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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

Minutes
DWD Child Support Guidelines Review Advisory Committee

June 18, 2001 Meeting

Present: Run Hunt, Chair, Division of Workforce Solutions; Catherine Kendrigan, Connie Chesnik, Sally Phelps, Katie Mnuk, Honorable Ann C. Krummel, Jan Raz, Carol Medaris, Honorable Philip Kirk, Margaret Wrenn Hickey, James Luscher, Elaine Richmond, Patty Seger, Jacquelyn Boggess

Guests: Susan Pfeiffer, Director, Bureau of Child Support; Linda Presyz, Facilitator, Office of Organization Management, DWD; Todd, Kummer, Bureau of Child Support; Bob Andersen, Legal Action of Wisconsin; Kathy Fullin, Bureau of Child Support

Ron Hunt asked for review of April 26, 2001 meeting minutes and reviewed the plan for today's meeting. Minutes of April 26, 2001 meeting were accepted as written.

Plan for today's meeting:

1. Review of historical purposes of the child support program in Wisconsin
2. Overview of current child support guidelines in Wisconsin
3. Discussion
 - Identify strengths and weaknesses of current guidelines
 - Identify potential recommendations for change
 - Generate consensus on recommendations for change

At the Senate Judiciary Committee hearing on SB 106 held on June 5th, Legal Action of Wisconsin (LAW) testified in support of an amendment to SB 106 to deal with the implications of fixed dollar orders on low income payers. The Department requested that Senator George refer consideration of Law's proposal to this committee. Cathy Kendrigan will present LAW's proposal.

History and Development of Child Support Guidelines in Wisconsin – Connie Chesnik

1. Child support program was created in 1975 as Title IV-D of the Social Security Act.
2. Support Above Basic Allowance (SABA) was first guideline, but not perceived to meet needs of children. Allowed large amount of judicial discretion, thus two individuals in very similar situations might have dissimilar support awards.
3. IRP looked at different guidelines and proposed the percentage standard.
 - As additional children were added the percent increase is half of previous percentage, e.g., the increase from 17% to 25% for the second child is half of 17%. The percentage of income necessary to raise a child recognizes the cost to the noncustodial parent (NCP) of maintaining two households by reducing the percentage, e.g. 17% for one child is adjusted down from 20%.
 - Uses gross income of NCP.
 - No cap for high income cases.
 - Goal was to provide the same standard as child would have enjoyed in joint household.
4. Guidelines began in 1983 as recommendation from DHSS. The legislature created the Committee for Review of Initiatives in Child Support to review and make recommendations on the application of the guidelines. The 1985 budget bill created the percentage standard which became effective and was presumptive for all court cases effective July 1, 1987. At same time, DHHS was directed to develop Administrative Rules and that the Rules should address special situations, such as serial families.
5. The Rule has had one major change affecting the NCP's reduced obligation when the child(ren) spends time with the noncustodial parent above given thresholds.
6. A 1988 federal child support law required all states to have guidelines, but did not identify what should be included. The law requires that the guidelines are reviewed every 4 years. The last review of WI guidelines was completed in 1999. This committee is involved in the next review.

Overview of Child Support Guidelines – Susan Pfeiffer

Susan reviewed state statutes relevant to the child support program, Chapter DWD 40, and the Child Support Percentage of Income Standard

In a serial family situation, the court may not go back on its own and modify previous orders, unless the NCP requests it and proper notice is given to all other parties affected by those orders. When an NCP has more than one order for support and the total of all orders exceeds the Consumer Credit Protection Act, child support payments received for current support are prorated among all the NCP's court cases.

The administrative rule assumes that each parent contributes variable costs in relation to the percentage of time they have the children.

A recent appellate court case opinion said the shared time formula is presumptive.

Strengths and Weaknesses of current system

Linda Preysz facilitated a discussion of the strengths and weaknesses of the current system. Results of this discussion are attached as flip chart notes.

Legal Action of Wisconsin (LAW) Proposal

Catherine Kendrigan made a proposal on behalf of LAW for the Committee's consideration with the intention of submitting the agreed upon points for proposed legislation. LAW is concerned about the impact removal of percentage orders will have on low income payers. Fixed orders will be made based on formula with no relation to the payer's ability to pay.

1. Eliminate current ability to impute income at 40 hours per week times the federal minimum wage. This should be replaced by support in, " an amount determined by the court to represent the payer's education, training and work experience, and the availability of work in or near the payer's community."
2. Recommendation to include a new statutory section to limit arrears in certain situations. Suggested statutory language: "Any arrears in child support that is attributable to months during which the payer has an income that is below the federal poverty guidelines amount for a single person, as reported by the federal department of health and human services, shall not exceed \$500 in total."

There was no consensus to support either proposal as worded. LAW was invited to bring revised language before the Committee at its August meeting.

Next meeting: August 27, 2001 from 9:00 a.m. to 1:00 p.m. at the State BAR Center.

Minutes
DWD Child Support Guidelines Review Advisory Committee

August 27, 2001 Meeting

Present: Ron Hunt, Chair, Division of Workforce Solutions, Connie Chesnik, Sally Phelps, Katie Mnuk, Honorable Ann C. Krummel, Jan Raz, Carol Medaris, Honorable Philip Kirk, Margaret Wrenn Hickey, James Luscher, Elaine Richmond, Patti Seger, Jacquelyn Boggess

Guests: Susan Pfeiffer, Director, Bureau of Child Support; Todd, Kummer, Bureau of Child Support; Bob Andersen, Legal Action of Wisconsin; Kathy Fullin, Bureau of Child Support; Dan Meyer, Institute for Research on Poverty; Ingrid Rothe, Institute for Research on Poverty.

Ron Hunt welcomed committee members and reviewed the agenda for the day's meeting.

Review of minutes from June 18th meeting: A number of questions were raised concerning the edited flipchart attachment. Some members thought that there was not consensus in areas where the minutes indicated consensus. It was agreed that the minutes are sufficiently accurate since they say that the bolded areas reflect "possible consensus among committee members."

