

Rules of
Department of Social Services
Division 30—Child Support Enforcement
Chapter 5—Determining Child Support Obligations

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES**

**Division 30—Child Support Enforcement
Chapter 5—Determining Child
Support Obligations**

**13 CSR 30-5.010 Child Support Obligation
Guidelines**

PURPOSE: This rule sets forth the guidelines to be followed by the Division of Child Support Enforcement to determine the current amount of support due when establishing or modifying child support obligations.

(1) General Provisions.

(A) Definitions—as used in this rule:

1. Director means the director of the Division of Child Support Enforcement or his/her designee.

2. Division means the Division of Child Support Enforcement.

3. Form 14 means Missouri Supreme Court Civil Procedure Rule Form 14 and accompanying Schedule of Basic Child Support Obligations.

(B) The division shall follow, as its Child Support Obligation Guidelines, Missouri Supreme Court Civil Procedure Rule 88.01 and Missouri Supreme Court Rule Civil Procedure Form 14 and the accompanying Schedule of Basic Child Support Obligations.

(2) Specific Provisions and Deviation Criteria.

(A) Determining and Imputing Income.

1. The division will generally include overtime, secondary employment, and bonus income when determining gross income.

2. Past earnings information may be used to impute income. Information on previous earnings may be obtained from the following sources, including, but not limited to, Division of Employment Security computer screens, Internal Revenue Service, past employers, tax returns, and wage stubs.

3. When income information is not available, and information regarding the parent's normal occupation or educational level is known, or special skills which qualify him/her to maintain specific jobs, income may be imputed based on probable earnings levels for his/her usual occupation, qualifications, and prevailing job opportunities and wages in the parent's community. This information may be obtained from sources including, but not limited to, the Department of Labor and Industrial Relations, local unions, or employers in the area.

4. Income may be imputed to a parent who is unemployed or underemployed based on the determination of the parent's potential

to earn income. A parent whose actual income cannot be determined or who has no income will be imputed income as follows:

A. A parent who is not currently employed, whether or not he has a work history, and is now disabled and unable to work, or has a child at home whose condition or circumstance requires a parent's presence in the home, will be imputed zero income.

B. A parent who has no work history and has a child in the home under the age of six years will be imputed zero income.

C. A parent who has no work history and has a child at home between the ages of six and twelve years, will be imputed part-time (20 hours per week) at federal minimum wage.

D. A parent with no work history, and no children under age 13, full-time (40 hours per week) at federal minimum wage will be imputed.

(B) A support order for a non-parent caretaker relative, or a foster care case, will be completed using separate Form 14s for each parent's case, listing on one Form 14 the mother as the parent paying support and on the second Form 14, the father as the parent paying support.

(C) A presumed child support amount equal to zero or less than zero will be entered as an obligation of zero.

(D) The parents must provide information (court orders, pay records, previous Form 14s, check stubs, etc.) regarding other child support obligations, spousal obligations, insurance, and child care, for credit on the Form 14.

(E) Neither parent will be considered the moving party if the division or a non-parent caretaker relative initiates the modification. Both parents will be given credit for any other court or administrative order of child or spousal support which he/she is paying or for other natural or adopted children not subject to this proceeding.

(F) To include extraordinary medical or child-rearing costs, it must be ordered by the court or an agreement in writing of the amount of any extraordinary medical or child rearing costs to be included on the Form 14 must be signed by both parents and provided to the division.

(G) Adjustment for periods of overnight visitation will be given up to the amount of visitation that has been court-ordered. If the non-custodial parent visits the child less than the amount granted in the court order, he/she will only receive credit for the overnight visits actually exercised. The parents must provide evidence concerning the amount of time actually exercised in court-ordered visitations.

1. Number of overnight periods—Less than 36/Adjustment 0%

2. Number of overnight periods—36–72/Adjustment 6%

3. Number of overnight periods—73–91/Adjustment 9%

4. Number of overnight periods—91–145/Adjustment 10%

(H) Deviation. If it is determined the presumed child support amount is unjust and inappropriate, the division may deviate based on the criteria in the directions for completion of the Form 14 for one of the following reasons:

1. A parent is under a Chapter 13 Bankruptcy plan.

2. The Division of Family Services determines that in a foster care case the child support amount is not in the best interest of the child. The Division of Family Services staff must provide the reason in writing.

3. The parent obligated to pay support claims to the division an inability to pay the presumed child support amount because the parent's reasonable shelter expenses, or one-half of the shelter expenses if another person resides with the parent and assists in these expenses, and the child support total 60% or more of the parent's gross monthly income. The parent to whom support is due claims the child support amount is too low and that parent's share of the total child support and his/her reasonable shelter expenses, or one-half of the shelter expenses if another person resides with and assists in these expenses, minus the presumed child support of the parent obligated to pay support equals 60% or more of his/her gross income.

