



Child Support

HEALTH & HUMAN SERVICES

## ***Child Support Guidelines***

### ***Fact Sheet – Proposed Changes***

***October 15, 2022***

The child support amount a person is required to pay in North Dakota is set by a court using child support guidelines. The guidelines are adopted by the North Dakota Department of Health and Human Services (HHS) through administrative rule. State and federal laws require HHS to review the guidelines every four years to ensure that their application results in appropriate child support amounts being ordered.

As part of the review process, HHS convened a drafting advisory committee. The members of the committee included a legislator, an attorney in private practice, a tax preparer, and several staff from the Child Support Section of HHS.

Based on the recommendations of the advisory committee, HHS is proposing several changes to the guidelines. Most of the proposed changes are summarized below and can be found on [Child Support's website](#).

A public hearing on the proposed changes will be held at 11:00 a.m. on Wednesday, March 1, 2023, in Bismarck. Written comments will be accepted until 5:00 p.m. on Monday, March 13, 2023. If you would like to request notice of the location of the public hearing, or if you would like to provide written comments on the proposed rules, please send the request or comments to: Rules Administrator, North Dakota Health and Human Services, State Capitol – Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250.

### ***Summary of Proposed Changes***

The proposed changes include substantive changes, clarifications, and changes intended to improve the flow and readability of the guidelines. Several significant areas of the guidelines are left unchanged.

#### **Substantive changes – generally in the order in which they appear in the guidelines**

- A new exclusion from gross income is created for early withdrawals from retirement accounts.

- The deduction for lodging expenses incurred as a condition of employment is increased from \$93 to \$96 per night and the deduction for mileage is increased from 56 cents to 58.5 cents per mile.
- A look-back period not to exceed five years is imposed when gross income that is subject to fluctuations must be determined.
- When imputing income based on the obligor's previous earnings, the look-back period is revised to reference only the current calendar year and the two previous calendar years.
- Imputing income is precluded if the obligor is receiving disability compensation from the Veterans Administration based on an overall disability rating of 80 percent (formerly 100 percent).
- New rebuttal reasons are created to address the reduced ability to pay support when the obligor is responsible for:
  - Educational costs of the children at private schools; or
  - Child care costs for the supported children.
- A new rebuttal reason is created to address the reduced needs of the child to support from the obligor when the child is living outside the family home at government expense.
- The existing rebuttal reason that allows for equalizing support obligations when equal residential responsibility is ordered is expanded to be applicable in split residential responsibility cases too.

### **Clarifications – generally in the order in which they appear in the guidelines**

- The definition of “self-employment” is revised to clarify that it means employment in one or more related activities resulting in income to an obligor.
- In foster care or guardianship care cases when the parents are together in an intact household and their incomes are being combined, language is added to clarify that their incomes include imputed income, when applicable.

### **Changes to improve flow and readability**

- When extended parenting time applies, language requiring that the court order specify the number of overnights is moved from the general instructions to the section on the extended parenting time adjustment.

- Regarding the presumption of underemployment, the elements are re-arranged to align with arrangement elsewhere in the imputation section.

**Areas where no changes are proposed**

- Split residential responsibility.
- Self-employment.
- Multiple-families.
- Equal residential responsibility
- Schedule of amounts.

**For more information:** Contact Paulette Oberst, Assistant Director for Policy and Chief Legal Counsel, at 701-328-7533 or by email at [poberst@nd.gov](mailto:poberst@nd.gov).