Discussion of policy objectives in setting a child support standard

Susan Pfeiffer led this discussion. The results are included on the attached flip chart notes.

Institute for Research on Poverty Presentation

: Dan Meyer and Ingrid Rothe of the UW – Institute for Research on Poverty made a summary presentation about the paper, "Experience with Income-Shares and Percentage-of-Obligor-Income Child Support Guidelines: A Report on Five States which was previously sent to committee members. Dr. Meyer and Ms. Rothe presented using the overheads attached to these minutes.

The following points were made in the discussion that followed

- Use of the Income shares model generally requires extra work because income and other information must be collected from both the noncustodial parent (NCP) and the custodial parent (CP).
- Both models arrive at the same child support payment amount if the same percentage of income is used to calculate the support amount.
- The income share model may be perceived to be fairer because the calculation of support looks at both parents' income.

- If dollars are allowed to determine placement, will not arrive at reasonable solution. Need chronological solution. Early on parents want to continue discretionary expenditure of money.
- Question was raised about how many child custody orders place children in families below given percent of time thresholds.
- Question about how much CP and NCP information is needed for the income shares model to be effective?
- Current application of WI percentage of income model uses an income shares-like calculation when children have a 40% or more placement with the noncustodial parent. This is viewed by some as a problem with the current formula because it doesn't specifically look at both parents' incomes until the 40% placement threshold is met.
- Pressure on courts to order support when it may not be appropriate is driven by federal incentive formula. People don't always know that they can go to court at a later date and argue for deviation. Child support agencies are in difficult situations because they have several different customers to satisfy.

Discussion of Legal Action of Wisconsin proposal presented by Bob Anderson.

This is a follow-up to proposals for discussion at the June 18, 2001, committee meeting. The Senate Judiciary and Consumer Affairs Committee offered an amendment to SB 106 to eliminate percentage expressed orders. The Judiciary Committee offered an amendment saying the court may impute income when the NCP has no income and requested input from the Guidelines Committee how to fairly impute income.

Mr. Anderson referenced two reports. One report was from the Office of Child Support Enforcement suggesting that income should not be imputed unless the noncustodial parent has the ability to pay, but is uncooperative. Committee members were concerned that this proposal places increased burden on the custodial parent to show that the noncustodial parent is being uncooperative.

The second method to impute income is for the court to impute income by setting an order consistent with the NCP's ability to pay. Current administrative code at DWD 40.05 now provides a methodology to impute income.

Mr. Anderson would like to eliminate the automatic calculation of imputed income by multiplying 40 hours times the federal minimum wage in whatever calculation is used. This could be done with a revision to the current rule rather than passing new legislation.

Issue is whether court should impute income and how. The court could do this at the hearing except in a paternity situation. In a paternity hearing, the statute requires the child support order to be determined at the hearing when paternity is established.

However, because it is a paternity situation, the child support agency may not obtain information about the potential father's earnings before paternity is established. One option is for Statute to say that child support liability is determined for paternity situations at a second trial after paternity is established and income fact finding for the NCP can be completed.

The committee did not believe the proposal to set support at the earning capacity would be possible in paternity defaults. The committee would consider alternate proposals to address this concern.

The second issue the Guidelines Committee was asked to consider is placing limits on NCP arrears. OCSE and others have recognized this as a problem, in particular for low income NCPs who have a reduced ability to pay current support and accumulated arrears.

One proposal is to limit arrears to \$500 during any period a person earns below federal poverty guidelines. Mr. Anderson drafted an amendment to suspend arrears when a person is earning below federal poverty guidelines. This would have to be stated in the support order, not part of a retroactive modification. If the person has the capacity to earn above the poverty level, then the arrears limitation does not apply.

The Senate Judiciary Committee did not approve due to concerns of limiting arrears when someone's income is low even when they may receive an inheritance or receive a financial windfall. The Judiciary Committee requested that the Guidelines Committee report back with its recommendation no later than October.

Issues raised concerning any policy to limit arrears:

- Some NCPs might voluntarily reduce income if they know arrears will be limited.
- Administratively would be difficult. CSA would have to retroactively back out arrears and interest and correct record. Burden will be in CSA, which doesn't currently have sufficient time to do basic tasks.
- Most arrears to be forgiven are due to state.
- Question is how to modify as go along, so don't get to the point that there are arrears and then have to act retroactively.

Maryland has program that reduces arrears by 25% if the NCP participates in a fatherhood program.

There was consensus that the LAW proposal is not administratively feasible.

Follow-up review of proposed draft legislation from previous committee meeting

1. Response to Randall case – In this case the court said that the use of shared time formula is presumptive.

Proposal is to clarify that regardless of placement, the court may apply the percentage standard or it may deviate from the standard with a justification in the record. This would only apply when the NCP has the child for more than 30% of the time.

2. Response to Luciani decision

Question is whether the current statute at s. 767.25(1m) gives courts the necessary discretion to deviate from the standard when parents have high incomes. Decision was to hold this item for further discussion when Margaret Wrenn Hickey is present.

3. Response to current limit on serial family orders – Currently in serial family situations, there is no requirement for disclosure about other families.

Recommendation for statute language that if one family requests a child support modification, the court would be required to disclose information about other obligations the NCP has to pay support. This raises a question of confidentiality. Should the custodial parent in the case before the court be informed of other children and child support obligations by the NCP?

The Committee decided not to take a position on the three issues at this meeting.

Next Meeting

The next meeting will be on September 24, 2001 at the State Bar Center, 9:00 a.m. to 2:00 p.m.

Agenda will include:

1. Review and confirm consensus on primary customers from August 27th meeting
2. Bob Williams from Policy Studies, Inc. will make a presentation and be available to answer questions from committee members.
3. Continue review of legislation

Minutes
DWD Child Support Guidelines Review Advisory Committee

September 24, 2001 Meeting

Present: Run Hunt, Chair, Division of Workforce Solutions, Connie Chesnik, Sally Phelps, Katie Mnuk, Honorable Ann C. Krummel, Jan Raz, Carol Medaris, Honorable Philip Kirk, Margaret Wrenn Hickey, Elaine Richmond, Patti Seger, Cathy Kendrigan

Guests: Susan Pfeiffer, Director, Bureau of Child Support; Todd, Kummer, Bureau of Child Support; Bob Andersen, Legal Action of Wisconsin; Mike McCoy (for James Luscher), Marguerite Orulet (for Jacquelyn Boggess)

Ron Hunt welcomed committee members and reviewed the agenda for the day's meeting. Committee members were asked to approve minutes of the August 27, 2001 meeting. Two questions were raised.

