the expenses set forth in Pa.R.C.P. No. 1910.16-6. Previously, the Rules of Civil Procedure apportioned the enumerated expenses in Pa.R.C.P. No. 1910.16-6(a)—(d), with the exception of subdivision (c)(5), between the parties based on the parties' respective monthly net incomes as calculated pursuant to Pa.R.C.P. No. 1910.16-2. This apportionment did not consider the amount of support paid by the obligor or received by the obligee.

The amended rule adjusts the parties' monthly net incomes, upward or downward, by the spousal support/APL amount paid or received by that party prior to apportioning the expenses. This methodology is not new to the Rules of Civil Procedure. In Pa.R.C.P. No. 1910.16-6(c)(5)(rescinded), the parties' monthly net incomes in spousal support/APL-only cases were similarly adjusted prior to the apportionment of unreimbursed medical expenses. Likewise, Pa.R.C.P. No. 1910.16-6(e) considers the parties' monthly net income after the receipt or payment of the support obligation for purposes of determining a mortgage deviation. As the new procedure adopts the methodology in former subdivision (c)(5), that subdivision has been rescinded as delineating the spousal support only circumstance is unnecessary.

Lastly, the amendment consolidates Pa.R.C.P. No. 1910.16-6(b)(1), (2), and (2.1).

**Rule 1910.16-7. Support Guidelines. Multiple Family Child Support Obligations.**

- (a) **Basic Child Support Obligations Total 50% or Less.** [When] **If** an obligor's basic child support obligations total 50% or less of the obligor's monthly net income, there will be no deviation from the basic support obligation on the ground of the existence of a new family.

**[Example: If the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse, and \$1,300 for the current spouse, the request for a reduction will be denied because the obligor's basic support obligations total \$1,138 (\$576 for the first child and \$562 for the second child) and are less than half of the obligor's monthly net income.]**

- (b) **Basic Child Support Obligations Total Exceeds 50%.** [When the total of the] **If an** obligor's basic support obligations **total** exceeds 50% of the obligor's monthly net income, the trier-of-fact may proportionately reduce the basic support obligations.
- (1) The goal of the guidelines is to treat each child equitably, and a first or later family shall not receive preference.
  - (2) The trier-of-fact shall not divide the basic child support obligations for all of the obligor's children among the households in which those children live.

**[Example 1. The obligor is sued for support of an out-of-wedlock child. The obligor is already paying support for two children of the first marriage, and has an intact second marriage with one child. The relevant monthly net incomes are \$3,800 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse, and \$1,500 for the parent of the new child. The obligor's basic child support obligations to each family are \$1,140 for the two children of the first marriage, \$854 for the one child of the second marriage, and \$743 for the one child out of wedlock for a total of \$2,737. Since the total of these obligations exceeds 50% of the obligor's monthly net income of \$3,800, the trier-of-fact may consider a proportional reduction of the orders.]**

**Example 2. The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are \$2,500 for the obligor, \$0 for the first spouse, and \$500 for the second spouse. The obligor's basic child support obligation to each family is \$877 for the two children of the first marriage and \$1,040 for the three children**



of the second marriage for a total support obligation of \$1,917. Since the total obligation leaves the obligor with only \$583 on which to live, the orders are too high as the obligor must be left with a Self-Support Reserve of \$1,063. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders shall be reduced proportionally.

**Example 3.** The obligor is sued by three obligees to establish orders for three children. The monthly net income for the obligor and for each obligee is \$1,500. The trier-of-fact would determine that the obligor's basic child support obligation for each child is \$346 for a total of \$1,038 for three children. It would be incorrect to determine the basic child support obligation for three children, in this case \$1,253, and divide that amount among the three children. As the obligations exceed 50% of the obligor's monthly net income, the support orders should be reduced proportionately consistent with subdivision (b) and ensure the obligor retains the Self-Support Reserve of \$1,063 consistent with Pa.R.C.P. No. 1910.16-2(e).]

(c) **Presumptive Basic Support Obligation.**

- (1) For purposes of this rule, the obligor's presumptive basic support obligation:
  - (i) is calculated using only the formula in [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-4; and
  - (ii) does not include any additional expenses that may be added pursuant to [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6.
- (2) In calculating the obligor's presumptive basic support obligation, the trier-of-fact shall ensure that the obligor retains at least **[\$1,063]** **\$1,255** per month consistent with [Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-2(e).

**[Example 1.** Assume that the obligor is paying \$553 per month support for one child of the first marriage, plus an additional \$200 per month for child care expenses. The obligor requests a reduction in this support obligation on the basis that there is one new child of the second intact marriage. The relevant incomes are \$2,400 for the obligor and \$0 for the former and current spouses. The obligor's request for a reduction shall be denied because the total of the basic support obligations for both children is only \$1,106 (\$553 for each child) and does not exceed 50% of the obligor's monthly net income. A reduction shall not be given on the basis that the obligor's contribution to child care expenses for the first child results in an total basic support child obligation of \$1,306, which exceeds 50% of the obligor's

monthly net income. The presumptive basic child support obligations for the two children still total \$1,106 (\$553 for each child). The trier-of-fact shall consider the deviation factors under Pa.R.C.P. No. 1910.16-5 and the parties' respective contributions to additional expenses under Pa.R.C.P. No. 1910.16-6 in arriving at an appropriate total child support obligation for each child.

*Example 2.* Assume that the obligor is paying \$346 per month support for one child of the first marriage. The obligor has one new child of the second intact marriage. The relevant incomes are \$1,500 for the obligor and \$0 for the former and current spouses. A reduction shall not be given on the basis of the obligor's new child because the presumptive basic child support obligations total \$692 (\$346 for each child) and this amount does not exceed 50% of the obligor's monthly net income. Since, however, this amount leaves the obligor with only \$808 per month, the trier-of-fact shall proportionally reduce the basic child support obligations so that the obligor retains \$1,063 per month. The presumptive basic child support obligations total \$437 (\$218.50 for each child). The trier-of-fact shall consider the deviation factors under Pa.R.C.P. No. 1910.16-5 and the parties' respective contributions to additional expenses under Pa.R.C.P. No. 1910.16-6 in arriving at an appropriate total child support obligation for each child.]

Comment: Subdivision (a) Example: If the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse, and \$1,300 for the current spouse, the request for a reduction will be denied because the obligor's basic support obligations total \$1,152 (\$576 for the first child and \$576 for the second child) and are less than half of the obligor's monthly net income.

Subdivision (b)(1) Example 1: The obligor is sued for support of an out-of-wedlock child. The obligor is already paying support for two children of the first marriage and has an intact second marriage with one child. The relevant monthly net incomes are \$3,800 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse, and \$1,500 for the parent of the new child. The obligor's basic child support obligations to each family are \$1,259 for the two children of the first marriage, \$875 for the one child of the second marriage, and \$780 for the one child out of wedlock for a total of \$2,914. Because the total of these obligations exceeds 50% of the obligor's monthly net income of \$3,800, the trier-of-fact may consider a proportional reduction of the orders.

Subdivision (b)(1) Example 2: The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are \$2,500 for the obligor, \$0 for the first spouse, and \$500 for the second spouse. The obligor's basic child

support obligation to each family is \$877 for the two children of the first marriage and \$1,056 for the three children of the second marriage for a total support obligation of \$1,933. Because the total obligation leaves the obligor with only \$567 on which to live, the orders are too high as the obligor must be left with a Self-Support Reserve of \$1,255. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders shall be reduced proportionally.

Subdivision (b)(1) Example 3: The obligor is sued by three obligees to establish orders for three children. The monthly net income for the obligor and for each obligee is \$1,500. The trier-of-fact would determine that the obligor's basic child support obligation for each child is \$346 for a total of \$1,038 for three children. It would be incorrect to determine the basic child support obligation for three children, in this case \$1,272, and divide that amount among the three children. As the obligations exceed 50% of the obligor's monthly net income, the support orders should be reduced proportionately consistent with subdivision (b) and ensure the obligor retains the Self-Support Reserve of \$1,063 consistent with Pa.R.Civ.P. 1910.16-2(e).

Subdivision (c) Example 1: Assume that the obligor is paying \$553 per month support for one child of the first marriage, plus an additional \$200 per month for child care expenses. The obligor requests a reduction in this support obligation on the basis that there is one new child of the second intact marriage. The relevant incomes are \$2,400 for the obligor and \$0 for the former and current spouses. The obligor's request for a reduction shall be denied because the total of the basic support obligations for both children is only \$1,106 (\$553 for each child) and does not exceed 50% of the obligor's monthly net income. A reduction shall not be given on the basis that the obligor's contribution to child care expenses for the first child results in an total basic support child obligation of \$1,306, which exceeds 50% of the obligor's monthly net income. The presumptive basic child support obligations for the two children still total \$1,106 (\$553 for each child). The trier-of-fact shall consider the deviation factors under Pa.R.Civ.P. 1910.16-5 and the parties' respective contributions to additional expenses under Pa.R.Civ.P. 1910.16-6 in arriving at an appropriate total child support obligation for each child.