4. The division may deviate to adjust the presumed child support amount up to 25% if any of the above factors exist.

5. If the amount of overnight visitation exceeds 146 nights, the division may determine the children are spending substantially equal time with both parents, which may require a deviation from the presumed child support amount.

6. If the total amount of children on the order exceeds six, the division will add to the amount determined by the guidelines for six children, the difference between the amount for five children and six children and add that amount for each additional child.

AUTHORITY: section 454.400, RSMo Supp. 1999. Original rule filed Feb. 2, 1988, effective April 11, 1988. Emergency amendment filed Dec. 13, 1989, effective Dec. 23, 1989, expired April 11, 1990. Emergency amendment filed Jan. 17, 1990, effective Jan. 27, 1990, expired Feb. 25, 1990. Amended: Filed Dec. 13, 1989, effective April 26, 1990.*



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*Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997.

13 CSR 30-5.020 Review and Modification of Child Support Orders

PURPOSE: This rule sets forth the Division of Child Support Enforcement's procedures for review and modification of existing child support orders in accordance with sections 454.400, RSMo and 454.500, RSMo and 42 U.S.C. 666.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Definitions. As used in this rule—

(A) Administrative order means a child support order established through the administrative process in accordance with sections 454.470—454.520, RSMo;

(B) Aid to Families with Dependent Children (AFDC) case means a case in which a parent has assigned to the state his/her rights to support as a condition of eligibility for public assistance under Title IV-A of the Social Security Act;

(C) Division means the Missouri Division of Child Support Enforcement;

(D) Interstate case means a case in which one (1) or both of the parties subject to a child support order do not reside in Missouri;

(E) Medicaid case means a case in which a parent has assigned to the state his/her rights to medical support to receive public assistance, but has not assigned to the state his/her rights to child support;

(F) Parent means the obligated parent or the custodial parent or caretaker who is receiving child support enforcement services; and

(G) Review means an objective evaluation of complete, accurate, up-to-date information necessary for application of the child support guidelines and criteria for support set forth in Missouri Supreme Court Rule 88.01.

(2) Review.

(A) Any child support obligation being enforced by the division shall be reviewed by the division at its own request, or at the request of the child support agency of another state, or upon the written request of either parent subject to the order.

(B) The division shall review the following cases, at its own request, no less frequently than once every thirty-six (36) months from the date the order was established, last reviewed or modified:

1. AFDC cases with child support orders; and

2. Medicaid cases with child support orders that lack medical support provisions.

(C) The division shall review the support order to determine the amount of difference between the ordered amount and a proposed amount calculated on current financial information in accordance with the guidelines and criteria for support set forth in Missouri Supreme Court Rule 88.01.

(D) The division will seek a modification if the review indicates that one (1), or both, of the following conditions exist:

1. The case meets the modification threshold requirements of section 452.370 or 454.500, RSMo; or

2. The child support obligation does not contain a provision for health insurance coverage by the obligated parent and the children are not covered under a health benefit plan, other than Medicaid, by the custodial parent.

(E) A review shall be conducted no less frequently than once every thirty-six (36) months from the date the order was established, last reviewed or modified, or the date a review terminated pursuant to subsection (7)(B) of this rule, when the review is being conducted at the request of either parent. A review may be conducted earlier than thirty-six (36) months at the request of a parent, or the division in an AFDC or Medicaid case, if—

1. A child should be added to an administrative order;

2. A child should be removed from a general order, whether administrative or judicial;

3. The requesting party submits information that shows, or a sworn statement that alleges, there has been a fifty percent (50%) or more change in income of either party to the order, and the division determines that the circumstances that caused the change have

existed for at least three (3) months, and that it is reasonably likely they will remain unchanged for another six (6) months or longer;

4. A health insurance provision should be added to an administrative or judicial order; or

5. A child support obligation should be added to an administrative or judicial order and—

A. The order only addresses a health insurance obligation; or

B. The order specifically states that no child support is ordered; or

C. The court specifically reserved or retained jurisdiction of the child support issue in the order.

(3) Notices.

(A) The division shall notify, in writing, each parent subject to a child support order—

1. Of the right to request a review of the order;

2. Of any proposed review at least thirty (30) calendar days before commencement of review; and

3. Of the proposed modification (or determination that there should be no change) in the order, and of his/her right to initiate proceedings to challenge the modification or determination within thirty (30) calendar days after notification.