- Clarification was provided that the issue in the Randall case is that the threshold for shared time placements automatically kicks in at 30% time.
- Item number 7 under **Parents** from the flip chart discussion includes 'arrearage limitations.' The committee agreed that this should be a separate point. Revision is attached.

Ron summarized the committee's work in the previous three meetings. One of the charges to the committee is to recommend to the DWD Secretary at a high level what methodology the committee recommends to use as a starting point for establishing child support in Wisconsin. In general, this would include one of the following models:

- Percent of gross income – status quo
- Modification of percent of gross income
- Income shares
- Hybrid between percentage and income shares

The committee will need to meet in October to decide on the recommendation to make to the Secretary's office.

Bob Williams, Policy Studies, Inc. – Presentation of the attached overheads and discussion

Mr. Williams expressed his opinion about the Wisconsin percentage guideline.

- It is difficult because it is a flat percentage of gross income. One could argue for a flat percentage of net income.
- No economic study on expenditures for children show that the percent of those expenditures increases as a percentage of gross income. Taxes are not flat.
- At higher income levels (\$2,500-\$3,000) per month net income, the percentage amounts per child cannot be justified by current child rearing studies. This problem

- could be addressed by either using net income, doing a step-down at the higher income levels or switching to an income shares model.
- Although both the percentage and income shares models consider the earnings and contribution of the custodial parent, because the income shares model includes the CP income in the calculation, it is perceived to be more fair. In North Carolina, CPs increased cooperation when there was a switch to an income shares model because it was perceived to improve the fairness of the system.
 - Recommends WI include an adjustment for health insurance.
 - Wisconsin's shared custody formula and serial family formula are adequate.
 - In states with an income shares model, the administrative cost of operation has not been a driving force.

Next Committee Meeting

Committee members agreed that at the next meeting there needs to be time allocated for general discussion among members. Anyone who wants to give a brief presentation about the benefits of a given model should contact Ron Hunt. After those presentations, each person will have 3-5 minutes to express their opinion about the guideline models. The committee will also discuss the draft legislation considered at previous meetings.

Anyone wishing to bring new items of business to the committee should send them to Ron Hunt, committee chair, for consideration prior to the committee meeting.

The next committee meeting is scheduled for October 31st at 9:00 a.m. at the Office of State Courts office on the 4th floor of the Tenny Building, 110 E. Main Street, Madison.

LAW Proposal

Bob Anderson distributed for the committee's consideration a proposed revision to DWD 40.03. The proposed revision would require the court to set support at an individual's earning capacity, but would allow the court, in a situation where a payer fails to appear at a court ordered hearing, to impute the income at minimum wage by default when calculating support owed. The committee supported the proposal, but indicated that no administrative rule changes would be proposed until the committee had completed its work on all issues.

Mr. Anderson stated that LAW is satisfied that the Guidelines Committee will address the other issues it has brought before the committee.

Minutes
DWD Child Support Guidelines Review Advisory Committee

October 31, 2001 Meeting

Present: Ron Hunt, Chair, Division of Economic Support; Jacquelyn Boggess, Honorable Ann C. Krummel, Elaine Richmond, Honorable Philip Kirk, James Luscher, Carol Medaris, Jan Raz, Connie Chesnik, Patti Seger, Katie Mnuk, Margaret Wrenn Hickey

Attendees: Jesssica Andersen, WI Women's Council; Roberta Rieck, LAW for Cathy Kendrigan; Susan Pfeiffer, Bureau of Child Support; Todd Kummer, Bureau of Child Support; Robert Anderson, LAW; Kathy Fullin, Bureau of Child Support

- Ron Hunt welcomed the committee. The minutes of the September 24 meeting were approved. The objective of today's meeting is for the committee to arrive at a consensus on a proposed guidelines methodology and, at the end of meeting, review statutory items from the previous meeting.
- Ron handed out a worksheet for use in evaluating the scheduled presentations. The worksheet included the committee guidelines consensus items in the left column and four basic guideline methodologies across the top. Carol Medaris stated that she does not agree with consensus item #2.

Presentation of Models

Income Shares Model – Presented by Connie Chesnik and Elaine Richmond

1. Income shares can lead to higher standard of living for CP than NCP.
2. Non-recognition of adult goods important in all models. Use of intact family in calculation of support order creates difficulty. This is a problem when most family units for child support are not intact units.
3. One of the persistent questions concerns the effect of using net vs. gross income. This is constant difficulty for current standard when set support using gross income, yet people get paid on net. Use of income shares begs same question and same dilemmas.
4. Most income shares models don't incorporate medical and childcare in the basic calculation. These are add-on's making the support levels higher than in percentage model. Therefore, as the committee looks at different models it should be careful to note whether childcare and medical are included.
5. Value in perceived fairness of looking at both parents' income.

State Bar Proposal – Presented by Margaret Wrenn Hickey

The Family Law Section believes that the current system addresses needs adequately and doesn't want to start over with a new model.

The current 30% and 40% time thresholds are a problem. Bar recommends making the amount of support discretionary at given levels. Shouldn't have to rebut presumption. Make the threshold 25% (or 90 days) which will address both parents' incomes and improve the perception of fairness.

Allow courts to order support within a percentage range, e.g. if the child is with the NCP 156 days, child support might be 10 - 12%. This gives the courts additional flexibility and addresses special needs of children.

SB 151 – Presented by Jan Raz

SB 151 is based on comprehensive economic data that recognizes that families with different incomes share a different portion of their income on behalf of the children. Both parents are expected to share an equal portion of their income to support their children.

