

ANALYSIS - NEW MASS CHILD SUPPORT GUIDELINES

BY DAVID B. WEDEN, III, CFA

This analysis has been prepared to summarize new changes to the Massachusetts child support guidelines, and provide some related analysis. The formula will be effective February 15, 2002.

Please note that the changes to the guidelines do not, in and of themselves, constitute a “change in circumstances” justifying a modification to a child support order.

The author of this report is a financial professional, not an attorney. Legal advice should be sought from an attorney. However, The author is available for consulting work on child support guidelines, and in formulating appropriate child support orders where the guidelines do not apply, or when they produce an inappropriate result.

Basis of Formula

The formula used since 1987 has no documented economic basis, which for some has undermined its credibility. As the 2001 review consisted of incremental changes to the existing formula, there is still no documented economic basis for the guideline formula. In December, the Massachusetts Bar publicly called for an in-depth review of the guidelines. The MBA says the formula has serious flaws and that no assumption should be made that the current formula produces an appropriate result. However, due to the timing of the MBA’s submission, the CJAM was unable to consider their recommendations.

Changes

As noted, the new formula is basically the old formula, with minor changes, summarized as follows:

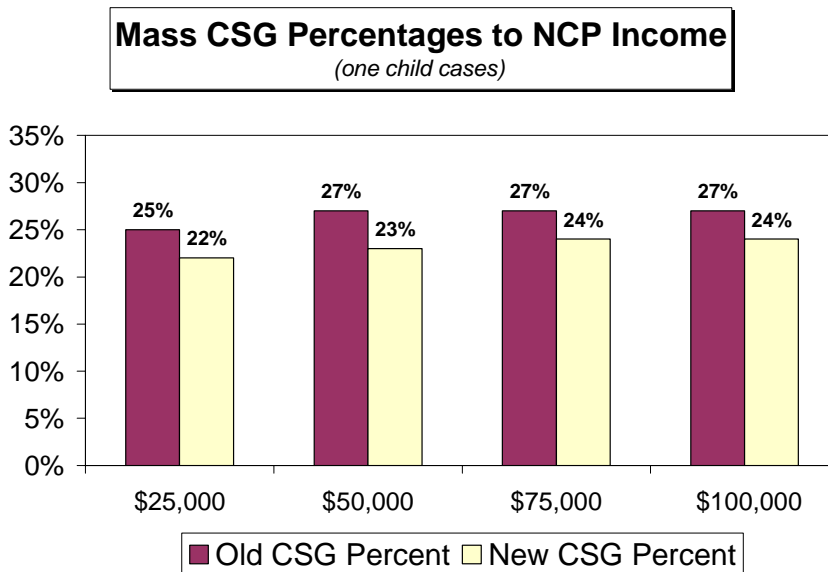
1. Raised the minimum for low-income payers from \$50 to \$80 per month.
2. Raised the income thresholds from 75/100 to 100/135
3. Changed age adjustments from +10% at age 7 and +15% at 13, to +10% at age 13.
4. Eliminated the so-called “cliff effect”, where higher percentages would apply retroactively to first dollar of income.
5. Reduced top percentage for one-child cases from 27% to 25%.
6. CP disregard increased to \$20,000 from \$15,000

In most cases non-custodial parents will pay less under the new guidelines, albeit to varying degrees. In the 18 scenarios attached to this summary, only one saw an increase (1%) from the old guidelines.

The greatest reduction was for an NCP earning \$30K paying support to a CP earning \$15K for one child (age 10), where the presumptive order went down by 26%. For an NCP earning \$90K and paying a CP earning \$45K and supporting three children (age 5), their payment actually went up a little.

The single change that had the greatest impact on presumptive awards was a correction made to the way percentages are phased in for increasingly higher levels of income. The court found what they referred to as a “cliff effect” in the old formula, in which small increases in income resulted in large increases in support obligations. Percentages in both the new and old child support formulas increase as non-custodial parent income increases, similar to a graduated income tax table (which defies the findings of all studies on child costs as well as USDA statistics – more later). In the new formula, higher percentages will only be applied to incremental income, rather than apply the higher percentages retroactively to the first dollar of income. It took fifteen years, but this was a good catch by the court.

