

SUMMARY OF CHANGES TO THE CHILD SUPPORT GUIDELINES¹

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

- A. The current Iowa schedules are based on the Betson-Rothbarth-3 (BR-3) study, updated to 2012 price levels. The BR-3 study relies on expenditure data collected from families participating in the 1998-2004 Consumer Expenditure Survey (CE). The CE surveys about 7,000 households per quarter on expenditures, income, and household characteristics (e.g. family size). No adjustment was made in the 2016 guidelines review because it would have had only a minimal impact on support amounts (approximately 1%) due to modest inflation since 2012. The Betson-Rothbarth-5 (BR-5) is the most recent study, and relies on expenditures data collected from families in the 2013-2019 CE survey. The BR-5 study uses the most current underlying data as compared to other available studies. The BR-5 studies the use of “outlays” instead of “expenditures”. “Outlays” consider all monthly expenses, including mortgage principal and interest, home equity loans, and installment payments, and more closely track how families spend and budget on a monthly basis. The switch from “expenditures” to “outlays” shows increased expenditures on children at higher incomes in the BR-5 study, as compared to the BR-3 study. The BR-5 study also improved how taxes are measured. The Committee recommended updating the Schedule of Basic Support Obligations using the BR-5 study. However, using the BR-5 study for very high incomes resulted in increases of up to 26% in the basic support obligations, and the Committee found that those increases should be capped at 9.5% for 1-3 children and 9.7% for 4-5 children (which approximates the increases in the amounts from the USDA measurements).
- B. **GUIDELINES CHANGE:** The Schedule of Basic Support Obligations is updated to incorporate the newest Betson-Rothbarth study, BR-5, with adjustments for very high combined adjusted net incomes.

¹ The Iowa Child Support Guidelines Review Committee submitted its Final Report to the Iowa Supreme Court on June 1, 2021. After a period for public comments, the Court approved all of the committee’s recommendations. The guideline changes summarized in this outline are effective January 1, 2022. The full report of the committee, excluding select attachments, is attached.

2. **Low Income Adjustment.**

- A. The low-income adjustment areas of the Schedule of Basic Support Obligations fulfill federal requirements for considering subsistence needs of noncustodial parents and acknowledge that full child support payment suffers when the support amount exceeds 20% of the noncustodial parent's gross income for one child and 28% or more of the noncustodial parent's gross income for two or more children. Further, updating the low-income adjustment is necessary to account for increases in minimum orders and to phase in gradual support amounts based on the new underlying economic data and costs of raising children.

The low-income adjustments of the current schedule are shown in shaded Area A and Area B. The low-income adjustment is gradually blended into the BR measurements to avoid abrupt changes in support amounts when transitioning from the low-income adjusted areas to areas of the schedule based entirely on BR measurements.

The update to BR-5 affects the low-income shaded areas on the schedule. Using BR-5 impacts the Schedule of Basic Support Obligations at a combined adjusted net income level of \$1,111 per month, which is equivalent to after-tax earnings from full-time minimum wage earnings. The underlying principle used to arrive at schedule amounts at this level is that each parent has a duty to support the child at the same percentage of income level as higher income parents.

- B. **GUIDELINES CHANGE:** The current low-income adjustment method will continue to be used for the Schedule of Basic Support Obligations. The specific amounts flow from the BR-5 study.

3. **Minimum Support Amounts.**

- A. The current minimum support amount is \$30 for one child and \$50 for two or more children. Any minimum support amount represents a public policy decision based primarily on the ability of the payor to pay rather than the needs of the child(ren). However, the minimum support amount should make some meaningful difference in the child's life. The minimum amounts have not been changed since 2012. The Committee concluded that the minimum support amounts should be increased. The increase in the minimum support amounts also smooths the transition from the low-income adjustment amounts to the full BR-5 amounts of support.

- B. **GUIDELINES CHANGE:** The minimum amount of support is increased to \$50 per month for one child, \$75 per month for two children, and \$100 per month for three or more children. Rule 9.9 is amended accordingly.