Makes child support orders more consistent with established economic data on cost of raising children and case data. Assures that both parents contribute a similar percentage of his or her income to support their children in all families.

Committee Member Views

- ❖ Carol Medaris - Believes current law does not need to be changed. It takes care of needs and avoids fighting at lower income levels. Courts would be required to deem income at the lower levels if no earned income exists. If deviations were permitted for shared time at 25%, CP's would have to choose between accepting lesser support or working at low-income amount.
- ❖ Connie Chesnik – There is a strong push for change and others are looking to this group for a proposal. Concerned that if a proposal is not brought forth, it will happen anyway. Shared time could be addressed in any of the formulas.
- ❖ Elaine Richmond – County CSA directors generally believe current guidelines are destructive to low-income payers, therefore need to start with lower payment amount, i.e. lower than 17%. Although the current standard allows for deviation, the parties must present the arguments to the court and court time isn't available. Predictability is important.
- ❖ Ann Krummel – People don't understand law and there is not enough time to present it. If the system could give adequate time and educate people, many issues would be addressed. Current standard with articulated discretion process would address issues. Don't change existing system. Income shares won't result in the perception of a fairer system. People must have sense of fairness in process and not at expense of predictability.
- ❖ Jacqueline Boggess – The issue is about time and looking at situation and applying law fairly. She would change guideline for low-income persons. Suggests minimum order at low end. Allow for real deviation in real situations. Minimum order is necessary and beyond that, how people are cared for is up to social welfare policy.
- ❖ Margaret Wrenn Hickey – Personally thinks that ranges could be difficult. Don't make system any more complicated because it needs to work for non-lawyers. Appears WI orders are in ballpark for most cases, though problems exist at low and high end. Don't tailor the system for high-income cases because only 5% of people make over \$100,000. Low end should be addressed to make formula fair.
- ❖ Patti Seger – Concerned about low-income women. Prefers having a low set amount of support so there is a higher probability of receiving something. Middle income women want percent-expressed to remain because they don't want to have to go back into court for a change. Victims of domestic violence at high incomes are most at risk because the NCP can hire a lawyer to control issues.

- ❖ James Luscher – Use Wyoming for example because more related to economic data. Reason to address high income is to take care of those situations when CPs can't afford to defend himself or herself. Model should address low-income obligors because there is not enough money available to pay support and meet personal expenses. System should not unnecessarily add to NCP burdens, e.g. charge interest when can't afford or credit rating may be adversely affected when paying child support even though expenses are the same.
- ❖ Katie Munk – Not convinced that there is a better model than current. However, lower and higher ends need to be addressed.
- ❖ Sally Phelps – Submitted her opinion in letter to committee members.
- ❖ Judge Kirk – What change to the current law would satisfy those who want change? From a practical standpoint, child support is not considered in a vacuum. Have to determine policy which addresses all cases in WI, but allow for each to be unique. To say that we must change the standard means that the current standard is wrong which isn't necessarily true. Address low income and shared income situations, but no matter where line is drawn, there will be fighting.
- ❖ Jan Raz – Agrees that system is okay for average case. No strong feeling about low-income situations. For high-income cases, the current formula starts to be incorrect at \$50,000 income. Shared placement – biggest adjustment is between 30-60 percent. The problem for NCPs occurs as soon as child support is ordered because they have to have adequate room for children to stay even for one night and pay all the expenses that go with it. Children have expenses at both households regardless of amount of time.
- ❖ Ron Hunt – The committee has received a considerable amount of information and heard from several knowledgeable speakers. Is the committee ready to agree to a methodology? Three approaches might be:
 1. Status quo,
 2. Existing standard with modifications to address key issues, or
 3. Shared time and address issues in that

There was consensus to retain the percent standard methodology, and address problems of low-income and high-income situations when using the percentage standard and shared time cases.

The Bureau of Child Support staff will prepare two papers for the next committee meeting. First, show at what income levels different welfare (W-2, food stamps, medical assistance, etc.) eligibility is affected. Second, propose different approaches at high-income levels.

Consideration of Legislative Proposals

Legislative Recommendations:

Randall Case: The committee previously agreed to the following: There should be a statutory change to clarify that the use of the percentage standard in shared time cases is not mandatory. The legislation is necessary to overturn the Court of Appeals decision in Randall v. Randall.

Serial Family Situations: The committee had previously agreed to recommend statutory language that if one family requests a child support modification, the court would be required to disclose information about other obligations the NCP has to pay support.

Luciani Decision:

Committee recommended with one dissenting vote:

1. To amend s. 767.25(1m) as follows, "...the financial resources and standard of living of both parents as determined by the court including any significant disparity between the parties' gross income or earning capacities."
2. There should be a LRB note indicating that this revision is to address the Luciani case.

Jan Raz disagrees with this proposal because it is not a final fix to the problem. It is only a partial solution.

The purpose of this statutory revision is to address the inequities in the Montemurro – Luciani case in which there were significant disparities in income between the parties with the NCP having lower income than the CP.

Minutes
DWD Child Support Guidelines Review Advisory Committee

December 13, 2001 Meeting

Present: Ron Hunt, Chair, Division of Workforce Solutions; Jacquelyn Boggess, Connie Chesnik, Margaret Hickey, Cathy Kendrigan, Honorable Philip Kirk, Honorable Ann C. Krummel, James Luscher, Carol Medaris, Sally Phelps, Jan Raz, Elaine Richmond, Patti Seger

Absent: Katie Mnuk

Attendees: Robert Andersen, LAW; Marguerite Roulet and Rebecca May, CFFPP; Kathy Fullin, Donna Lemke, Susan Pfeiffer, BCS

Comments on the Minutes of Oct. 31, 2001—Section on Committee Member Views

- Carol Medaris would like the first sentence of her comments to read: "Believes current law does not need to be changed beyond the specific statutory changes already discussed in response to specific court cases."
- Ann Krummel would like the last sentence of her comments to be changed to read: "The child support process entails more than the application of a formula. It includes access to a decision maker and application of the formula by a fact finder. This all affects the perception of fairness."