As a result, the effective percentage of non-custodial parent income that is reflected in basic orders is a blended rate, applying different percentages to different income levels. The chart below compares the old and new effective percentages for varying levels of NCP income:



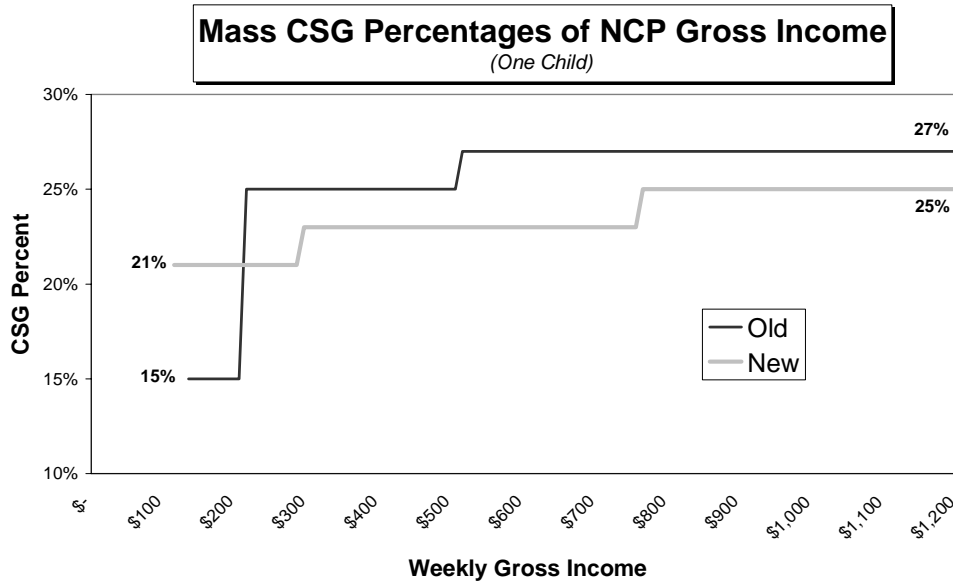
Reductions were also driven by the change in adjustments to basic orders associated with ages of children covered by the formula. The old formula required that the basic order for child support be adjusted upwards by 10% when a child turned 7, and then by another 5% (total of 15%) when the child turns 13. The new formula has one adjustment, an increase of 10% when the child turns 13. Thus, there is no longer an adjustment for children

between the ages of 7 and 13, and the adjustment has been decreased for cases covering children 13 or older.

The greatest impact of these changes will be for parents in modest income ranges (\$30,000 to \$50,000; non-custodial parent) with one child between the ages of 7 and 13. Cases involving 2 or more children, especially where children are 13 or older, will see minimal change.

Low Income Segment

As noted in the executive summary released by the court, percentages applied to NCP gross income for middle and upper income cases were reduced. However, percentages and minimums were increased for very low-income cases. While the amount of the change in dollars is relatively small, the percentage increase in orders for NCPs earning \$10,400 or less will be large. The percentages applied to NCP income for one child are illustrated in the chart below.



It should be noted that support orders for low-income cases in Massachusetts were very low when compared to orders in other states, and when compared with USDA cost estimates. It should also be noted that many experts feel that child support orders for extremely low-income payers may be unrealistic. Many low-income payers do not have resources to support themselves without the help of public assistance, even in intact family situations.

It is the opinion of this author that a great deal of work needs to be done in this area. Child support enforcement in the US was built on the public outrage in the 1980's that many children were living on public assistance, while parent's child support obligations were not enforced. After two decades of building enforcement infrastructure, with

support formulas and elaborate penalties (jail, car-boots, restriction of trade licenses, auto licenses, and passports, etc), collecting child support from extremely low-income parents remains very challenging. When dealing with low-income segments, some have replaced the term “deadbeat” with “dead-broke”, in an apparent expression of the futility of the situation.

Therefore, it is possible that child support arrearages in Massachusetts may increase in the low-income segment as a result of the guideline change.