4. **Treatment of Spousal Support.**

- A. After the 2016 review, rules 9.5(1) and 9.6(6) were amended to provide that prior traditional or rehabilitative spousal support will be determined first, then added to the income of the recipient and deducted from the income of the payor in calculating child support. However, the rule changes did not clearly address how to treat temporary spousal support. The Committee agreed that the rules on the treatment of spousal support should apply to all types of spousal support, except reimbursement spousal support.

- B. **GUIDELINES CHANGE:** To clarify treatment of temporary spousal support, rules 9.5(1) and 9.6(6) are amended as set forth below.

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

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

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

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

(3) Reimbursement spousal support, whether being paid in a prior matter or to be paid in the pending matter, may shall not be added to ~~the~~ a payee’s income or deducted from ~~the~~ a payor’s income.

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

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

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

(1) Pursuant to agreement of the parties, or

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

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9.6(6) If a parent’s gross income under rule 9.5(1) is adjusted because of spousal support received or paid by the parent, applicable federal and state tax law determines whether those spousal support amounts are used to increase or decrease the parent’s taxable

income for computing taxes under this rule. If the amount of federal and/or state income tax actually paid by the parent differs substantially from the amount(s) determined by the guideline method of computing taxes, the court may consider whether the difference is sufficient reason to adjust the child support under the criteria in rule 9.11. This rule does not preclude alternate methods of computation by the Child Support Recovery Unit as authorized by Iowa Code section 252B.7A.

9.6(7) If the amount of federal or state income tax, or both, actually paid by a parent differs substantially from the amount(s) determined by the guideline method of computing taxes, the court may consider whether the difference is sufficient reason to adjust the child support under the criteria in rule 9.11. This rule does not preclude alternate methods of computation by the Child Support Recovery Unit as authorized by Iowa Code section 252B.7A.

5. **Deduction of Prior Medical Support for Other Children.**

- A. Following the 2016 guidelines review, the Court amended rule 9.14(5)(b), to prorate health insurance premium costs among the individuals covered by the plan to more equitably apportion the cost of health insurance attributable to the children in the pending action. However, corresponding changes were not made at that time to rule 9.5(2)(f) to carry over that proration for health insurance premium costs for other children claimed as a deduction from income.

Under rule 9.5(2)(f), a party could still claim the entire premium amount paid on other cases where health insurance has been ordered, which creates the unintended possibility that a party could receive duplicate deductions for health insurance premium costs paid under 9.14(5)(b) and 9.5(2)(f). For example, if a party's health insurance plan covers 5 people and 2/5 of the premium is attributable to the children in the pending action, in theory the deduction for court-ordered health insurance premium costs for other children on the plan should be capped at 3/5 of the premium cost, but under the current rule the entire premium could be deducted. Additionally, on that prior case, the cost of insurance for those other children would have been prorated between the parents on the other case in accordance with the parents' net incomes. For ease of calculation, and to prevent the need to locate previous orders and determine the parents' appropriate income shares percentages at the time of that previous order, the Committee recommends that the amount applicable to the children of that previous order should be divided in half.

- B. **GUIDELINES CHANGE:** Rule 9.5(2)(f) is changed to align the calculation method for health insurance premium costs for other children not in the pending matter with the calculation method in rule 9.14(5)(b). Rule 9.5(2)(h) is also amended to

include any deduction for cash medical support with the deduction for prior obligation child support. Rules 9.5(2)(f) and (h) are amended as follows:

9.5(2) Net monthly income. In the guidelines the term “net monthly income” means gross monthly income less deductions for the following:

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~~f. Actual medical support paid pursuant to court order or administrative order in another order for other children, not the pending matter.~~ Health insurance premium costs for other children not in the pending matter when coverage is provided pursuant to court or administrative order or for children who are qualified additional dependents under rule 9.7. For purposes of this deduction, the premium cost for other children is one-half of the amount calculated for those other children utilizing the method specified in rule 9.14(5)(b).