Subdivision (c) Example 2: Assume that the obligor is paying \$221 per month support for one child of the first marriage. The obligor has one new child of the second intact marriage. The relevant incomes are \$1,500 for the obligor and \$0 for the former and current spouses. A reduction shall not be given on the basis of the obligor's new child because the presumptive basic child support obligations total \$442 (\$221 for each child) and this amount does not exceed 50% of the obligor's monthly net income. Because, however, this amount leaves the obligor with only \$1,058 per month, the trier-of-fact shall proportionally reduce the basic

**child support obligations so that the obligor retains \$1,255 per month. The presumptive basic child support obligations total \$245 (\$122.50 for each child). The trier-of-fact shall consider the deviation factors under Pa.R.Civ.P. 1910.16-5 and the parties' respective contributions to additional expenses under Pa.R.Civ.P. 1910.16-6 in arriving at an appropriate total child support obligation for each child.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—2005**

Rule 1910.16-7 has been amended to reflect the updated schedule at Rule 1910.16-3 and the increase in the Self-Support Reserve ("SSR"), formerly the CAM, to \$748 per month. This rule sets forth the calculation of child support obligations in the context of multiple families. Awards of spousal support in this context are addressed in Rule 1910.16-2(c)(2).

In determining whether the total support obligations exceed 50% of the obligor's net income to warrant a proportionate reduction of the child support orders, subdivision (c) clarifies that the total consists only of the basic amounts of child support, as derived from the income shares formula in Rule 1910.16-4, and does not include additional expenses that may be added to these basic amounts under Rule 1910.16-6. As the first example illustrates, no reduction should be given if the basic support obligations do not exceed 50% of the obligor's net monthly income even though his or her contribution to additional expenses may result in an overall obligation exceeding this percentage of income. As the second example illustrates, however, in low income cases it may be necessary to adjust the child support obligations proportionally even though they do not exceed 50% of the obligor's net income. This is consistent with the goals of the SSR to ensure that the obligor retains sufficient income to maintain the incentive to work so that he or she can support all of the children.

Subdivision (c) also emphasizes that the initial amounts which are calculated for purposes of determining whether a proportional reduction is warranted are only presumptive amounts of child support. They are subject to upward or downward adjustment under Rules 1910.16-5 and 1910.16-6 relating to deviation and additional child-related expenses which are typically added to the basic obligation. This is intended only to emphasize that the establishment of appropriate support obligations for children of different families involves the same considerations as the establishment of a support obligation for a child or children of a single family.

#### **Explanatory Comment—2010**

Rule 1910.16-7 has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve to \$867 per month, the 2008 federal poverty level for one person. The distribution priorities formerly in subdivision (d) have been moved to Rule 1910.17(d) to clarify that these priorities apply to all support orders, not just those involving multiple families.

#### **Explanatory Comment—2013**

Rule 1910.16-7 has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve to \$931 per month, the 2012 federal poverty level for one person.

**Rule 1910.19. Support. Modification. Termination. Guidelines as Substantial Change in Circumstances. Overpayments.**

- (a) **Contents.** A petition for modification or termination of an existing support order shall specifically aver the material and substantial change in circumstances upon which the petition is based. A new guideline amount resulting from new or revised support guidelines may constitute a material and substantial change in circumstances. The existence of additional income, income sources or assets identified through automated methods or otherwise may also constitute a material and substantial change in circumstances.
- (b) **Withdrawal of Petition.** The procedure upon the petition shall be in accordance with Rule 1910.10 *et seq.* After a party has filed a petition for modification of a child support order, the petition may not be withdrawn unless both parties consent or with leave of court. A petition for modification of spousal support or alimony *pendente lite* may be withdrawn without the consent of the other party or leave of court.
- (c) **Basis for Modification or Termination.** Pursuant to a petition for modification, the trier-of-fact may modify or terminate the existing support order in any appropriate manner based on the evidence presented without regard to which party filed the petition for modification. If the trier-of-fact finds that there has been a material and substantial change in circumstances, the order may be increased or decreased based on the parties' respective monthly net incomes, consistent with the support guidelines, existing law, and **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.18(d), and the party's custodial time with the child at the time the modification petition is heard.
- (d) **Death of Payee Spouse.** All charging orders for spousal support and alimony *pendente lite* shall terminate upon the death of the payee spouse.
- (e) **Emancipation Inquiry and Notice.** Within six months prior to the date a child who is the subject of a child support order reaches **[eighteen (18)] 18** years of age, the domestic relations section shall issue an emancipation inquiry and notice to the obligee, with a copy to the obligor, seeking the following information:
  - (1) confirmation of the child's date of birth, date of graduation or withdrawal from high school;
  - (2) whether the child has left the obligee's household and, if so, the date of departure;

- (3) the existence of any agreement between the parties requiring payments for the benefit of the child after the child has reached age **[eighteen (18)] 18** or graduated from high school; and
- (4) any special needs of the child which may be a basis for continuing support for that child beyond the child's **[eighteenth] 18<sup>th</sup>** birthday or graduation from high school, whichever is last to occur.

The notice shall advise the obligee that if the inquiry is not returned within **[thirty (30)] 30** days of mailing or if there is no agreement or the child does not have any special needs, the charging order may be modified or terminated by the court. In order to avoid overpayment, **[when] if** no other children are subjects of the child support order and the obligee either does not return the emancipation inquiry within **[thirty (30)] 30** days of its mailing or does not assert grounds for continuing support for the child, then the domestic relations section shall administratively terminate the child support charging order without further proceedings on the last to occur of the date the last child reaches age **[eighteen (18)] 18** or graduates from high school. Termination of the charging order shall not affect any arrears accrued through the date of termination. The court shall have the authority to enter an order requiring the obligor to pay on arrears in an amount equal to the amount of the charging order until all arrears are paid.

If the order applies to another child or children **[and/or] or** the obligee asserts that there is an agreement between the parties or that a child has special needs requiring continued support, then the domestic relations section may schedule a conference prior to the child's attaining age 18 or graduating from high school to determine if the charging order should be modified.

- (f) **Court Action.** Upon notice to the obligee, with a copy to the obligor, explaining the basis for the proposed modification or termination, the court may modify or terminate a charging order for support and remit any arrears, all without prejudice, **[when] if** it appears to the court that:
  - (1) the order is no longer able to be enforced under state law; or
  - (2) the obligor is unable to pay, has no known income or assets and there is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

The notice shall advise the obligee to contact the domestic relations section within 60 days of the date of the mailing of the notice if the obligee wishes to contest the proposed modification or termination. If the obligee objects, the domestic relations section shall schedule a conference to provide the obligee the opportunity to contest the proposed action. If the obligee does not respond to the notice or object to the proposed action, the court shall have the authority to modify or terminate the order and remit any arrears, without prejudice.

- (g) **Overpayments.**

- (1) **Order in Effect.** If there is an overpayment in an amount in excess of two months of the monthly support obligation and a charging order remains in effect, after notice to the parties as set forth below, the domestic relations section shall reduce the charging order by 20% or an amount sufficient to retire the overpayment by the time the charging order is terminated. The notice shall advise the parties to contact the domestic relations section within 30 days of the date of the mailing of the notice if either or both of them wishes to contest the proposed reduction of the charging order. If either party objects, the domestic relations section shall schedule a conference to provide the objecting party the opportunity to contest the proposed action. If neither party responds to the notice or objects to the proposed action, the domestic relations section shall have the authority to reduce the charging order.
  - (2) **Order Terminated.** If there is an overpayment in any amount and there is no charging order in effect, within one year of the termination of the charging order, the former obligor may file a petition with the domestic relations section seeking recovery of the overpayment. A copy shall be served upon the former obligee as original process. The domestic relations section shall schedule a conference on the petition, which shall be conducted consistent with the rules governing support actions. The domestic relations section shall have the authority to enter an order against the former obligee for the amount of the overpayment in a monthly amount to be determined by the trier of fact after consideration of the former obligee's ability to pay.
- (h) **Modification of a Support Order with Child Support and Spousal Support or Child Support and Alimony Pendente Lite Entered Before January 1, 2019.**
- (1) In a subsequent modification proceeding of an order awarding child support and spousal support or child support and alimony *pendente lite*, as provided in **[Pa.R.C.P. No.] Pa.R.Civ.P.** 1910.18(d), the trier-of-fact may on its own motion or upon the motion of a party:
    - (i) make an unallocated award in favor of the spouse and one or more children; or
    - (ii) state the support amount allocable to the spouse and to each child.
  - (2) The trier-of-fact shall clearly state whether the order is allocated or unallocated even if the child support and spousal support or child support and alimony *pendente lite* amounts are delineated in the order.



- (i) If the order is allocated, the **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910-16.4(a)(2)** (Part IV) formula determines the spousal support amount.
  - (A) As the formula assumes an unallocated order, if the order's allocation utilizing the formula is inequitable, the trier-of-fact may adjust the order, as appropriate.
  - (B) In making an adjustment, the trier-of-fact shall consider the federal income tax consequences.
  - (C) If the parties are in higher income brackets, the income tax considerations are likely to be a more significant factor in determining a support amount.
- (ii) If the order is unallocated or the order is for spousal support or alimony *pendente lite* only, the trier-of-fact shall not consider the federal income tax consequences.

