

## 19-A §2006. SUPPORT GUIDELINES

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**1. Determination of basic support entitlement.** After the court or hearing officer determines the annual gross income of both parties, the 2 incomes must be added together to provide a combined annual gross income and applied to the child support table to determine the basic support entitlement for each child.

When there is a child within each age category, the court or hearing officer shall refer to the table and locate the figure in the left-hand column that is closest to the parents' combined annual gross income. In each age category the court or hearing officer shall determine the dollar figure for the total number of children for whom support is being determined, multiply the dollar figure in each age category by the number of children in that category and add the 2 products. The resulting dollar amount represents the basic support entitlement.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2. Past support.** This chapter applies to an award of past support. Past support is calculated by applying the current support guidelines to the period for which past support is owed.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Total basic support obligation.** The total basic support obligation is determined by adding the child care costs, health insurance premiums and extraordinary medical expenses to the basic support entitlement as follows.

A. When each child is under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total basic support obligation. [ 2003, c. 415, §7 (AMD) .]

B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total basic support obligation. [ 2003, c. 415, §7 (AMD) .]

C. If private health insurance for the child is available at reasonable cost, the cost of private health insurance must be added to the basic support entitlement to determine the total basic support obligation. For the purposes of this paragraph, "the cost of private health insurance" is the cost of adding the child to existing coverage or the difference between self-only and family coverage. [ 2009, c. 290, §11 (AMD) .]

[ 2003, c. 415, §7 (AMD); 2009, c. 290, §11 (AMD) .]

**4. Computation of parental support obligation.** The total basic support obligation must be divided between the parties in proportion to their respective gross incomes. The court or hearing officer shall order the party not providing primary residential care to pay, in money, that party's share of the total basic support obligation to the party providing primary residential care. The primary residential care provider is presumed to spend the primary care provider's share directly on each child. If the court or hearing officer determines that the parties provide substantially equal care for a child for whom support is sought, presumptive support must be calculated in accordance with subsection 5, paragraph D-1. Both parents are responsible for child support if a caretaker relative provides primary residential care for the child. The caretaker relative's income may not be considered in determining the parents' child support obligation.

[ 2005, c. 352, §3 (AMD) .]

**5. Special circumstances.** The court or hearing officer shall consider the following special circumstances in determining child support.

A. When the parent who is not the primary care provider is legally obligated to support a child in that party's household other than the child for whom a support order is being sought, an adjustment must be made to that party's parental support obligation. The adjustment is made by using the nonprimary residential care provider's annual gross income to compute a theoretical support obligation under the support guidelines for each child in that household. Neither the child support received by nor the financial contributions of the other parent of each child in the household are considered in the theoretical support calculation. The obligation is then subtracted from the annual gross income, and the adjusted income is the amount used to calculate support. The adjustment is used in all appropriate cases, except when the result would be a reduction in an award previously established. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. When the parties' combined annual gross income exceeds \$400,000, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of \$400,000. [2009, c. 290, §12 (AMD).]

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of the nonprimary care provider is less than the federal poverty guideline, the nonprimary care provider's weekly parental support obligation for each child for whom a support award is being established or modified may not exceed 10% of the nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income. The child support table includes a self-support reserve for obligors earning \$22,800 or less per year. If, within an age category, the nonprimary care provider's annual gross income, without adjustments, is in the self-support reserve for the total number of children for whom support is being determined, the amount listed in the self-support reserve multiplied by the number of children in the age category is the nonprimary care provider's support obligation for the children in that age category, regardless of the parties' combined annual gross income. The nonprimary care provider's proportional share of childcare, health insurance premiums and extraordinary medical expenses are added to this basic support obligation. This paragraph does not apply if its application would result in a greater support obligation than a support obligation determined without application of this paragraph. [2009, c. 290, §13 (AMD).]

D. When the parties have equal annual gross incomes and provide substantially equal care for each child for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses. [2003, c. 415, §9 (AMD).]

D-1. When the parties do not have equal annual gross incomes but provide substantially equal care for each child for whom support is being determined, the presumptive parental support obligation must be determined as follows.

- (1) The enhanced support entitlement for each child must be determined.
- (2) Using the enhanced support entitlement, a parental support obligation for each child must be determined by dividing the total enhanced support obligation between the parties in proportion to their respective gross incomes.
- (3) The party with the higher annual gross income has a presumptive obligation to pay the other party the lower of:
  - (a) The difference between their parental support obligations as calculated in subparagraph (2); and
  - (b) The presumptive parental support obligation determined for the payor party using the basic support entitlement under the support guidelines as though the other party provided primary residential care of the child.
- (4) The parties shall share the child care costs, health insurance premiums and uninsured medical expenses in proportion to their incomes. [2003, c. 415, §10 (NEW).]