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~~h. Cash medical support and P~~prior obligation of child support actually paid pursuant to court or administrative order for other children, not in the pending matter.

6. **Imputation of Income.**

A. The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule (Final Rule) amended 45 C.F.R. 302.56(c)(1)(iii) to include new language focused on the noncustodial parent’s earnings, income, and other evidence of ability to pay, as well as a detailed list of items to be considered when imputing income. Additionally, the Final Rule amended 45 C.F.R. 302.56(c)(3) to require a state’s guidelines rules to specify that incarceration may not be treated as voluntary unemployment when establishing or modifying support.

Rule 9.11(4), Iowa’s rule regarding imputation of income, is not currently in compliance with the new federal language. Amending rule 9.11(4) to mirror the federal language would enumerate more factors a court may consider when imputing income to a party, but would not change the nature of how the rule currently operates.

The Committee also considered whether rule 9.11(4) appropriately addresses imputation of income when a parent remarries and is voluntarily unemployed or underemployed due to the parent’s reliance on the spouse’s income to support the household. The Committee determined that imputation of income issues are very fact specific and that rule 9.11(4) already permits consideration of all factors of consequence.

B. **GUIDELINES CHANGE:** Rule 9.11(4) on imputation of income is amended as follows:

9.11(4) The court may impute income in appropriate cases subject to the requirements of rule 9.5. If the court finds that a parent is voluntarily unemployed or underemployed without just cause, child support may be calculated based on a determination of earning capacity.

a. Incarceration is not voluntary unemployment for purposes of establishing or modifying child support.

b. A determination of earning capacity must take into consideration the specific circumstances of the parent to the extent known, and may include such factors as ~~may be made by determining~~ employment potential and probable earnings level based on work and training history, occupational qualifications, prevailing job opportunities, availability of employers willing to hire the parent, and earning levels in the community, ~~and other relevant factors.~~

c. The court may also consider the parent's assets, residence, educational attainment, literacy, age, health, criminal record and other employment barriers, record of seeking work, and other relevant factors.

d. The court ~~may shall~~ not use earning capacity instead of rather than actual earnings or otherwise impute income unless a written determination is made that, if actual earnings were used, substantial injustice would occur or adjustments would be necessary to provide for the needs of the child(ren) or to do justice between the parties.

7. Variance for Child Care Expenses.

A. Child care is often one of the largest expenses working parents face. However, the Schedule of Basic Support Obligations does *not* account for child care expenses. Iowa's current schedule is based on economic data on the cost of raising a child that includes child care expenses, but those costs are specifically removed from the data when creating the Schedule of Basic Support Obligations. Child care expenses are excluded because not all households have child care expenses, and including child care expenses in all obligations would inappropriately inflate the basic support obligation in a significant number of cases.

The guidelines permit a custodial parent to deduct child care expenses from income in determining the income. However, deduction of child care expenses from income has a negligible impact on the child support amount. Pursuant to rule 9.11A, a variance may also be considered. Most states, by contrast, address child care in their guidelines as either an add-on to the basic support obligation or a separate obligation apportioning child care expenses between the parents.

In 2017, the Iowa Supreme Court added a new standalone rule, Rule 9.11A, regarding variances for child care expenses. The rule was intended to clarify that the economic data behind the Schedule of Basic Support Obligations does not incorporate child care costs, to remedy an apparent inconsistency in case law about whether the basic support obligation in the guidelines already fully reflects child care costs, and to more strongly underscore the court's ability to vary from the guidelines based on a party's specific child care situation.

Since the adoption of rule 9.11A in 2017, however, the Committee has found little evidence that the rule has been utilized or properly interpreted by Iowa judges, attorneys, and case parties. According to the CSRU 2020 Guideline Deviation Comparisons report, of the 2,147 cases where an Iowa court granted a variance, only 31 cases had variances for child care and only 5 cases had child care variances that followed the requirements of rule 9.11A.