**[Note: See 23 Pa.C.S. § 4348(d) for additional matters that must be specified in a support order if arrearages exist when the order is entered.]**

- (3) A support award for a spouse and children is taxable to the obligee while an award for the children only is not. Consequently, in certain situations, an award only for the children will be more favorable to the obligee than an award to the spouse and children. In this situation, the trier-of-fact should utilize the method that provides the greatest benefit to the obligee.
- (4) If the obligee's monthly net income is equal to or greater than the obligor's monthly net income, the guideline amount for spouse and children is identical to the guideline amount for children only. Therefore, in cases involving support for spouse and children, whenever the obligee's monthly net income is equal to or greater than the obligor's monthly net income, the guideline amount indicated shall be attributed to child support only.
- (5) Unallocated child support and spousal support or child support and alimony *pendente lite* orders shall terminate upon the obligee's death.
- (6) In the event that the obligor **[defaults] is overdue** on an unallocated order, the trier-of-fact shall allocate the order for child support collection pursuant to the Internal Revenue Service income tax refund intercept program or for registration and enforcement of the order in another jurisdiction under the Uniform Interstate Family

Support Act, 23 Pa.C.S. §§ 7101—7903. The trier-of-fact shall provide the parties with notice of allocation.

**[Note: This provision is necessary to comply with various state and federal laws relating to child support enforcement. It is not intended to affect an unallocated order's tax consequences.]**

(7) An unallocated child support and spousal support or child support and alimony *pendente lite* order is a final order as to the claims covered in the order.

(8) Motions for post-trial relief cannot be filed to the final order.

**[Note: The procedure relating to Motions for Reconsideration is set forth in Pa.R.C.P. No. 1930.2.**

Subdivision (h) incorporates Pa.R.C.P. No. 1910.16 (rescinded) and Pa.R.C.P. No. 1910.16-4(f) (rescinded) for subsequent modification proceedings due to the enactment of the Tax Cuts and Jobs Act of 2017 (Pub.L. No. 115-97).]

Comment: Concerning subdivision (c), a party's monthly net income may be based upon an earning capacity determination pursuant to Pa.R.Civ.P. 1910.16-2(d)(4).

Subdivision (h) incorporates Pa.R.Civ.P 1910.16 (rescinded) and Pa.R.Civ.P. 1910.16-4(f) (rescinded) for subsequent modification proceedings due to the enactment of the Tax Cuts and Jobs Act of 2017 (Pub.L. No. 115-97).

Concerning subdivision (h)(2), see 23 Pa.C.S. § 4348(d) for additional matters that must be specified in a support order if arrearages exist when the order is entered.

Concerning subdivision (h)(6), this provision is necessary to comply with various state and federal laws relating to child support enforcement. It is not intended to affect an unallocated order's tax consequences.

Concerning subdivision (h)(8), the procedure relating to motions for reconsideration is set forth in Pa.R.Civ.P. 1930.2.

#### Historical Commentary

The following commentary related to Pa.R.Civ.P. 1910.19 is historical in nature and represents statements of the Committee at the time of rulemaking:

#### **Explanatory Comment—1993**

*Existence of Guidelines as Substantial Change in Circumstances.* In its opinion in *Newman v. Newman*, 409 Pa. Super. Ct. 108, 597 A.2d 684 (Pa. Super. 1991), the Superior Court held that enactment of the guidelines does not constitute a substantial change in circumstance which could serve as the basis for modification of a support order. The amended rule allows the trier of fact to consider new or revised rules as a change in circumstances where the change in the guidelines, either by itself or in combination with other factors, is material and substantial.

#### **Explanatory Comment—2000**

The Pennsylvania Child Support Enforcement System (“PACSES”) is electronically linked to a variety of governmental and private agencies and institutions. This linkage enables PACSES to immediately locate and identify an obligor’s income, income sources and assets. Rule 1910.19 is amended to provide that their identification through these automated methods provides a basis for modifying both the current support obligation and the rate of repayment on either past due or overdue support. Identification through means other than PACSES continues to provide the same basis for modification.

While identification of income sources or assets provides a basis for modification, this rule is not intended to prevent a court from ordering that the income or assets be frozen and seized under Rule 1910.26 pending the hearing on the petition for modification. Such relief remains available under Rule 1910.26 governing appropriate interim or special relief. See Rule 1910.1 Explanatory Comment. Nor is this rule intended to affect the court’s ability to seize income or assets under Rule 1910.20 to secure an overdue support obligation.

#### **Explanatory Comment—2002**

Although support orders do not terminate automatically, many obligors are unaware of the necessity of filing a petition to terminate a child support order when the child becomes emancipated. As a result, old orders have continued to charge long after the subject child has become an adult. New subdivision (e) is intended to address this problem by giving the obligee notice of a proposed modification or termination of the order and the opportunity to object. If no objection is made, or if the obligee fails to respond with a reason to continue the order, the rule gives the court the authority to terminate or modify the charging order, depending upon whether or not other children are covered under the order.

#### **Explanatory Comment—2006**

New subdivision (f) addresses an increasing multiplicity of circumstances in which the continued existence of a court-ordered obligation of support is inconsistent with rules or law. An obligor with no known assets whose sole source of income is Supplemental Security Income or cash assistance cannot be ordered to pay support under Rule 1910.16-2. Likewise, an obligor with no verifiable income or assets whose

institutionalization, incarceration or long-term disability precludes the payment of support renders the support order unenforceable and uncollectible, diminishing the perception of the court as a source of redress and relief. Often, the obligor is unable or unaware of the need to file for a modification or termination, or the parties abandon the action. In those circumstances, the courts are charged with managing dockets with no viable outcomes. Both the rules and the federal guidelines for child support under Title IV-D of the Social Security Act provide for circumstances under which a support order shall not be entered or under which a child support case may be closed. Subdivision (f) expands the authority of the courts to respond to case management issues brought about by changes in circumstances of the parties of which the courts become aware through the expansion of automated interfaces and data exchanges.

**Rule 1910.21. Support Order. Enforcement. Withholding of Income.**

\*\*\*

- (f) **Income Withholding When [the] Obligor [Defaults] is Overdue on Support Order.**

\*\*\*

**Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.**

\*\*\*

- (b) **Order.** The order to be attached at the front of the complaint in subdivision (a) shall be substantially in the following form:

(Caption)

ORDER OF COURT

Plaintiff, \_\_\_ and \_\_\_ defendant, are ordered to appear at \_\_\_ before \_\_\_ a conference officer of the Domestic Relations Section, on the \_\_\_ day of \_\_\_ 20\_\_ at \_\_\_ M., for a conference, after which the officer may recommend that an order for support be entered against you.

You are further ordered to bring to the conference:

- (1) a true copy of your most recent Federal Income Tax Return, including W-2s, as filed[.];
- (2) your pay stubs for the preceding six months[.];
- (3) the Income Statement and the appropriate Expense Statement, if required, attached to this order, completed as required by Rule 1910.11(c) [.];
- (4) verification of child care expenses[.]; and
- (5) proof of medical coverage which you may have[,] or may have available to you. If you fail to appear for the conference or to bring the required documents, the court may issue a warrant for your arrest and/or enter an interim support order. If paternity is an issue, the court shall enter an order establishing paternity.
- (6) If a physician has determined that a medical condition affects your ability to earn income you must obtain **[a Physician Verification Form] an Advanced Practice Provider's Statement** from the domestic relations section, sign it, have it completed by your doctor, and bring it with you to the conference.

**All parties shall exchange redacted copies of the above documents prior to or at the conference.**

THE TRIER OF FACT SHALL ENTER AN APPROPRIATE CHILD SUPPORT ORDER BASED UPON THE EVIDENCE PRESENTED, WITHOUT REGARD TO WHICH PARTY INITIATED THE SUPPORT ACTION. THE DETERMINATION OF WHICH PARTY WILL BE THE OBLIGEE AND WHICH WILL BE THE OBLIGOR WILL BE MADE BY THE TRIER OF FACT BASED UPON THE RESPECTIVE INCOMES OF THE PARTIES, CONSISTENT WITH THE SUPPORT GUIDELINES AND EXISTING LAW, AND THE CUSTODIAL ARRANGEMENTS AT THE TIME OF THE INITIAL OR SUBSEQUENT CONFERENCE, HEARING, OR TRIAL. IF SUPPORTED BY THE EVIDENCE, THE PARTY NAMED AS THE DEFENDANT IN THE INITIAL PLEADING MAY BE DEEMED TO BE THE OBLIGEE, EVEN IF THAT PARTY DID NOT FILE A COMPLAINT FOR SUPPORT.

Date of Order: \_\_\_\_\_ J.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Telephone Number)

#### AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of \_\_ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

- (c) **Income Statements and Expense Statements.** The Income Statements and Expense Statements to be attached to the order in subdivision (b) shall be substantially in the following form:

\*\*\*

- (2) **Expense Statements.** An Expense Statement is not required in cases that can be determined pursuant to the guidelines **or Pa.R.Civ.P. 1910.16-3.1(b)** unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-5** or seeks **[an apportionment] allocation** of expenses pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-6**. See **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.11(c)(1)**. Child support is calculated under the guidelines based upon the monthly net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments, and other needs, contingent upon the obligor's ability to pay. The Expense Statement in **[subparagraph (A)] subdivision (c)(2)(i)** shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In child support[, spousal support, and alimony *pendente lite*] cases calculated pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1910.16-3.1(a)** and in divorce cases involving claims for alimony, counsel fees, or costs and expenses pursuant to **[Pa.R.C.P. No.] Pa.R.Civ.P. 1920.31(a)**, the parties shall complete the Expense Statement in **[subparagraph (B)] subdivision (c)(2)(ii)**.