Update on Legislative Action

Ron Hunt explained that Rep. Gundrum plans to schedule committee action on child support legislation in February. DWD will have to respond to the legislation.

Ron outlined several options for the Guidelines Committee:

- The Committee could push to make recommendations to the DWD Secretary. The recommendations could cover all of the issues addressed in the child support bills or only some of them.
- The Committee could continue on its own schedule without reference to pending legislative action.
- The Committee could pursue a 2 part strategy:
 - 1) provide input on the legislation
 - 2) continue in a more deliberate manner to recommend changes in the Administrative Rule to DWD

The Committee agreed that it should proceed and make some recommendations that could be considered in the legislative process. The Committee noted that because the Legislature adjourns for the year in March, final passage of new child support legislation may not take place this session. Several members suggested that continued deliberations geared toward changes in the Department's Administrative Rule would be useful. The Committee agreed that its first focus would be developing a recommendation on appropriate orders for low-income payers.

Presentation of Data

Susan Pfeiffer explained a number of charts summarizing economic data on the cost of raising children, income figures for minimum wage and for eligibility for needs-based public assistance, and the income distribution for sole placement child support cases in Wisconsin.

Committee members requested the following information about shared placement cases:

- a breakdown of shared placement cases by different percentages of sharing (i.e. the proportion of cases in which the placement is 50/50, 60/40, and 35/65)
- income distribution of shared placement cases, similar to the information distributed about sole placement cases.

Susan Pfeiffer explained the chart titled "Analysis of Proposed Child Support Legislation" and offered to extend the chart to include the Committee's recommendations in the listed topic areas.

Low Income Payer Options

The Committee discussed issues affecting low-income payers, including family owed arrears, state-owed arrears and birth costs, whether income should be imputed, and the Consumer Credit Protection Act garnishment maximums. The Committee agreed to set these issues aside while it worked on a proposal to reduce the support obligation at lower income levels, which the Committee unanimously agreed to pursue.

Ron Hunt presented some options developed by the Department for reducing the obligation for low income payers. The Committee asked that the Department further develop an option for establishment of a minimum amount due for payers with incomes below the Federal Poverty Level (FPL) for one individual. For payers with income above the FPL for one individual, the obligation would be the minimum amount plus the appropriate percentage of the portion of income that exceeds the FPL for once person.

Carol Medaris presented an option developed by Legal Action of Wisconsin, the YWCA, the Wisconsin Council on Children and Families, the Wisconsin Coalition against Domestic Violence, and the Council on Fathers, Families, and Public Policy with the involvement of the Urban League. Carol clarified that this option presumes the court has reviewed earning *capacity*. The Committee asked that the Department further refine the option presented by the coalition, to reduce the size of the cliffs as income changes.

Ron Hunt indicated the Department would refine these two options for the next meeting. The Department would develop some rationale for the changes, along with supporting data if available. In addition, the Department will outline some of the consequences of making these changes, including how to address the issue of modifications of existing orders.

Next Meetings

The Committee agreed to meet on January 10 from 9 a.m. to 3 p.m., January 22, and January 31 if necessary. The Committee agreed that the first priority at the next meeting would be resolution of the issue of obligations for low-income payers. The Committee agreed to begin a limited, preliminary discussion of shared placement at the next meeting, and then address the issue of obligations for high income payers.

High Income Payer Options

Ron Hunt presented some options developed by the Department for reducing the obligations of high income payers. He indicated that there are five decision points concerning high income payers:

- At what income level does the Standard begin to reduce the obligation?
- Is this income level based on combined income of both parents, or only the payer's income?
- Does the Standard define the reduced rate(s) (step-downs), or is judicial discretion used above the chosen income level?
- If the Standard defines the reduced rates, what are those reduced rates?
- Is there a limit on the total amount of support that can be ordered?

Jan Raz indicated his disagreement with the Department's presentation of the Williams data on the cost of raising children. Susan Pfeiffer and Jan Raz agreed to discuss the numbers later. Margaret Hickey indicated that whatever is decided concerning high-income must be made presumptive, or it will be ignored.

The Committee agreed to work on the issue of reducing the obligations for high-income payers. It was agreed that the issue of modifications due to any change in the Standard would have to be addressed as well. The Committee asked for data, if it is available, on the relationship between high income and shared placement, and on disparity between parents' incomes in high income cases.

Minutes

DWD Child Support Guidelines Review Advisory Committee

January 10, 2002 Meeting

Present: Ron Hunt, Chair, Division of Workforce Solutions; Jacquelyn Boggess, Connie Chesnik, Margaret Hickey, Cathy Kendrigan, Honorable Philip Kirk, Honorable Ann C. Krummel, Carol Medaris, Sally Phelps, Jan Raz, Elaine Richmond, Katy Mnuk, Patti Seger

Absent: James Luscher

Attendees: Susan Pfeiffer, Kathy Fullin, Todd Kummer, Bureau of Child Support; Rebecca May, Marguarete Roulet, Allison Lipscomb and Louisa Medaris, CFFPP

Run Hunt, committee chair welcomed the committee. His hope was to complete the committee work on the low-income policy today and get started with high income and shared time placement policies. They will be completed at subsequent meetings. Also, he would like to review a draft format of a report to go to the Department.

Minutes of the December 13, 2001 were approved.

Consideration of guideline for low income payers

Bureau of Child Support (BCS) staff refined two examples discussed at the December meeting. These demonstrate the difficulty in developing a guideline which eliminates cliffs and doesn't present undesirable outcomes. To assist the committee in its deliberations, staff identified five key policy triggers to follow as each option is considered. These are:

1. What is the minimum amount of child support that should be paid by low-income payers?
2. Should the minimum amount of child support vary based on the number of children in the family? (Eg. \$20 for one child; \$25 for two children; \$30 for three children, etc.)
3. What is minimum payer income "breakpoint" below which the minimum child support amount should be used for low-income payers? (E.g., LT 100% FPL? Other low-income breakpoint?)
4. What is the maximum payer income "breakpoint" above which regular child support percentage amounts should be used? (E.g., 130% FPL; 150% FPL).
5. For payers with income between the minimum and maximum breakpoints, should there be different incremental ranges that set support at different amounts within those ranges? What would those ranges be?