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for each child residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of each child for whom the party has primary residential responsibility. Each party's proportionate share of child care costs and health insurance premiums is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation. [2001, c. 264, §4 (AMD).]

[ 2003, c. 415, §§9, 10 (AMD); 2009, c. 290, §§12, 13 (AMD) .]

**6. Prospective child support award.** An order establishing a child support award for a child who has attained 10 years of age must also establish an award for the child as if the child were 12 years of age. The prospective award becomes effective on the child's 12th birthday without further order or decision of the court or hearing officer, and the order establishing or modifying the prospective award must state this fact.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**7. Incorporated findings.** As part of its current child support order, the court or hearing officer shall make the following findings:

A. The names and dates of birth of each child for whom support is being sought; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The annual gross income of each party and the combined annual income of both parties; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The amount of the basic weekly support entitlement attributable to each child under 12 years of age, as indicated per child per week on the child support table; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The amount of the basic weekly support entitlement attributable to each child 12 years of age and over, as indicated per child per week on the child support table; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The name and date of birth of each child for whom work-related day care expenses are paid and the amount of those expenses; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. The name and date of birth of each child for whom extraordinary medical expenses are paid and the amount of those expenses; [2001, c. 264, §5 (AMD).]

G. The parental support obligation of the party ordered to pay child support; and [2003, c. 415, §11 (AMD).]

H. The name and date of birth of each child for whom health insurance premiums are paid and the amount of those premiums. [2001, c. 264, §6 (NEW).]

These findings are made by incorporating the completed child support worksheet into the order for current support.

[ 2003, c. 415, §11 (AMD) .]

**8. Requirements of support provisions.** To assist in a formal review proceeding, and to enable the parties to reduce the incidence of formal modification procedures, an order establishing parental support obligation must include:

A. The name of each child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A beginning date for the parental support obligation; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. A breakdown of the parental support obligation, including:

- (1) The amount for basic support entitlements and the amount for enhanced support entitlements, if applicable;
- (2) The amount for child care costs;
- (3) The amount for extraordinary medical expenses;
- (4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation, if applicable; and
- (5) The amount for health insurance premiums; [2003, c. 415, §12 (AMD).]

D. For each child who has attained 10 years of age, a prospective award under subsection 6; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. If each child for whom a parental support obligation is being established has attained 12 years of age, a specific sum to be paid depending on the number of minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs of raising a given number of children in a household, the order must provide a specific dollar amount for every combination of minor children. Except as provided in paragraph G, the court or hearing officer may not apportion support between the parents by determining the parental support obligation amount and dividing by the total number of children; [2005, c. 352, §4 (AMD).]

F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 2007, the written findings of the court or hearing officer in support of the deviation; [2009, c. 290, §14 (AMD).]

G. With regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified upon the events listed in subparagraphs (1) to (4), that the order be automatically modified pursuant to this paragraph to address any of the following events:

- (1) Any child reaches 18 years of age and has graduated from secondary school;
- (2) Any child reaches 19 years of age without having graduated from secondary school;
- (3) Any child obtains an order of emancipation; or
- (4) Any child dies.

As of the date of an event listed in subparagraphs (1) to (4), the total child support amount stated in the order must be decreased by the child support amount assigned to that child in the worksheets accompanying the child support order or as set forth in the order; and [2009, c. 290, §15 (AMD).]

H. A requirement that private health insurance must be provided for the benefit of the child, if private health insurance for the child is available at reasonable cost. If private health insurance for the child is not available at reasonable cost at the time of the hearing, a requirement that private health insurance for the child must be provided effective immediately upon being available at reasonable cost. [2009, c. 290, §16 (NEW).]

[ 2005, c. 352, §§4, 5 (AMD); 2009, c. 290, §§14-16 (AMD) .]

**9. Notice of right to review.** A judicial order or administrative order issued or modified in this State that includes an order for child support must include a statement that advises parents of the right to request the issuing authority to review and, if appropriate, modify the child support order according to the State's child support guidelines.

[ 1997, c. 537, §22 (AMD); 1997, c. 537, §62 (AFF) .]

**10. Disclosure and recording of social security numbers.** A person who is a party to an action to establish or modify a support order shall disclose that person's social security number to the court or the department, whichever conducts the proceeding. The social security number of a person who is subject to a support order must be placed in the records relating to the support order. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security number to the department for child support enforcement purposes.

[ 1997, c. 537, §23 (NEW); 1997, c. 537, §62 (AFF) .]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §§22,23 (AMD). 1997, c. 537, §62 (AFF). 2001, c. 264, §§3-7 (AMD). 2001, c. 554, §10 (AMD). 2003, c. 415, §§7-12 (AMD). 2005, c. 352, §§3-5 (AMD). 2009, c. 290, §§11-16 (AMD).

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