**[Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* shall apply.]**

- [(A)] (i) Guidelines Expense Statement.** If the combined monthly net income of the parties is \$30,000 or less, **or a case has been determined pursuant Pa.R.Civ.P. 1910.16-3.1(b)**, it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks **[an apportionment] allocation** of expenses pursuant to **[Rule] Pa.R.Civ.P. 1910.16-6**. At the conference, each party must provide receipts or other



verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

\*\*\*

**[(B)] (ii) Expense Statement for Cases Pursuant to [Rule] Pa.R.Civ.P. 1910.16-3.1(a) and [Rule] Pa.R.Civ.P. 1920.31.** No later than five business days prior to the conference, the parties shall exchange **[this form] the Expense Statement substantially in the following form,** along with receipts or other verification of the expenses set forth on **[this] the** form. Failure to comply with this **[provision] requirement** may result in an appropriate order for sanctions **[and/]** or the entry of an interim order based upon the information provided.

\*\*\*

**Comment: See Pa.R.Civ.P. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions, e.g., divorce, custody, the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania shall apply.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1994**

The support complaint and Income and Expense Statements contain a verification which states that the documents are subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

#### **Explanatory Comment—2006**

Rule 1910.27(c) is amended to separate income and expense information and to elicit the expense information relevant in cases that fall within the guidelines, as well as those that do not. In cases which can be determined under the guidelines, no expense information need be provided unless a party is claiming unusual needs and expenses that may warrant a deviation pursuant to Rule 1910.16-5 or an apportionment of expenses pursuant to Rule 1910.16-6. If a party is claiming such expenses, the form at subsection

(c)(2)(A) should be submitted. A separate expense form for cases in which the parties' combined monthly net income exceeds \$20,000 is set forth at subsection (c)(2)(B).

Rule 1910.11(c) was amended, effective in March 1995, to provide that only income and extraordinary expenses need be shown on the Income and Expense Statement in cases which can be determined pursuant to the guidelines. The Explanatory Comment—1994 explained the rationale for the amendment.

Nevertheless, because space for both income and expense information was provided on the same form Income and Expense Statement, parties often needlessly expended time and effort to provide expense information that was not relevant at the conference. The amendments are intended to clarify and simplify the submission of expense information.

#### **Explanatory Comment—2010**

When the combined net monthly income of the parties exceeds \$30,000, the case will be decided pursuant to Rule 1910.16-3.1 and the Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) must be submitted.

#### **Explanatory Comment—2012**

The form complaint for support in subdivision (a) has been amended to accommodate cases initiated pursuant to Rule 1910.3(a)(6). Because a support order may be entered against either party without regard to which party initiated the support action pursuant to Rule 1910.3(b), a party who believes that he or she may owe a duty of support may use the complaint form to initiate the action even if he or she ultimately is determined to be the obligor. In active charging support cases in which there is an overpayment in an amount in excess of two months of the monthly support obligation and the domestic relations section fails to reduce the charging order automatically to recoup the overpayment pursuant to Rule 1910.19(g)(1), the obligor may file a petition for recovery as set forth in subdivision (h) above. A separate form petition has been added in subdivision (i) by which a former support obligor may seek recovery of an overpayment in any amount in terminated cases pursuant to Rule 1910.19(g)(2).

## **Rule 1910.29. Evidence in Support Matters.**

**[(a) Record Hearing. Except as provided in this rule, the Pennsylvania Rules of Evidence shall be followed in all record hearings conducted in an action for support. A verified petition, affidavit or document, and any document incorporated by reference therein which would not be excluded under the hearsay rule if given in person shall be admitted into evidence if (1) at least 20 days' written notice of the intention to offer them into evidence was given to the adverse party accompanied by a copy of each document to be offered; (2) the other party does not object to their admission into evidence; and (3) the evidence is offered under oath by the party or witness. An objection must be in writing and served on the proponent of the document within 10 days of the date of service of the notice of intention to offer the evidence. When an objection is properly made, the Pennsylvania Rules of Evidence shall apply to determine the admissibility of the document into evidence.**

**(b) Medical Evidence.**

**(1) Non-Record Proceeding. In a non-record hearing, if a physician has determined that a medical condition affects a party's ability to earn income and that party obtains a Physician Verification Form from the domestic relations section, has it completed by the party's physician and submits it at the conference, it may be considered by the conference officer. If a party is receiving Social Security disability or workers' compensation benefits, the party shall submit copies of the disability or workers' compensation determination in lieu of the Physician Verification Form.**

**(2) Record Proceeding. If the matter proceeds to a record hearing and the party wishes to introduce the completed Physician Verification Form into evidence, he or she must serve the form on the other party not later than 20 days after the conference. The other party may file and serve an objection to the introduction of the form within 10 days of the date of service. If an objection is made and the physician testifies, the trier of fact shall have the discretion to allocate the costs of the physician's testimony between the parties. If there is no objection, the form may be admitted into evidence without the testimony of the physician. In the event that the record hearing is held sooner than 30 days after the conference, the trier of fact may provide**

appropriate relief, such as granting a continuance to the objecting party.

- (3) The Physician Verification Form shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY

Member Name:

Docket Number:

PACSES Case Number:

Other State ID Number:

**TO BE COMPLETED BY THE TREATING PHYSICIAN**

Physician's name: \_\_\_\_\_

Physician's license number: \_\_\_\_\_

Nature of patient's sickness or injury: \_\_\_\_\_

\_\_\_\_\_

Date of first treatment: \_\_\_\_\_

Date of most recent treatment: \_\_\_\_\_

Frequency of treatments: \_\_\_\_\_

Medication: \_\_\_\_\_

The patient has had a medical condition that affects his or her ability to earn income from: \_\_\_\_\_ through \_\_\_\_\_

If the patient is unable to work, when should the patient be able to return to work?

Will there be limitations? \_\_\_\_\_

\_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Signature of Treating Physician: \_\_\_\_\_

Physician's address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Physician's telephone number: \_\_\_\_\_

I authorize my physician to release the above information to the \_\_\_\_\_  
County Domestic Relations Section.

Patient's signature: \_\_\_\_\_ Date: \_\_\_\_\_]

(This is entirely new text)

- (a) **Record Hearing.** Except as provided in this rule and statute, the court shall follow the Pennsylvania Rules of Evidence in a record hearing conducted in an action for support.
- (b) **Documentary Evidence.**
  - (1) The court shall admit into evidence statements contained in a verified petition, affidavit, document, or a document incorporated by reference that would not be excluded under the hearsay rule if the declarant testified in person, when:
    - (i) the proponent has provided the other party written notice at least 20 days prior to the hearing of the intention to offer the document into evidence, together with the document to be offered;
    - (ii) the other party does not object to the document's admission into evidence; and
    - (iii) the proponent offers the evidence under oath.
  - (2) A party objecting pursuant to subdivision (b)(1)(ii) shall serve the proponent with the written objection within 10 days of the date of service of the notice of intention to offer the evidence.
  - (3) If a party properly objects, the Pennsylvania Rules of Evidence shall apply to determine the document's admissibility.
- (c) **Medical Evidence.**
  - (1) **Definition.** For the purpose of this rule, an "advance practice provider" shall mean a licensed physician, physician's assistant, nurse practitioner, psychiatrist, or psychologist.

**(2) Conference.**

- (i) A conference officer may consider a party's medical condition if:
  - (A) an advanced practice provider has determined the medical condition affects a party's ability to earn income;
  - (B) the party's advanced practice provider has completed an Advanced Practice Provider's Statement Form, which shall substantially be the same as subdivision (d); and
  - (C) the party submits the completed form at the conference and provides a copy to the other party before or at the conference.
- (ii) If a party is receiving Social Security disability or Workers' Compensation benefits, the party shall submit the disability or Workers' Compensation determination in lieu of the Advanced Practice Provider's Form.

**(3) Record Hearing.**

- (i) Prior to the record hearing, if a party intends to offer a completed Advanced Practice Provider's Statement Form into evidence, the party shall serve the completed form on the other party no later than 20 days after the conference.
- (ii) The other party may file and serve a written objection to the completed form's introduction within 10 days of the date of service.
- (iii) If a party properly objects, the Pennsylvania Rules of Evidence shall apply to determine the document's admissibility. If the advanced practice provider is required to testify, the trier-of-fact shall have the discretion to allocate the cost of the advanced practice provider's testimony between the parties.

(iv) If there is no objection, the trier-of-fact may admit the completed form into evidence without the advanced practice provider's testimony.

(iii) If the record hearing is held sooner than 30 days after the conference, the trier-of-fact may provide appropriate relief, including granting a continuance to the objecting party.

(d) **Advanced Practice Provider's Statement Form.** The Advanced Practice Provider's Statement Form shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY

Member Name:

Docket Number:

PACSES Case Number:

Other State ID Number:

**TO BE COMPLETED BY AN ADVANCED PRACTICE PROVIDER**

Provider's name: \_\_\_\_\_

Provider's license number: \_\_\_\_\_

Provider's title (MD, DO, etc.) \_\_\_\_\_

Nature of patient's sickness or injury: \_\_\_\_\_

\_\_\_\_\_

Date of first treatment: \_\_\_\_\_

Date of most recent treatment: \_\_\_\_\_

Frequency of treatments: \_\_\_\_\_

Medications: \_\_\_\_\_

\_\_\_\_\_

Due to the patient's medical condition, the patient can engage in the following types of work-related activity (mark all that apply):

\_\_\_\_ Very heavy activity involving lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more, and the ability to perform heavy, medium, light, and sedentary activity.

\_\_\_ Heavy activity involving lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds, and the ability to perform medium, light, and sedentary activity.

\_\_\_ Medium activity involving lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pound do sedentary, and the ability to perform light and sedentary activity.