The committee recommended that rather than reference the "minimum amount of child support," it should say "presumptive amount." This change will be in future documents.

Sue Pfeiffer reviewed two examples included in the committee handouts. Example 1 was a revision of an option presented by a group of committee members in December. Although this example eliminated cliffs, at some income levels the payer pays in excess of the incremental income in support – an unexpected consequence. This would be unacceptable because payers would not earn above the level at which the child support payment is equal to or greater than the additional dollar earned.

Carol Medaris reviewed a proposed linear model she handed out at the meeting. There is a presumptive child support payment amount below \$500 monthly income. The child support payment increases incrementally above \$500 to 150% of FPL, after which the calculation uses the current percents in DWD 40.

Discussion:

- Courts should take time to determine ability to earn so persons with little ability to earn money are not required to pay. Committee already handled this at an earlier meeting in response to concern brought by Bob Anderson.
- Courts should base payment on actual earning capacity. There is not sufficient court time to analyze all orders for possible deviations. Committee wants to give courts direction rather than relying on them for deviations
- Child support should reflect economic needs of children. Low orders may deny some children money when the parent could pay more. Committee wants to establish reasonable guideline to encourage higher proportion of payments. Further, families are eligible for Badger care with no co-pay below 150% FPL making that a reasonable break point below which there are lower payments.
- Question whether the linear model is too difficult to calculate. Members thought it is not too difficult and these cases rarely come before the court.

Committee Proposal for Low Income Guideline – The committee agreed to recommend the linear model to DWD. It is percentage based and easy to explain and understand. Requested that it be developed in the BCS format.

Modification of Existing Orders after the Change in Guidelines

The committee is concerned about the transition to a new and lower guideline for low-income payers. Payers with existing orders may want to seek revised orders. Discussion included consideration of the following:

- Existing case law may take care of this.
- If it isn't addressed, there will be a perceived unfairness. Many payers will not request a change and allege unfairness.
- Policy regarding modification must be applicable to low, high and shared time situations or else there will be perception of unfairness.
- Could allow current 33 month rule to handle this staggered over a period of 3 years.
- SB 151 establishes a threshold amount between the old and new guideline. When the difference is greater than the threshold, a person may seek an immediate revision of order due to the change in guideline. Otherwise, the 33 month rule applies.
- Could permit held over orders and orders resulting from imputed income to be revised immediately, otherwise 33 month rule applies.

Consideration of Guidelines for High Income Payers

There was general agreement on the following points:

- It is extremely difficult to find reliable economic data about the cost to raise a child.
- At some income level, parents' percent of income spent on their children begins to decline.
- Exactly what is high income for purposes of determining when income spent on children begins to decline is not precise.
- Available economic data doesn't consider money put into savings for children.
- If choose an amount above which the child support standard is reduced, that will be the point when litigation will start. If it is too low, there will be a large increase in high income cases coming before the courts.

There was general committee agreement that the reduction in the guidelines should begin at \$175,000 annual income. The committee requested that staff develop some examples with numbers, including one with the reduction beginning at \$107,000. The policy should eliminate the incentive to drive income down.

The committee did not want to reach a final decision about high income payers until there was additional discussion about the shared time policy because the two are so intertwined.

Shared Time Formula

Sue Pfeiffer reviewed materials included in the packet provided to committee members. This issue will be considered at the next meeting.

At the next meeting the committee will consider the following:

- Shared placement discussion
- High-income discussion.

At a future meeting the committee will review:

- Recommendation of guidelines for low income payers
- Mock up of draft of report from committee to the Department

The next meeting will be on January 22, 2002 at the state Bar building beginning at 9:00. There will also be a meeting on January 31, 2002, at the state Bar building.

Minutes

DWD Child Support Guidelines Review Advisory Committee

January 22, 2002 Meeting

Present: Ron Hunt, Chair, Division of Workforce Solutions; Connie Chesnik, Margaret Hickey, Cathy Kendrigan, Honorable Philip Kirk, Ann C. Krummel, Carol Medaris, Sally Phelps, Jan Raz, Katy Mnuk, Patty Seger, James Luscher

Absent: Elaine Richmond, Jacquelyn Boggess,

Attendees: Susan Pfeiffer, Todd Kummer, Bureau of Child Support; Allison Lipscomb, CFFPP

Ron Hunt, Chair, welcomed the committee members and said that he would like to complete the low-income policy first and then focus on the shared time placement and high-income policies.

Minutes of January 10, 2002 meeting were approved with the following correction and comments

- ✓ Patty Seger attended the meeting but was not listed as an attendee.
- ✓ The sixth bullet point *under Modification of Existing Orders after the Change in Guidelines* should say, "Could permit held open orders..."
- ✓ Under *Consideration of Guidelines for High Income Payers*, Jan Raz disagreed with the minutes as written in the following areas:
 - He disagrees with the first bullet point that it is extremely difficult to find reliable economic data about the cost to raise a child.
 - He disagrees with the fifth bullet point that if the amount is reduced there will be an increase in litigation.
 - He disagreed that the reduction in guidelines should begin at \$175,000 annual income.
- ✓ The minutes should reflect that considerations for high and low-income payers are not the same. For low-income payers a primary concern is the ability to pay; even a minimal amount of support may impact the payer having sufficient money for daily needs. The policy for high-income payers has very different considerations. Availability of money is not the issue, but whether the percentage payment should be reduced above a certain threshold.

Consideration of Guidelines for Low Income Payers

DWS staff had prepared a draft proposal based on the committee decisions at the January 10, 2002 meeting. Although the proposal eliminates cliffs in payments, a question was raised whether cliffs might be appropriate given the fact that there are different eligibility levels for various public aid programs. The committee believes that it is important to eliminate the cliffs.