Income Disregard and Thresholds Increased

The court also adopted (partially) two recommendations pushed for by the Women’s Bar Association, Greater Boston Legal Services, Massachusetts Council on Family Mediation, and the Boston Bar Association. First, the income thresholds under which the formula applies were increased from \$75,000 to \$100,000 for NCP income, and from \$100,000 to \$135,000 for NCP and CP income combined. Second, the custodial parent disregard was increased from \$15,000 to \$20,000.

If you have read other writings by this author, you will recall that I disagree with these changes on the grounds that there is no economic basis for disregarding a portion of one parent’s income in computing child support, and increasing the thresholds further expands the formula’s use to cases where the formula produces its most aberrant results.

Rational Spending Patterns Still Not Reflected

An aspect of the formula that remains noticeably out of step with other states (and in defiance of studies on child costs) are the increasing percentages applied to higher levels of parental income.

The United States Department of Agriculture estimates family expenditures on children each year, and publishes updates in the spring. In each update, and for all regions of the US, the USDA has found that as families earn higher levels of income, they spend a decreasing share of that income on their children. Every economist who has examined child-rearing costs has found this same pattern, and virtually all states reflect this pattern in their child support guideline formulas. Connecticut goes so far as to include the following statement in their child support guidelines handbook:

“Economic evidence establishes that the proportion of household income spent on children declines as household income increases. This spending pattern exists because families at higher income levels do not have to devote most or all of their incomes to perceived necessities. Rather, they can allocate some proportion of income to savings and other non-consumption expenditures, as well as discretionary adult goods.”

Contrary to empirical evidence, the Massachusetts child support guidelines reflect the opposite – as income rises, child support orders increase as a percent of non-custodial

parent income – on both pre-tax and after-tax basis. This is clearly wrong, and has become even more pronounced in the new formula. Thus, orders for high income NCPs are extremely high when compared to orders in other states and USDA statistics.

Under the new formula, a non-custodial parent earning \$95,000 will pay almost 40% more than what the USDA says it costs an intact family to support a 10-year-old child for one year. Further, the Mass guidelines put responsibility for the entire support amount on the non-custodial parent, if the custodial parent is earning \$20,000 or less.

Another controversial aspect of the formula concerns the underlying principles on which the formula is supposedly based. For example, underlying principles state that a child should enjoy the same "standard of living" as if the family had remained intact. While this may leave an appealing first impression, it is simply not possible given the financial realities when one household becomes two.

Another principle is "to encourage joint parental responsibility for child support in proportion to, or as a percentage of income". However, this is not compatible with the concept of the custodial parent income disregard included in the Mass formula. The disregard alters the true proportionate weights of NCP and CP incomes, and amounts to putting one's "thumb on the scale" when determining how much each parent contributes to supporting their children.

Development of a reasonable formula will require underlying principles that are consistent with rational family spending patterns on children. The empirical evidence is conclusive - families spend a decreasing share of their income on children as income rises, and it will always cost more to maintain two households than one household.

Health Insurance – Clarified Language

The language that governs the credit offered NCPs for providing health coverage was clarified, but is still open to interpretation. The old language allowed NCPs to have credited to their support order an amount reflecting the cost of health coverage for children.

However, this did not reflect the way health insurance is actually purchased. Typically, plan options provide for singular coverage, so-called one-plus-one coverage (for partners with no children), and family coverage, regardless of family size. The new health coverage credit tries to address this by limiting the credit to the incremental cost of health coverage associated with the children covered by the child support award.

However, there are still at least two issues that are unresolved:

- Is the incremental cost referring to the incremental cost at the time of family break up, or the incremental cost related to current household members (ie, stepfamilies)? If subsequent children are involved, which children account for the incremental cost of health coverage?

- If there is no incremental cost of health coverage, then the formula is essentially ascribing no value to the provision of health coverage. This conflicts philosophically with other areas of the guideline formula, which avoid the determination of costs borne by CPs and NCPs.

Conclusions

Changes to the guidelines were incremental modifications to the existing formula, which has been in place since 1987. Thus certain controversial aspects of the formula remain. However, the court made substantial changes, compared to those in the 1993 and 1997 reviews.