\_\_\_ Light activity involving lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds, a good deal of walking or standing, or sitting with some pushing and pulling of arm or leg controls.

\_\_\_ Sedentary activity involving lifting no more than 10 pounds at a time, occasionally lifting or carrying articles like docket files, ledgers, and small tools, sitting, and occasionally walking and standing.

\_\_\_ None. Based on my assessment, I found that the patient's condition is such that he or she cannot engage in any type of work-related activity.

Please mark whether the patient's condition is \_\_\_ temporary or \_\_\_ permanent.

If the patient cannot engage in any type of work-related activity and the patient's condition is temporary, when should the patient be able to engage in any type of work-related activity \_\_\_\_\_

Will there be limitations? \_\_\_\_\_

Additional Remarks: \_\_\_\_\_

Signature of Treating Provider: \_\_\_\_\_ Date: \_\_\_\_\_

Provider's address: \_\_\_\_\_

Provider's telephone number: \_\_\_\_\_

I authorize my provider to release the above information to the \_\_\_\_\_ County Domestic Relations Section.



Patient's signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Comment: This rule is based on 23 Pa.C.S. § 4342(f). The rule is not intended to affect 23 Pa.C.S. § 4342(g) - (h) relating to the admissibility of payment records, billing statements, and bills for genetic testing and prenatal and postnatal health care of the mother and child. Those documents are admissible into evidence without advance notice for the limited purposes set forth in the statute.**

### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—2000**

23 Pa.C.S. § 4342(f) creates a hearsay exception in support actions to permit a verified petition, affidavit or document and a document incorporated by reference in any of them to be admitted into evidence if it would not otherwise be excluded as hearsay if given in person and it is admitted under oath by a party or witness to the support action. Rule 1910.29 requires that notice of the documents to be admitted be given to the other party prior to the hearing. It also sets forth the procedures for raising an objection to the admission of those documents.

If the requisite 20-day notice is given and there is no objection, the document must be admitted into evidence under this rule and 23 Pa.C.S. § 4342(f). In the event an objection is timely made, the rules of evidence apply to determine the document's ultimate admissibility.

Rule 1910.29 is not intended to affect 23 Pa.C.S. § 4342(g) and (h) relating to admissibility of payment records, billing statements and bills for genetic testing and prenatal and postnatal health care of the mother and child. Those documents are admissible into evidence without advance notice for the limited purposes which are expressly set forth in those statutory provisions.

**SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.Civ.P. 1910.1, 1910.11, 1910.12, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-3.1, 1910.16-4, 1910.16-5, 1910.16-6, 1910.16-7, 1910.19, 1910.21, 1910.27, and 1910.29**

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the amendment of Pennsylvania Rules of Civil Procedure 1910.1, 1910.11, 1910.12, 1910.16-1, 1910.16-2, 1910.16-3, 1910.16-3.1, 1910.16-4, 1910.16-5, 1910.16-6, 1910.16-7, 1910.19, 1910.21, 1910.27, and 1910.29 as part of the quadrennial support guidelines review pursuant to 23 Pa.C.S. § 4322(a).

Pennsylvania's support guidelines are subject to review every four years. See 23 Pa.C.S. § 4322(a); 45 C.F.R. § 302.56(e). The Committee is tasked with conducting that review. See Pa.R.Civ.P. 1910.16.1(e). The Committee is assisted in its review by Jane Venohr, Ph.D., an economist with the Center for Policy research. Dr. Venohr, whose services are contracted through the Pennsylvania Bureau of Child Support Enforcement, has assisted the Committee on several previous reviews.

As more fully discussed in Dr. Venohr's *Review of the Pennsylvania Child Support Guidelines: Updated Schedule and Findings from Analysis of Case File Data* ("Review"), which can be found at: <https://www.pacourts.us/courts/supreme-court/committees/rules-committees/domestic-relations-procedural-rules-committee>, the guidelines review is intended to assure the continued compliance of Pennsylvania's guidelines with federal requirements and to update the basic child support schedules. The timely review of guidelines is the primary objective of this proposed rulemaking.

As has been the practice in prior reviews, the Committee has incorporated other proposed amendments to the support procedures into the present rulemaking. This approach is intended to avoid piecemeal amendments to the support rules. These other proposed amendments will be discussed by topic in this Publication Report. Notwithstanding the goal of avoiding piecemeal amendments, if a proposed amendment warrants republication or further study following review of comments, it will be decoupled from the proposal so as not to delay submission of amendments related to the guidelines review.

### **Stylistic Revisions**

Readers will notice stylistic revisions proposed throughout the rules. The revisions are not intended to make substantive changes to the rules or their application.

Organizationally, the most significant revision is relocating the commentary consisting of notes and examples interspersed throughout a rule to a Comment following the rule text. As an aside, examples have been updated to reflect the updated guidelines amounts. The historical commentary episodic of rulemaking, often in the form of an “explanatory comment,” has been labeled as such and added to the end of the Comment. Other revisions are intended to bring a degree of consistency among the various rules.

Because these stylistic revisions often appear throughout an entire rule, the length of the proposal has increased. The Committee has attempted to limit the use of ellipsis to provide context for the revisions, as well as the proposed amendments.

## **Guidelines Review**

Preliminarily, readers are advised to review Dr. Venohr’s report for a more thorough discussion of assumptions and data. The following summarizes the Committee’s decisions underlying the guidelines.

When the guidelines were last reviewed, the 5<sup>th</sup> Betson-Rothbarth study using the Rothbarth methodology (BR5) was adopted. There appeared to be no new studies using more recent expenditure data. A majority of states use a Betson-Rothbarth study and nine other states use the BR-5. Accordingly, the Committee elected to retain the BR5 methodology.

The Committee also elected to retain the current guidelines model using income shares. This model has been traditionally used in Pennsylvania as well as the majority of states.

The existing guidelines reflect October 2020 price levels. The existing self-support reserve of \$1,063 is based on the 2020 Federal Poverty Level. The Committee elected to not change the assumptions underlying the current guidelines but to update the guideline numbers to reflect current price levels and to increase the self-support reserve to the 2023 Federal Poverty Level.

An area of potential non-compliance with the federal regulations was identified during the review under Pa.R.Civ.P. 1910.16-2(d)(2)(ii)(B). That rule provides that a party’s income reduction due to incarceration is to be considered an involuntary income reduction. *See also* 45 C.F.R. § 302.56(c)(3) (incarceration not to be treated as voluntary unemployment). The rule also contains an exception for when the incarceration is due to support enforcement or a criminal offense in which the party’s dependent child or the obligee was the victim. This exception was added in the last guidelines review, based, in part, upon the “unjust or inappropriate” exception in 45 C.F.R. § 302.56(g). The exception was also based, in part, on 23 Pa.C.S. § 4352(a.1), which states: “Effect of incarceration.-Incarceration, except incarceration for nonpayment of support, shall constitute a material

and substantial change in circumstance that may warrant modification or termination of an order of support where the obligor lacks verifiable income or assets sufficient to enforce and collect amounts due.” Notably the then-named federal Office of Child Support Enforcement (OCSE) (later renamed the Office of Child Support Services, or OCSS) had proposed a similar regulatory amendment. See 85 F.R. 58029-01 (September 17, 2020).

After the Pennsylvania guidelines amendments were adopted, the OCSS withdrew the proposal. See 86 F.R. 62502-01 (November 10, 2021). OCSS’s withdrawal of the proposal and its previous response to comments at 81 F.R. 93492-01, 93526 (December 20, 2016) suggested that the exception in Pa.R.Civ.P. 1910.16-2(d)(2)(ii)(B) should be eliminated. The Committee also took note of guidance provided by the OCSS to another state unambiguously indicating that such incarceration exceptions are not permitted.

Accordingly, the Committee proposes amending Pa.R.Civ.P. 1910.16-2 to add “incarceration” to subdivision (d)(2)(i) (Involuntary Income Reduction) and to rescind subdivision (d)(2)(ii) containing the “exception[s].” Insofar as this amendment and rescission may be inconsistent with 23 Pa.C.S. § 4352(a.2), see Pa.R.Civ.P. 1910.50(7). The Committee notes that Pa.R.Civ.P. 1910.19 concerning support order modification or termination requires the court to consider whether the obligor “has no known income or assets.” Pa.R.Civ.P. 1910.19(f)(2). This requirement should operate to permit continuation of a support obligation, notwithstanding the obligor’s incarceration, if the obligor has passive income or assets.

## **Default Orders**

In this guidelines review, as in the prior review, it was observed that PACSES did not have the functionality to capture data showing when an order has been entered by default. See *also* 45 C.F.R. § 302.56(h)(2) (requiring analysis of default orders). Alternative methods have been used to gauge defaults. However, such functionality will be added to PACSES and become effective on January 1, 2026.

To support this enhanced functionality, the Committee is proposing the amendment of Pa.R.Civ.P. 1910.1(c) to add a definition of “default order.” The phrase would be defined as “a support order entered when a party fails to respond or appear after proper notice.” See *also* 23 Pa.C.S. § 4342(e) (requiring a court to enter a default order enforcing support upon a showing that the defendant has been properly served and has not appeared). Corresponding amendments are proposed for Pa.R.Civ.P. 1910.11(b) and Pa.R.Civ.P. 1910.12(b).

The Committee notes that “default” is also used in two rules to denote when an obligor’s obligation is overdue. To eliminate the varied use of “default,” the Committee proposes to amend the title of Pa.R.Civ.P. 1910.21(f) and the text of Pa.R.Civ.P.