Carol summarized the rationale for lowering the percentage of income paid as support by low-income payers. The belief is that if the payment amount is set at a reasonable and affordable level, there is a greater likelihood that support will be paid and family relationships will improve. This same argument doesn't apply to high-income situations because a reasonable payment is affordable. One concern with this policy is that it may lower payment expectations, which may take money away from children. The goal should be for people to be responsible for their children as much as possible. A question was raised regarding prisoners payment of child support. State statutes require child support to be paid ahead of room and board.

From a legal standpoint, we can't change the guideline because a person is in jail. There can't be a benefit due to committing a criminal act. Therefore, there is a need for continued judicial discretion in this area.

It was suggested that before applying a reduced formula, the NCP must show hardship, or make lower payment for a few years and then raise the percent.

The Department draft plan expressed the standard for low-income payers in dollar amounts based on a percent of the federal poverty level (FPL). This was done so that new charts would not have to be produced and used each year. Rather, updates could be made every four years as required by federal law. The committee requested that the guidelines be expressed as a percent of FPL. This may result in an increase each year of a small amount which could make a difference of a few dollars per month. At the low-income levels this increase in payment would be significant. Expressing the payment amount as a percent of FPL will mean that parties using the guidelines would need to obtain the updated payment charts each year.

A question was raised about the justification section and how it will be used. Ron Hunt said the committee proposal will be presented to the Department and the justification section will provide the rationale so the reader will understand the nuances of recommendations. Carol Medaris would like to beef up the considerations to provide more detail on how the committee arrived at its recommendation. She would like IRP chart to be reflective of low-income payers. She will work on edits to the justification section.

The committee discussed whether the increase in payment should be adjusted for each increase in a dollar earned. The intent of the proposal was that the support amount will increase gradually with each increase in dollar earned. The chart could be adjusted to provide for an increase in set dollar amounts, e.g. \$5, \$25, etc., or it could be constructed similar to tax tables. The committee requested that staff provide a chart using dollar increments and using a tax table type chart.

Jan Raz stated that he did not agree with the committee's low-income proposal. Even if support awards are set according to the current guidelines, some people will still come up with money. There is no good information about safety nets for children. The amount of the child support payment is only part of larger problem, including arrears, birthing expenses, fathers getting and retaining jobs, etc. These should all be included in package of payment of CS and helping dads becoming self-supporting.

Some on the committee supported adding these issues to the *Considerations* bullet points.

The committee policy changes the focus of how the guidelines work, i.e. it gives a break for low income and only increases support if the payer can afford it.

Consideration of Shared Placement Policy

The committee agreed with a basic assumption that the current formula needs to be changed.

Some of the key issues which need to be considered as part of the shared time policy:

- Variable cost and should they be included, and if so, what costs to consider?
- Overnights: how many before payment amount is changed and what constitutes an overnight.
- Concern about reducing support payments as percent of time increases, are we getting away from supporting children as if the home had remained intact.
- As shared time increases, is it unrealistic to expect the same standard of living to exist in the households. What becomes important. Is to have a comparable standard of living in both households. However, the courts have not agreed with this. One policy consideration is, as time with both parents increases, is it beneficial to have households comparable.

Question was raised about the 140 or 150% child rearing factor and its purpose. According to the Bob Williams material, it is included in recognition that both parties must provide a basic living situation for the child(ren). Usually shared placement situations do include 140% child rearing factor plus child care and medical as variables.

The current law and rule look at overnights or equivalent. However, daytime care isn't always given credit for overnight equivalent. A footnote in the Rule (DWD 80) provides guidance about overnight equivalents. It was suggested that putting the footnote in the body of the Rule would give it more weight. However, an issue was raised as to how equivalent overnights should be defined. Some members of the committee felt that it should be defined to include some reference to additional costs incurred by the obligor.

One suggestion was to move the overnight footnote into the rule or statute while keeping a footnote that when there is tangible value to an equivalent overnight, it should count as an overnight. As a companion to this, it was suggested that there be some formula written into the rule or statute that a given number of daytime hours would have the financial equivalent value of an overnight. The Department will request LRB to draft proposed language for the next committee meeting.

Another key policy trigger is the placement threshold when a shared-time formula should be applied. The current Rule reduces the support obligation when a child spends more than 30% of time with the parent and considers both parents' income when the child spends more than 40% time with the parent. Should the threshold be dropped or keep the 30% threshold and begin counting both incomes at 30% time?

Judge Kirk recommended that 25% time with a child would be viewed as a rational standard and trigger a reduction of support obligation from which judges may deviate. A

footnote could state the rationale for original percentage reduction of 30% and if don't agree with that, then go with 25%.

Jan stated that 25% is used by many states and it is acceptable if the NCP is permitted to use some of the support money to care for children. There should be a dollar for dollar reduction in support above the threshold. Concern is that fathers have sufficient money to care for kids when they are with him, the same as mothers. Have to recognize fixed expenses. VA, CO and MI use Jan's formula and it works, but they don't include childcare and health care in the formula.

The proposal to drop the percentage from 30 – 25 will be more fair only if parents share variable expenses in equal percents.

The committee requested staff to prepare examples with 15% and 25% times thresholds up to 40% and a 150% multiplier. Include examples with 25%, and look at payer's income up to 40% using current law. Also, create a continuum for the State Bar's proposal to eliminate the ranges.

Consideration of Guidelines for High Income Payers

There was a question about what standard deductions exist for self employed taxpayers. Generally they may deduct a self employment tax (1/2 employment taxes), IRA, maintenance, net on Schedule C, business losses, passthrough to business partner and health insurance.

The key policy question is at what income should the percent of support be reduced from the current standard, i.e. what is considered high income? Margaret stated that \$100,000 is too low. That amount will encourage fighting between the parties. Also, a first adjustment in the percentage to 10% is too large an amount and will result in the parties fighting to get that break. Changes should be incrementally small so don't invite disputes.

The number of high-income cases is a small percentage of total cases, and those contested are even smaller. Therefore, it is questionable whether to make special rules for high-income cases. However, there is concern that at higher income levels the formula doesn't consider incomes of both parents.