The changes had upward and downward affects on presumptive orders. However, generally the effect was to decrease awards slightly.

Contact Information

David Weden can be reached at blackfoot100@hotmail.com or 508-785-2862.

MASSACHUSETTS CHILD SUPPORT GUIDELINES
COMPARATIVE ANALYSIS - NEW VS OLD

One 5 Year Old Child				One 10 Year Old Child				One 15 Year Old Child			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -
New	6,619	13,934	21,434	New	6,619	13,934	21,434	New	7,281	15,327	23,577
Old	8,100	16,200	24,300	Old	8,910	17,820	26,730	Old	9,315	18,630	27,945
Change \$	(1,481)	(2,266)	(2,866)	Change \$	(2,291)	(3,886)	(5,296)	Change \$	(2,034)	(3,303)	(4,368)
Change %	-18%	-14%	-12%	Change %	-26%	-22%	-20%	Change %	-22%	-18%	-16%
Two 5 Year Old Children				Two 10 Year Old Children				Two 15 Year Old Children			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -
New	7,807	16,648	25,648	New	7,807	16,648	25,648	New	8,588	18,313	28,213
Old	9,000	18,000	27,000	Old	9,900	19,800	29,700	Old	10,350	20,700	31,050
Change \$	(1,193)	(1,352)	(1,352)	Change \$	(2,093)	(3,152)	(4,052)	Change \$	(1,762)	(2,387)	(2,837)
Change %	-13%	-8%	-5%	Change %	-21%	-16%	-14%	Change %	-17%	-12%	-9%
Three 5 Year Old Children				Three 10 Year Old Children				Three 15 Year Old Children			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -	CP Gross	\$ -	\$ -	\$ -
New	8,738	18,474	28,374	New	8,738	18,474	28,374	New	9,612	20,321	31,211
Old	9,900	19,800	29,700	Old	10,890	21,780	32,670	Old	11,385	22,770	34,155
Change \$	(1,162)	(1,326)	(1,326)	Change \$	(2,152)	(3,306)	(4,296)	Change \$	(1,773)	(2,449)	(2,944)
Change %	-12%	-7%	-4%	Change %	-20%	-15%	-13%	Change %	-16%	-11%	-9%
One 5 Year Old Child				One 10 Year Old Child				One 15 Year Old Child			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000
New	6,619	13,934	18,372	New	6,619	11,943	16,774	New	7,281	13,138	18,452
Old	8,100	14,954	19,882	Old	8,910	14,256	20,048	Old	9,315	14,904	20,959
Change \$	(1,481)	(1,020)	(1,510)	Change \$	(2,291)	(2,313)	(3,273)	Change \$	(2,034)	(1,766)	(2,507)
Change %	-18%	-7%	-8%	Change %	-26%	-16%	-16%	Change %	-22%	-12%	-12%
Two 5 Year Old Children				Two 10 Year Old Children				Two 15 Year Old Children			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000
New	7,807	16,648	24,298	New	7,807	14,270	20,072	New	8,588	15,697	22,080
Old	9,000	18,000	24,300	Old	9,900	15,840	22,275	Old	10,350	16,560	23,288
Change \$	(1,193)	(1,352)	(2)	Change \$	(2,093)	(1,570)	(2,203)	Change \$	(1,762)	(863)	(1,208)
Change %	-13%	-8%	0%	Change %	-21%	-10%	-10%	Change %	-17%	-5%	-5%
Three 5 Year Old Children				Three 10 Year Old Children				Three 15 Year Old Children			
NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000	NCP Gross	\$ 30,000	\$ 60,000	\$ 90,000
CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000	CP Gross	\$ 15,000	\$ 30,000	\$ 45,000
New	8,738	18,474	26,881	New	8,738	15,835	22,206	New	9,612	17,418	24,426
Old	9,900	19,800	26,730	Old	10,890	17,424	24,503	Old	11,385	18,216	25,616
Change \$	(1,162)	(1,326)	151	Change \$	(2,152)	(1,589)	(2,297)	Change \$	(1,773)	(798)	(1,190)
Change %	-12%	-7%	1%	Change %	-20%	-9%	-9%	Change %	-16%	-4%	-5%