1910.19(h)(6) to change “default” to “overdue,” a more frequently used term in the rules with similar meaning. See *also* Pa.R.Civ.P. 1910.1 (defining “overdue support”).

### **“Domestic Relations Section” Name Change**

The Domestic Relations Association of Pennsylvania requested that the rules rename the “Domestic Relations Section” to “\_\_ County Child Support Services.” The new name was believed to be more intuitive to people seeking their office, especially self-represented parties.

“Domestic Relations Section” is a statutory name. See, *e.g.*, 42 Pa.C.S. § 961. Ordinarily, a request for rulemaking would be predicated on the statute first being amended, but the change from “master” to “hearing officer” required no such precursor. The Committee was receptive of the change but believed mentioning only “child” might suggest that the office does not handle spousal support and alimony *pendente lite*. The Committee proposes the name be modified as: “\_\_ County Child/Spousal Support Services.”

To implement this name change throughout the rules would involve amending 26 separate rules. The Committee did not wish to mandate the renaming of offices throughout Pennsylvania. Nor did the Committee wish to include alternative office names throughout the rules. Rather, the Committee proposes to add “Domestic Relations Sections” as a definition in Pa.R.Civ.P. 1910.1(c) and to include “\_\_ County Child/Spousal Support Services” as a synonymous phrase. This would permit, but not mandate, the offices to refer to themselves using the more descriptive name.

### **Support Conference Documents**

The parties are required to bring certain documents to the office conference, see Pa.R.Civ.P. 1910.11(c), but there is no rule-based requirement for one party to bring copies for the other party. Absent a rule, there appears to be an inconsistent practice for exchanging documents at the office conference. As a basic matter of due process, the Committee believes that the parties should know what inputs are being used to derive net income to establish the basic child support obligation. Further, a party would be unable to make an informed decision on whether to agree to a support amount or seek further review.

Accordingly, the Committee proposes to amend Pa.R.Civ.P. 1910.11(c) and Pa.R.Civ.P. 1910.27(b) to add a requirement that the parties exchange copies of their documents prior to or at the conference. The documents would be subject to the proponent’s inclusion of the Confidential Information Form as required by Section 7.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. Further, the Comment to Pa.R.Civ.P. 1910.11(c) also states that, if a party does not

provide a copy, then the other party may inspect or obtain a copy from the conference officer along with the Confidential Information Form. A party who is a victim of domestic violence, sexual assault, stalking, human trafficking, or child abduction and chooses to keep their address out of public records, including on the Confidential Information Form, may apply for an alternate address to keep his or her address out of public records by applying online at this link: [Address Confidentiality Program \(ACP\) | Office of Victim Advocate | Commonwealth of Pennsylvania](#), or by contacting the Pennsylvania Office of Victim Advocate at 800-563-6399.

Readers should note that the proposed amendment of Pa.R.Civ.P. 1910.27(b) includes providing a copy of the “Advanced Practice Provider’s Statement,” which required corollary amendment of Pa.R.Civ.P. 1910.29(c)(2)(i)(C). The Statement is discussed elsewhere in this Publication Report.

## **Voluntary Income Reduction**

During the last guidelines review, Pa.R.Civ.P. 1910.16-2(d)(1), concerning voluntary income reduction, was amended. The amendment was intended to preclude a downward adjustment of net income if the party’s income reduction was willful for the purpose of reducing the party’s support obligation or if the party’s income reduction was voluntary. Subdivision (d)(2) was also amended to permit a downward adjustment of net income if the income reduction was involuntary because the party had no control of the employment situation.

The Committee has reconsidered the language of these subdivisions, as amended. Subdivisions (d)(1) and (d)(2) are intended to address income fluctuations from all causes. As such, the subdivisions’ language should be reciprocal. Simply stated, subdivision (d)(2) governs when to adjust net income, subject to an exception for normal or temporary earning fluctuations, and subdivision (d)(1) governs when not to adjust net income.

Subdivision (d)(2) contains the primary factor of the income reduction being “involuntary.” Synonymous within that factor is the party’s “control” over employment stated within that subdivision. The reciprocal to “involuntary” is “voluntary.” However, notwithstanding the title of subdivision (d)(1) containing “voluntary,” subdivision (d)(1)(i), concerning a party’s “willful attempt” does not mention the voluntariness of the act, but rather the intent of the actor.

The Committee proposes amending Pa.R.Civ.P. 1910.16-2(d)(1) to eliminate the “willful attempt” prong and to restate the subdivision with the primary factor of the income reduction being “voluntary.” The structure would parallel that of subdivision (d)(2)(i).

The Committee seeks input on whether subdivision (d)(2)(i) concerning involuntary income reduction should specifically address whether terminating employment for a “necessitous and compelling reason” should be treated as an involuntary income reduction. See *also* 43 P.S. § 802(b). Obviously, unemployment compensation is considered as “monthly gross income” for support purposes. Yet, the Committee is contemplating a scenario where a parent is not receiving unemployment compensation but would otherwise have a “necessitous and compelling reason” for not seeking employment. See, *e.g.*, *Beachem v. UCBR*, 760 A.2d 68 (Pa. Cmwlth. 2000) (child needing the emotional and psychological support of a parent may be a “necessitous and compelling reason” to voluntarily terminate employment). One concern may be that determining the entitlement to unemployment compensation may turn a support conference into a “proceeding within a proceeding.” Alternatively, the rules could leave the issue a matter of interpretation over whether the party exercised “control” over the situation.

### **Earning Capacity**

As discussed in greater detail in the Committee’s Adoption Report accompanying the Court’s October 25, 2024 amendment of, *inter alia*, Pa.R.Civ.P. 1910.16-2, see 54 Pa.B. 7348 (November 9, 2024), the titles to subdivisions (d)(1), (d)(2), and (d)(4) were amended to clarify their application. Subdivision (d)(4)’s title was amended to indicate its applicability to initial orders. A residuary question remained whether subdivision (d)(4), which governs earning capacity determinations, might also apply when a party seeks to modify an existing support order.

The Committee concluded that subdivision (d)(4) *may* also apply when a trier-of-fact is considering whether to amend or terminate a support order. Obviously, not every modification petition would require an earning capacity determination. For example, a party’s monthly net income may have increased through an indisputable increase wage, as may be reflected in a pay stub. Alternatively, as indicated in Pa.R.Civ.P. 1910.19(a), revised guidelines may result in an amendment without the need for an earning capacity determination.

However, the Committee contemplated that there may be a “material and substantial change in circumstances” based upon a party’s earning capacity rather than an external metric such as wages or guideline amount. For example, a party may have obtained a higher occupational certification, completed a training or course of education, or recovered from a medical episode that may have changed a party’s earning capacity. Further, there may also be a basis for decreasing a support order through Pa.R.Civ.P. 1910.19. The process for determining that party’s earning capacity is through application of Pa.R.Civ.P. 1910.16-2(d)(4).

Accordingly, the Committee proposes the further amendment of Pa.R.Civ.P. 1910.16-2(d)(4) to include modification of an existing order. Correspondingly, the Comment to Pa.R.Civ.P. 1910.29 would be revised to include a reference to Pa.R.Civ.P. 1910.16-2(d)(4).

Additionally, the Committee considered the language in Pa.R.Civ.P. 1910.16-2(d)(4)(i) concerning its application. Related to the proposal to permit application of this rule to modifications, the Committee proposes to insert “or modifying an existing order” to subdivision (d)(4)(i).

As currently indicated, subdivision (d)(4)(i) conditions an earning capacity determination on whether a party has “willfully” failed to obtain or maintain appropriate employment. If so, then an earning capacity determination to impute income is discretionary. “Willfulness” seemingly operates as a precondition to determining an income capacity, which requires a finding of intent. Moreover, if there is such an intent, then application of the rule appears to presuppose the existing of an earning capacity left to the trier-of-fact’s determination.

The Committee proposes to eliminate the “willful” condition and to require an earning capacity determination whenever a party has failed to obtain or maintain appropriate employment. If, after considering the factors in subdivision (d)(4)(ii), a party is determined to have no earning capacity, then the earning capacity would be \$0.00. Commentary to the rule is proposed to indicate such. This change is intended to assist the trier-of-fact in identifying the factors that may result in a \$0.00 earning capacity so that remedial efforts may be considered to address those factors.

The Committee specifically seeks comment on this aspect of Pa.R.Civ.P. 1910.16-2(d)(4)(i), especially from stakeholders that would be conducting the earning determinations.

### **Allocation of Hypothetical Child Care Expenses**

As part of the last review, the Committee recommended the amendment of Pa.R.Civ.P. 1910.16-2(d)(4) governing earning capacity, *i.e.*, income imputation, if a party is unemployed or underemployed. This subdivision contained limits on earning capacity and set forth factors to be considered by the trier-of-fact when determining an earning capacity. The subdivision also required the trier-of-fact to consider child care expenses the party would incur if employed. See Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D). This latter requirement was intended to permit those hypothetical child care expenses to be allocated when an earning capacity is imputed.

Pa.R.Civ.P. 1910.16-6(a), governing the allocation of child care expenses, was also amended to add subdivision (a)(1)(ii) indicating that child care expenses “paid” when



imputing an earning capacity may be allocated. This subdivision also contained a cross-reference to Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D).