(B) Paragraph (3)(A)1. of this rule shall become effective on October 1, 1993.

(C) The division shall mail all notices required in this section to the last-known address of each parent subject to a child support order, except that the division can provide the notice required by paragraph (3)(A)1. of this rule either by sending a one (1)-time mailing or by including the notice in the child support order.

(4) Financial Information.

(A) Both parents subject to the order to be reviewed shall provide financial information and verification of income within ten (10) calendar days after the date the division mails a written request for the information. Documents verifying income shall include, but not be limited to, the following: copies of federal and state income tax returns, W-2 statements, pay stubs or a signed statement from an employer or other source of income. If the division is unable to obtain financial information concerning the nonrequesting parent, it may request the other parent to provide the financial information if that parent is able to do so.

(B) The division may use all other resources normally accessed to obtain the parents' financial information.

(5) Best Interests of the Child. If the custodial parent or caretaker has assigned his/her support rights as a recipient of benefits under the AFDC, alternative care or Medicaid programs, and the Division of Family Services has made a finding of good cause and determined that support enforcement may not proceed without risk, a review of the support order will not be considered in the best interests of the child and the review will not be conducted unless one (1) of the parents requests the review.

(6) Denying Requests.

(A) A request for review by a parent subject to the order may be denied for the following reasons:

1. The location of the nonrequesting parent is unknown at the time the request is made;

2. It has been less than thirty-six (36) months since the entry date of the support order or most recent modification, or last completed review, whichever is later, or it has been less than thirty-six (36) months since a review or modification action was terminated pursuant to subsection (7)(B) of this rule. However, a review may be conducted earlier than thirty-six (36) months if the case meets criteria for earlier review set forth in subsection (2)(E) of this rule;

3. The division is not providing services with respect to the order for which the review has been requested;

4. The request is for the purpose of modifying custody or visitation rights;

5. The request is for the sole purpose of modifying the amount of delinquent support that has accrued under a support order;

6. The request is for the purpose of modifying the amount of spousal support under a support order; and

7. The request is for the review of a temporary support order.

(B) A request for review of an order in an interstate case may be denied if—

1. Neither party of the order resides in Missouri and the division is not enforcing the order; or

2. The order is not filed with a Missouri court.

(7) Withdrawing Requests.

(A) The division will consider the written withdrawal of the parent who requested a review pursuant to subsection (2)(E) of this rule if the withdrawal is submitted after the division acknowledged the request for review, but no later than—

1. Thirty (30) calendar days after service of process is achieved on a motion to modify filed pursuant to sections 454.496

and 454.500, RSMo, if neither party requested an administrative hearing; or

2. The date of the administrative hearing if either party requested an administrative hearing within thirty (30) calendar days after service of process was achieved on a motion to modify filed pursuant to sections 454.496 and 454.500, RSMo.

(B) Upon receiving a withdrawal pursuant to subsection (7)(A) of this rule, the division will notify the nonrequesting parent of the withdrawal. The nonrequesting parent will have ten (10) calendar days from the date of notice to contact the division in writing—

1. If the nonrequesting parent protests the withdrawal, the division will notify the requesting parent of the protest and will continue the review or modification of the order; or

2. If the nonrequesting parent agrees to the withdrawal, either in writing or by his/her failure to contact the division in writing within ten (10) calendar days, the division will terminate all actions to review or modify the order.

(C) If the division terminates a review or modification action pursuant to subsection (7)(B) of this rule, the division will not accept from either parent a request to review the order earlier than thirty-six (36) months from the date the action was terminated, unless the case meets criteria for earlier review set forth in subsection (2)(E) of this rule.

(8) Modifications.

(A) For modification of an administrative order—

1. The division shall inform the obligated parent of the review results and obtain a consent order for the new terms; or

2. The obligated parent, custodial parent or caretaker, or the division may file a motion to modify pursuant to section 454.500, RSMo.

(B) For modification of a judicial order—

1. The division shall serve the obligee and the obligor with a motion to modify pursuant to section 454.496, RSMo; or

2. The division, at its discretion may refer the case to the prosecuting attorney in the county that issued the order or to another attorney under contract to the division to petition the court for a modification of the order.

*AUTHORITY: section 454.400, RSMo 1994. * Original rule filed Dec. 24, 1990, effective June 10, 1991. Emergency amendment filed Dec. 2, 1991, effective Dec. 16, 1991, expired April 13, 1992. Amended: Filed Dec. 2, 1991, effective April 9, 1992. Emergency amendment filed May 14, 1993, effective May 24, 1993, expired Sept. 20, 1993. Emergency*

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**Original authority: 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993.*