The Committee identified the need to further emphasize that child care expenses are not included in the economic data on which the Schedule of Basic Obligations is based, to provide a possible method for computing the variance amount, and to establish a cap on the amount of variance. The Committee agreed the child care variance rule should provide clear steps for parties, attorneys, and judges. In general, those steps should be to:

- Determine the child care expenses applicable to the child under the rule 9.11A(1) definition.
- Determine whether or not a variance should be granted in any amount.
- Determine the specific amount of the variance, within the cap set by the rule.

B. GUIDELINES CHANGE: Rule 9.11A is amended to emphasize that child care expenses are not included in the economic data on which the Schedule of Basic Support Obligations is based, and to provide a more specific method for ordering a child care variance. Conforming changes to rules 9.4 and 9.5(2)(j) are also made.

Rule 9.4 Guidelines — rebuttable presumption. In ordering child support, the court should determine the amount of support specified by the guidelines. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. That amount may be adjusted upward or downward, however, if the court finds such adjustment necessary to provide for the needs of the children or to do justice between the parties under the special circumstances of the case. In determining the

necessity of an adjustment, the custodial parent's child care expenses under rule 9.11A are to be considered. The appropriate amount of child support is zero if the noncustodial parent's only income is from Supplemental Security Income (SSI) paid pursuant to 42 U.S.C. 1381a.

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9.5(2)(j) Actual child care expenses, as defined in rule 9.11A. However, this deduction is not allowed regardless of whether when a variance is granted under rule 9.11A.

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Rule 9.11A Variance for child care expenses. Because the cost of child care is not included in the economic data used to establish the support amounts in the Schedule of Basic Support Obligations, the custodial parent's child care expenses may constitute grounds for the court to vary requesting an upward variance from the amount of child support that would result from application of the guidelines. If a party requests a variance under this rule, the court must first determine the amount of the custodial parent's child care expenses and then determine the amount of the variance, if any. In determining whether variance is warranted under this rule and rule 9.11, the court should consider the fact that child care expenses are not specifically included in the economic data used to establish the support amounts in the Schedule of Basic Support Obligations. When considering a variance, child care expenses are to be considered independently of any amount computed by use of the guidelines or any other grounds for variance. A variance for child care expenses should be liberally granted and must be supported by written findings in accordance with rule 9.11.

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9.11A(3) In determining the amount of the variance, the court may consider each parent's proportional share of income. The amount of the child care expense variance allowed should not exceed the noncustodial parent's proportional share of income. If variance is warranted, the support order must specify the amount of the basic support obligation calculated before the child care expense variance, the amount of the child care expense variance allowed, and the combined amount of the basic support obligation and the child care expense variance, and when the child care expense variance will end. Absent compelling circumstances, the child care expense variance should not extend beyond the time when there are no longer any children under the age of 13 who are subject to the support order. When a child care expense variance ends pursuant to the terms of the support order, support will automatically adjust to the amount of the basic support obligation without a child care expense variance.

9.11A(4) When considering a variance, child care expenses are to be considered independent of any amount computed by use of the guidelines or any other grounds for variance. This rule does not apply to:

— a. court ordered joint (equally shared) physical care arrangements, as those child care expenses are to be allocated under rule 9.14(3); or

— b. cases where the noncustodial parent’s adjusted net monthly income is in the low-income Area A of the schedule in rule 9.26.

9.11A(5) When a variance is considered and is ordered pursuant to this rule, no additional deduction for child care expenses under rule 9.5(2) will be allowed in calculating the parties’ net monthly income to determine the amount of the basic support obligation.

9.11A(6) A change in the amount of child care expenses incurred by the custodial parent is a factor to be considered in determining whether a substantial change in circumstances exists to modify a support order that includes a variance under this rule.