The intended operation of Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D) and Pa.R.Civ.P. 1910.16-6(a)(1)(ii) concerning the discretionary allocation of hypothetical child care expenses when an earning capacity has been imputed was frustrated with the errant use of “paid” in Pa.R.Civ.P. 1910.16-6(a)(1)(ii). See, e.g., *M.M.F. v. M.F.*, 273 A.3d 1036 (Pa. Super. 2022), *appeal granted in part sub nom. Fiochetta v. Fiochetta*, 283 A.3d 1244 (Pa. 2022), and *appeal dismissed as improvidently granted sub nom. Fiochetta v. Fiochetta*, 300 A.3d 317 (Pa. 2023).

As mentioned, on October 25, 2024, the Court amended Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D) to clarify its purpose of discretionary allocation pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii). Further, the Comment to Pa.R.Civ.P. 1910.16-2 was supplemented to guide the intended application of subdivision (d)(4) and to eliminate the practice of using hypothetical child care expenses to reduce an imputed income. Additional commentary was also intended to foreclose the potential practice of “double counting” hypothetical child care expenses whereby they are used to reduce imputed income *and* are allocated.

To implement what was intended, “that would be” has been added to precede “paid” in Pa.R.Civ.P. 1910.16-6(a)(1)(ii). Further, “for the purpose of discretionary allocation pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii)” was added to Pa.R.Civ.P. 1910.16-2(d)(4)(i)(D) to provide a reciprocal cross-reference.

This guidelines review provided the Committee with the opportunity to study further different approaches towards considering hypothetical child care expenses when determining an earning capacity. To better explain its proposal, the Committee shares its assessment of each considered approach. The first approach was to not consider hypothetical child care expenses at all. The second approach was to “deduct” hypothetical child care expenses from imputed income for the calculation of the basic child support obligation. The third approach was to “allocate” hypothetical child care expenses after calculation of the basic child support obligation.

Regarding the first approach of not considering hypothetical child care expenses at all, to this point, there is no federal requirement to do so. See 45 C.F.R. § 302.56(c)(1)(iii). However, the Committee rejected this approach because the base amount of support does not include an amount for child care expenses, and because the calculated amount of imputed income would be less accurate without apportioning these expenses because it does not reflect the expenses that would produce that income. Moreover, the approach was rejected *a fortiori* because Pa.R.Civ.P. 1910.16-2(d)(4) currently requires consideration of hypothetical child care expenses. Further, at the most fundamental level, the approach is capable of producing an absurd result whereby an

earning capacity calculation could impute an income even though hypothetical child care expenses may exceed the imputed income. That result would be untethered from reality because employment would produce a net loss.

Under the second approach, an unemployed or underemployed party's earning capacity is initially determined without consideration of hypothetical child care expense. The combined incomes are used to ascertain the guideline amount. The hypothetical child care expenses are then apportioned between the parties based on income shares. Thereafter, the unemployed or underemployed party's imputed income is reduced by the apportioned amount of the hypothetical child care expenses. The unemployed or underemployed party's income share is then recalculated with the other party's income share being the reciprocal of that calculation. Both income shares are applied to the previously ascertained guideline amount to determine the obligor's basic child support obligation.

For example, Mother has primary custody of the parties' child. Mother's imputed monthly net income is \$2,000 and Father's monthly net income is \$3,500. At the combined monthly net income of \$5,500, the current guideline amount is \$1,048. Father's income represents 64% of the parties' combined monthly net income and, correspondingly, Mother's income is 36%. Mother anticipates monthly child care expenses of \$1,000. Apportioning the hypothetical child care expenses, Mother would be responsible for 36% or \$360. Therefore, Mother's adjusted imputed income is \$1,640 (\$2,000 - \$360). Using the above-approach, Mother's income share based on her adjusted income would be 30% (\$1,640/\$5,500) and Father's income share would be 70% (100% - 30%). Father's basic child support obligation would be \$734 (70% x \$1048).

A benefit of the deduction approach is that hypothetical child care expenses are apportioned based on income shares similar to the allocation of actual child care expenses. Drawbacks to this approach include that it (1) overlooks the threshold question of whether the total, unapportioned hypothetical child care expenses exceed whatever income could be earned by the unemployed or underemployed party; and (2) generates the administrative burden of calculating and applying two income shares.

The final, and perhaps the most compelling, drawback to the deduction approach is that it uses hypothetical child care expenses to determine a party's share of the basic child support amount. Child care is not included in the basic child support expenses in the guidelines schedule. See Review at 65 ("Childcare expenses are excluded [from the schedule] because the actual amount of work-related childcare expenses is considered in the guidelines calculation on a case-by-case basis."). Nor are child care expenses subtracted from gross income when determining net income. See Pa.R.Civ.P. 1910.16-2(c). To factor hypothetical child care expenses into an earning capacity, which operates as a surrogate for that party's net income, would result in a potentially unfair result: obligees who are not attributed an earning capacity would receive an allocated share of

the child care expenses they incur, while obligees who are attributed an earning capacity would not. Instead, the obligees with an earning capacity would be required to use their basic child support to pay for child care expenses without receiving a contribution toward those expenses. The Committee determined that this approach was not consonant with Pennsylvania's guidelines.

The Committee recognizes that the deduction approach is neutral because it categorically favors neither the obligor nor obligee. The approach does operate to decrease imputed income for the party with hypothetical child care expenses, which impacts income shares, which impacts the obligor's support obligation. However, Pa.R.Civ.P. 1910.16-2(d)(4) applies to both an unemployed or underemployed obligee, as well as an obligor.

The third approach is to permit allocation of hypothetical child care expenses after the basic child support obligation has been determined using unemployed or underemployed party's earning capacity. This approach does not use hypothetical child care expenses as a factor in determining an earning capacity. It more closely aligns with the process for determining the basic child support obligation and adjusting the obligation when the parties both have actual net income and actual child care expenditures.

For example, Mother has primary custody of the parties' child. Mother's imputed monthly net income is \$2,000 and Father's monthly net income is \$3,500. At the combined monthly net income of \$5,500, the current basic child support obligation is \$1,048. Father's income represents 64% of the parties' combined monthly net income and, correspondingly, Mother's income is 36%. Mother anticipates incurring monthly child care expenses of \$1,000. Father's basic child support obligation to Mother would be \$671 or 64% of \$1,048. The hypothetical child care expenses would then be allocated based on the parties' income shares. Father's share of the hypothetical child care expenses would be \$640 or 64% of \$1,000, for a total child support obligation to Mother of \$1,311.

This approach is not without concerns. First, it may incentivize the unemployed or underemployed parent to not work by increasing the amount of support received. Second, it may disincentivize a party from seeking an earning capacity determination of another party. Third, the approach may compel the employed party to compensate the unemployed or under-employed for providing child care if child care expenses are not incurred. Fourth, it does not account for when hypothetical child care expenses exceed an earning capacity.

The Committee acknowledges these concerns but believes they can be ameliorated with the court exercising discretion whether to allocate such hypothetical child care expenses. The Committee believes the discretionary allocation approach to hypothetical child care expenses places the parties in the same position regardless of whether income is earned or imputed. As stated in one jurisdiction: "An important

reason—if not the chief reason—for imputing income to a voluntarily underemployed parent is to goad the parent into full employment by attaching an unpleasant consequence (a mounting child support debt or, in certain cases of shared custody, a reduced child support payment) to continued inaction.” *Beaudoin v. Beaudoin*, 24 P.3d 523, 530 (Alaska 2001). If a hypothetical determination of one party’s income is intended to prevent that party from avoiding or reducing their obligation to contribute to their child’s support, then that determination should not allow the other parent to avoid or reduce their obligation to pay hypothetical child care expenses required to sustain the higher income. It is only fair and logical that these hypotheticals work both ways.

The Committee proposes the amendment of Pa.R.Civ.P. 1910.16-2(d)(4)(i) to require, rather than permit, an earning capacity determination for the imputation of income. If a party has no earning capacity, then that party has an income of \$0.00 under this rule. As currently stated, it appears that the entire subdivision is discretionary, which would include subdivision (d)(4)(ii) and the factors used to determine the existence of an earning capacity.

The Committee also proposes revisions to clarify the distinction between “earning capacity” and “imputed income.” An unemployed or underemployed parent’s earning capacity is determined through this rule. That earning capacity determination is then used to impute (or assign a value to) an income to a parent for the income shares model. This rule is not the sole means of imputing income – income may also be imputed pursuant to Pa.R.Civ.P. 1910.16-2(a) (Monthly Gross Income) and 23 Pa.C.S. § 4302 (defining “income”) regardless of the parent’s employment status.

Next, the Committee wishes to address the seemingly redundant consideration of hypothetical child care expenses in subdivision (d)(4). More specifically, subdivision (d)(4)(i)(D) requires consideration of hypothetical child care expenses for the purpose of discretionary allocation. Subdivision (d)(4)(ii)(A) requires consideration of child care responsibilities and expenses as a factor.

The Committee discussed the context in which child care responsibilities and expenses should be considered as a factor in determining an earning capacity. The Superior Court has recognized the “nurturing parent doctrine,” insofar as it relates to child support cases, as a legal principle providing that a parent with a legitimate reason to stay home with a young child may be excused from contributing financial support and the full earning capacity of that parent need not be considered in calculating child support. See, e.g., *Reinert v. Reinert*, 926 A.2d 539, 543 (Pa. Super. 2007); *Deputy v. Deputy*, No. 2689 EDA 2019 (April 13, 2020) (nonprecedential). However, the Committee questioned whether this analysis is based purely on an economic analysis.

