

MASSACHUSETTS CHILD SUPPORT GUIDELINES GUIDELINE REVIEW PROCESS – OCTOBER 1993

The Family Support Act of 1988, Public Law 100-485 requires that the existing Child Support Guidelines “be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts.” The most recent Massachusetts Child Support Guidelines were promulgated on October 1, 1989. Under the provisions of Public Law 100-485, the first review of the Guidelines was completed October 13, 1993.

The Guidelines have been in effect for almost four years. This 4 year period was considered to be an open period of comment on the Guidelines; in fact, a number of comments regarding guideline content were received during this period.

Written commentary was received from Trial Court justices, attorneys, the Department of Revenue, and parents.

Trial Court staff reviewed a number of studies relating to the cost of raising children. Various studies have examined cost of living issues, as well as the cost of raising children. Depending on the socio-economic assumptions, alternative estimation techniques yield a variety of outcomes. Staff reviewed a number of these studies, which are described extensively in a report produced for the United States Department of Health and Human Services written by Lewin/ICF entitled “Estimates of Expenditures on Children and Child Support Guidelines” [October 1990]. Data from Robert G. Williams, of Policy Studies, Inc., produced for a presentation entitled “New Evidence in Economic Cost of Child Rearing was also reviewed, as was current data on day care costs, poverty level determination and data quoted in the various commentaries received.

During September, 1993, a random study was also conducted at two Probate and Family Court divisions by staff from the Planning & Development Department to ascertain the use of, and deviation from, the Guidelines in recent cases before the court. This study’s data was contrasted with similar studies done in 1988 and 1989.

Staff reviewed Federal Regulations cited in the commentary, as well as statutes passed since 1989 to determine which, if any, require changes in the language of the Guidelines.

Summary of Guideline Amendments

General Commentary:

Extensive and divergent proposals were made by comments on 12 separate provisions within the existing Guidelines. Additionally, commentary on evidentiary issues and administrative procedures was received. The review process dealt with guideline specific matters. Many suggested comments sought to set forth numerous hypothetical situations, and to apply guideline language to govern the way in which they are to be handled. It was determined that rather than try to anticipate the many variations on matters such as custody, visitation, multiple families or travel arrangements, judicial discretion should continue to be the guiding principle. It was also important to consider the preponderance of pro se litigants who pursue support related matters in the courts. Some comment suggested extensive mathematical formulas seeking to equalize financial resources between second, and even third families. Again, given the multitude of possible family arrangements, and the need for those affected by the order understand the way in which it had been derived, judicial discretion in setting orders for multiple families situations was retained.

Guideline Amendments

Recent changes in Federal Law, State Law and the promulgation of federal regulations affected certain guideline provisions. The following provisions have been amended as a result of these statutory and regulatory changes:

- Language on modification of orders and deviation from the Guidelines
- New language on rebuttable presumption and the best interest of the child

- Expanded income definition to include unearned tax credit
- Extension of support beyond age 21 in certain circumstances

Many commentors argued persuasively that, in the interest of equity in a number of areas, certain guideline provisions should be amended. The provisions below have been changed.

Specifically, the full cost of the family health insurance as a deduction from the order was widely commented on. With the ever increasing cost of health care the deduction, as it existed and where I was used, had an increasingly detrimental effect on the amount of orders. A change in this calculation has been made.

The consideration of expenses of subsequent families was also much commented on. This topic will become more of an issue as the federal requirement for periodic review and adjustment of orders is implemented. The change in Guideline language recognizes that subsequent families are a factor in the provision of available resources, but also recognizes that there is an equal obligation to the first family which has relied upon consistent level of support.

At lower income levels, numerous comments were received regarding the potentially large gap in orders for some one making \$200 per week (minimum order of \$50 per month suggested) and income of \$201 per week (minimum order of \$46 per week). An interim chart of income and orders at the lower end of the scale, which gradually increases the orders has been inserted.

The thoughtful commentary of those who chose to comment is gratefully appreciated.