9.11A(7) This rule does not apply to:

a. Court-ordered joint (equally shared) physical care arrangements, as those child care expenses are to be allocated under rule 9.14(3).

b. Cases where the noncustodial parent’s adjusted net monthly income is in the low-income Area A of the schedule in rule 9.26.

8. **Timeframe Applicable to Uncovered Medical Expenses.**

A. Public comments suggested a benefit of clarifying language regarding uncovered medical expenses under rule 9.12(5). The current rule does not explicitly define the time period for which the custodial parent is responsible for the first \$250 per child (up to a maximum of \$800 for all children) of uncovered medical expenses or when additional uncovered medical expenses should be shared by the parties. The rule uses the term “per year,” but does not explain when that year starts and ends—whether it follows the calendar year, the anniversary of the filing date of the court order, or some other “year.” This can lead to confusion and disagreements between the parties about the proper definition of a “year” and when the sharing of uncovered medical expenses is triggered.

B. **GUIDELINES CHANGE:** Rule 9.12(5) is amended to specify that the timeframe applicable to uncovered medical expenses is the calendar year.

9.12(5) “Uncovered medical expenses” means all medical expenses for the child(ren) not paid by insurance. In cases of joint physical care, the parents will ~~shall~~ share all uncovered medical expenses in proportion to the parents’ ~~their~~ respective net incomes. In all other cases, including split or divided physical care, the custodial parent will ~~shall~~ pay the first \$250 per calendar year per child of uncovered medical expenses up to a maximum of \$800 per calendar year for all children. The parents will pay in proportion to their

~~respective net incomes uncovered medical expenses in excess of \$250 per child or a maximum of \$800 per calendar year for all children. Uncovered medical expenses in excess of \$250 per child or a maximum of \$800 per year for all children shall be paid by the parents in proportion to their respective net incomes.~~ “Medical expenses” include, but are not limited to, costs for reasonably necessary medical, orthodontia, dental treatment, physical therapy, eye care--including eye glasses or contact lenses-- mental health treatment, substance abuse treatment, prescription drugs, and any other uncovered medical expense. Uncovered medical expenses are not to be deducted in arriving at net income.

9. **Financial Information Statement.**

- A. The child support guidelines have evolved over the last several decades to address more issues and to become more fair, but the greater fairness comes with additional complexity which makes it more difficult, particularly for self-represented persons, to accurately calculate the proper amount of support. Efforts are being made to provide additional resources to self-represented persons. However, a guideline calculation of support is only as good and accurate as the information on which it is based.

The Committee identified a need for a simplified form for use by self-represented parents and others to provide basic information on income, deductions, and health insurance costs for specific use in making child support calculations. Incomplete information for a party complicates the current child support action. It also makes it difficult to determine the information on which a child support obligation was based and whether a case meets the statutory criteria for modification in the future.

The Committee recognized that any proposed form to address these issues and provide assistance to judges in the courtroom would require flexibility of use, rather than mandated use, due to different hearing procedures in judicial districts and CSRU’s already-established practice of serving parties with a financial statement form. The Committee believes such a form could have myriad uses: as a certification of income information under oath that is filed with the court; as a data collection tool to be used in mediations or to guide questioning of parties during hearings; or for practitioners to send to clients for case preparation. This form would not supersede any financial statement or affidavit required by law or court rule in a dissolution action or other proceeding.

- B. **GUIDELINES CHANGE:** A form titled Child Support Guidelines Financial Information Statement has been added to the guidelines as Form 3 in rule 9.27. The form is included in attached.

Rule 9.10 Child support guidelines worksheet. All parties ~~must shall~~ file a child support guidelines worksheet prior to a support hearing or establishment of a support order. The parties ~~must shall~~ use Form 1 accompanying that accompanies these rules, unless both parties agree to use Form 2. The Child Support Recovery Unit (CSRU) ~~must shall~~ use Form 2. The parties may supplement any other required financial statements by filing Form 3.

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Rule 9.27 Child Support Guidelines Worksheets and Financial Information Statement.