Arguably, the court may assess no earning capacity when it determines that it is in the best interest of a child for a parent to care for that child instead of being employed.

Such a determination is not a strict cost-benefit calculation. A child may have emotional or physical needs requiring the parent's presence in the home even though third party child care is available at a cost less than what the parent could earn. The child's best interest supersedes the income potential.

The purely economic analysis is whether the cost of third party child care is outweighed by the income a parent could receive if fully employed. As expressed previously, it makes no sense for the court to assess an earning capacity if the cost borne of one parent's employment operates to reduce the sum of both parents' income.<sup>1</sup> The Committee concluded that both the best interest analysis and the financial analysis would be employed in assessing a party's earning capacity. Once the earning capacity is determined, the court would then exercise discretion in allocating hypothetical child care expenses needed to generate that earning capacity.

The following commentary is proposed be added to Pa.R.Civ.P. 1910.16-2(d)(4) to provide guidance to the fact finder in determining whether to impute an earning capacity and whether to allocate hypothetical child care expenses:

Concerning subdivision (d)(4)(ii)(A), the trier-of-fact shall consider an unemployed or underemployed parent's child care responsibilities and expenses when determining that parent's earning capacity. The trier-of-fact should consider whether child care is available and appropriate considering the child's needs. Assuming child care is available and appropriate, the trier-of-fact should next consider the child care expenses that the parent would actually pay if employed. This excludes child care provided at no cost to the parent by a family member or other responsible person. Additionally, any portion of a child care expense that would be eligible for subsidization by a third party or through a government program should not be included. If the unallocated hypothetical child care expenses are equal to or exceed the parent's earning capacity, then no income should be imputed for that parent, e.g., earning capacity is \$0.00. If the unallocated hypothetical child care expenses are less than the parent's earning capacity, then the hypothetical child care expenses that would be actually paid by the parent, if employed, may be allocated pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii).

Regarding Pa.R.Civ.P. 1910.16-6, the Committee proposes revising the prefatory language to address a potential inconsistency. First, the prefatory language states that

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<sup>1</sup> The Committee notes that Wisconsin treats the best interest determination and the economic analysis as separate factors when imputing an income based on an earning capacity. See Wis. Admin. Code DC § 150.03(3)(j)-(3)(k).

the trier-of-fact *may* allocate additional expenses while subdivision (a)(1)(i) states the trier-of-fact *shall* allocate actual child care expenses. The Committee believes that the use of “may” in the preface is intended to authorize the trier-of-fact to determine whether to allocate those expenses rather than render the allocation discretionary.

The Committee discussed whether to add explicit limits to the allocation of both actual and hypothetical child care expenses pursuant to subdivision (a)(1). The prefatory language (“even if a basic support order is inappropriate”) appears to permit allocation of these expenses even if an obligor’s monthly net income was below the self-support reserve. Concern was expressed that the expenses should not be allocated to the point of leaving the other party with actual income below the self-support reserve.

Rather than add explicit limits to the allocation of child care expense, the Committee proposes to add language to the Comment indicating that the allocation of additional expenses, which would not be limited to only child care expenses, may be subject to a deviation analysis pursuant to Pa.R.Civ.P. 1910.16-5. An example involving the self-support reserve was included. This approach seemed consonant with the example accompanying Pa.R.Civ.P. 1910.16-7(c) regarding multiple obligations.

The Committee also proposes amending Pa.R.Civ.P. 1910.16-5 to include “additional expenses” as being subject to deviation. See *also* 23 Pa.C.S. § 4322(a) (permitting “allowable deviations for unusual needs, extraordinary expenses and other factors”). The Comment would be revised to include maintaining a self-support reserve as an example of “other relevant and appropriate factors” in subdivision (b)(9).

Readers should note that subdivision (a)(1)(ii) maintains the discretionary allocation of hypothetical child care expenses. The trier-of-fact is not required to allocate these expenses, and any decision on whether to allocate will be reviewed on an abuse of discretion standard based on the facts of each case. While this approach provides “flexibility,” the Committee observes that “flexibility” of application invites the development of inconsistent practices within the state. Addressing any inconsistencies that arise may be the subject of future rulemaking.

Finally, the Committee proposes amendment of Pa.R.Civ.P. 1910.16-6(a)(4) to require a written proposal or estimate from a child care service provider for the allocation of hypothetical child care expenses. This amendment is intended to address the need for evidence of such expenses raised in *Morgan v. Morgan*, 99 A.3d 554 (Pa. Super. 2014).

### **Presumption of Need for Alimony *Pendente Lite* and Spousal Support**

A question arose whether the high-income formula applied through Pa.R.Civ.P. 1910.16-3.1(b) is presumed to address the needs of a spouse. The question involves

whether the holding of *Hanrahan v. Bakker*, 186 A.3d 958 (Pa. 2018), which requires a reasonable needs analysis in high income formula child support cases, extends to high income formula alimony *pendente lite* and spousal support cases. In other words, must the spouse justify the formula amount based on need rather than that amount being presumptively necessary.

In an unpublished opinion, the Superior Court has distinguished *Hanrahan* as applying only to child support and not to alimony *pendente lite*. See *Scott v. Hoffman*, 237 A.3d 436, 2020 WL 2299734 at \*16-18 (Pa. Super. 2020) (unpublished opinion). However, that opinion predates the 2021 amendment of Pa.R.Civ.P. 1910.16-3.1(a)-(b). With that amendment, subdivision (a)(2)(iii), concerning child support, was titled: “Final Analysis – Reasonable Needs.” Subdivision (b)(2), concerning alimony *pendente lite* and spousal support, was merely titled: “Final Analysis.” Critically, though, subdivision (b)(2)(iii) was added, which requires the parties to provide expense statements when determining high-income alimony *pendente lite* or spousal support. The trier-of-fact is required to consider the expense statements in addition to the deviation factors in Pa.R.Civ.P. 1910.16-5 and the additional expenses in Pa.R.Civ.P. 1910.16-6. This requirement begs the question of what the additional expense statements are for, other than to consider reasonable needs.

Based upon the language of the subtitles within Pa.R.Civ.P. 1910.16-3.1, the Committee does not believe the 2021 rulemaking was intended to limit the rebuttable presumption of Pa.R.Civ.P. 1910.16-1(d) for high-income alimony *pendente lite* and spousal support cases. Nor does *Hanrahan* so limit the rebuttable presumption as it relates to alimony *pendente lite* and spousal support.

Accordingly, the Committee proposes to remove the requirement in Pa.R.Civ.P. 1910.16-3.1(b)(2)(iii) that the trier-of-fact consider the parties’ expense statements in determining the total spousal support or alimony *pendente lite* obligation to avoid any ambiguity. Expenses in alimony *pendente lite* and spousal support cases should only be used when a party avers unusual needs and expenses that may warrant a deviation from the guidelines pursuant to Pa.R.Civ.P. 1910.16-5 or apportionment of additional expenses pursuant to Pa.R.Civ.P. 1910.16-6, as presently provided under 1910.16-3.1(b)(2)(i) and (ii). Under this proposal, the burden is shifted onto an obligor seeking downward deviation or adjustment or an obligee seeking an upward deviation or adjustment. The Committee also proposes a corollary amendment of Pa.R.Civ.P. 1910.27(c)(2)(A)-(c)(2)(B), which concerns the use and form of expense statements in support proceedings, and Pa.R.Civ.P. 1910.11(c)(2), which concerns the information to be provided and shared at the conference.

### **Advanced Practice Provider’s Statement**

A hearsay exception in support actions exists to permit a verified petition, affidavit or document, and a document incorporated by reference in any of them, to be admitted into evidence, provided it would not otherwise be excluded as hearsay if given in person. See 23 Pa.C.S. § 4342(f). The document must be admitted under oath by a party or witness to the support action. Pa.R.Civ.P. 1910.29 provides a “Physician’s Verification Form” to be used for reporting a party’s medical condition. The rule requires that notice of the documents to be admitted be given to the other party prior to the hearing and it sets forth the procedures for raising an objection to the admission of those documents.

The Committee believed that the current form fell short of providing adequate information to the court. The proposed revised form includes the option to select “Fully Disabled,” “Partially Disabled,” “Able to Work Light Duty Full-Time,” or “Able to Work Part-time,” as well as the ability to indicate the number of hours per day the individual can work. The Committee also proposed that, in lieu of only allowing physicians to complete the form, “advanced practice providers,” including nurse practitioners and physician assistants, should be permitted to complete the form. The term “physician” would be replaced by the name “provider” and the name of the form be revised to “Advanced Practice Provider Verification Form.” A proposal was published for comment at 53 Pa.B. 3400 (July 1, 2023). Six comments were received.

Based on the comments, the Committee agreed to: 1) revise the form to include the title of the provider; 2) include psychiatrists and psychologists; 3) replace “verification” with “statement”; and 4) insert an “additional remarks” section in the form. The Committee did not wish for the form to prompt the provider to give an opinion on the patient’s ability to work or, given the varying definitions of “disabled,” require the provider to opine on the patient’s disability but rather prompts the provider to specify the patient’s limitations.

Borrowing from the Social Security parameters, the form has been revised to prompt the provider to indicate the patient’s ability to engage in various work-related activities. Those activities range from very heavy activity to sedentary activity. Note, “work-related” was used to distinguish between activities of daily living, which have a different meaning.

The Committee now republishes the revised rule as part of the larger proposal.

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The Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.