The committee had the most difficulty agreeing on what income was high income when an adjustment in percentage paid should begin. Most committee members favored \$150,000. However, other opinions included:

- \$72,000 combined income of both parents
- \$125-175,000 depending upon residence in state. This was rejected because it would likely drive people to move or file for divorce in different counties.
- Won't make much difference because it affects few payers.
- \$150,000 the lowest, but probably \$240,000. The lower the amount, the more litigation will result and judge will decide.
- \$175,000
- Focus should be on the children and what they should have based on parents' incomes. Children should benefit when parents have the money.

Committee requested that staff bring examples to the next meeting using the first step-down at \$150,000 and a second step-down at \$200,000.

May not put money in trust after age of majority, but has been change in law. Bar proposal suggests putting money into a trust post age of majority.

The next meeting is on January 31, 2002 at 9:00 AM at the State Bar Building. The committee will consider the following:

1. Shared time issues with worksheets.
2. DWD will show recommendations on high income
3. Discuss report of the committee.

Minutes not formally approved by the Committee

Minutes
DWD Child Support Guidelines Review Advisory Committee

January 31, 2002 Meeting

Present: Susan Pfeiffer, Substitute Chair, Division of Workforce Solutions, Honorable Philip Kirk, Ann C. Krummel, Carol Medaris, Sally Phelps, Jan Raz, Katy Mruk, Patti Seger, James Luscher, Jacquelyn Boggess, Cathy Kendrigan, Margaret Hickey

Absent: Ron Hunt, Elaine Richmond, Connie Chesnik,

Attendees: Todd Kummer and Kathy Fullin, Bureau of Child Support; Marquerite Roulet, Rebecca May and Louisa Medaris, CFFPP; Robert Andersen and Michele Bopp, Legal Action of Wisconsin; Kisun Nam, Tom Van Ess

Susan Pfeiffer announced that Ron Hunt is ill today and will not attend. He asked Susan to chair the committee meeting.

Minutes of January 22, 2002 meeting were approved with the following corrections:

- ✓ Page 3, fourth dot point: Combine second and third sentences.
- ✓ Change references to DWD 80 to DWD 40.
- ✓ Page 2, paragraph 3: Clarify that the 140 or 150% factor is a multiplier to account for child-rearing expenditures duplicated by the parents, e.g. the child's bedroom.
- ✓ Page 4, top partial paragraph: Last sentence should read, "VA, CO and MI use Jan's formula and it works, but they have provisions to add in childcare and health care in the formula."
- ✓ Page 4, first paragraph: Revise to say, "Carol Medaris stated that the proposal to drop the percentage from 30 – 25 will be more fair only if parents share variable expenses in proportion to placement."
- ✓ Page 4, listing of high-income amounts: \$72,000 should be changed to \$60,000.

Consideration of Guidelines for Shared Time Placement

The committee reviewed the proposed language about equivalent care and variable costs. There was considerable discussion about inclusion of childcare and health care costs in variable costs. Since health care costs are treated separate from the calculation of child support by statute, they do not need to be included as a variable cost. Childcare costs should be considered in some manner.

The committee agreed that "Equivalent Care" means a period of time during which the payer cares for the child that is not overnight but which is determined by the judge to require the payer to assume child care costs that are substantially equivalent to what the payer would spend to care for the child overnight.

Jacquelyn raised a concern about the variable placement and shared time placement policies. Low income will not have the ability to pay the variable costs.

Concern was raised about childcare not being ordered as a variable cost because the custodial parent receives a subsidy through WI Shares. What will happen if eligibility for WI Shares ends. The state policy may be that if the parents share the child placement, eligibility of WI Shares is based on either parents eligibility. Staff will confirm the policy.

Susan Pfeiffer reviewed the two apparent areas of committee consensus:

- ✓ Health care costs: Committee consensus to remove from variable costs.
- ✓ Childcare costs: There seemed to be interest in dealing with this in a separate statutory section, although concern was expressed that it would be too confusing to have child support issues located in too many different sections in the statutes. A Legislative Council study in the mid-1990s considered the question of childcare costs. If the committee wants to include childcare as a variable cost, it should consult the findings of that study.

The Committee agreed with the definition of Equivalent Care handed out at the meeting:

"Equivalent care" means a period of time during which the payer cares for the child that is not overnight but which is determined by the judge to require the payer to assume child care costs that are substantially equivalent to what the payer would spend to care for the child overnight."

Summary of committee members' thoughts about shared time:

Carol – Primary concern is with deeming income of the primary custodian. State Bar bill addresses this problem, but still has cliff and doesn't solve the problem of deeming income. Believes there should be a way to develop a formula that will reduce the cliff at 40% placement. Believes 30% placement is appropriate place for reduction in payment to begin. Deal with the cliff problem and leave other things alone. Include statute section about variable costs so the courts will address them when ordering support.

Katie – Agrees with Carol about cliffs. Concerning variable costs, doesn't want to weigh money for children against shared time. Sensitive to tax consequences and their impact on parents in the shared placement policy and need to explore further.

Margaret – We haven't concluded that support being paid is too high. If we conclude that WI is way off, then perhaps should change. Wants to have justification for lowering support. Key issues are the cliff and comparing incomes at lower levels, There may be a perceived unfairness when comparing incomes at lower levels. Believes some reduction in the threshold would be good, but not down to 15%. When looks at numbers in the examples presented, Table C is not Bar proposal. Personal opinion is that 150% variable factor is best and with a lower threshold.

Cathy – Reduction at 15% is too low. Could live with lowering threshold a bit to between 25 – 30%, but couldn't go below 25%.

Jan – Believes it is important that the formula consider incomes of both parents. Economics are different when one or other parent has more income. Doesn't want a lot of reduction when the custodial parent has much more income than the noncustodial parent (Luciani type case), therefore there should be a large reduction as soon as possible. Variable expenses should be shared in proportion to placement time, but formula should allow parents to keep enough money to do that. If parents have children same amount of time, they should have the same amount of money to take care of the children. Present formula doesn't do that. 150 or 140 factor doesn't matter, but does help to equalize disparities. Payment of variable costs makes parent feel better about kids. Variable costs include, for example, field trips, shoes for sports. Some parents who can communicate about things, put money in joint account and pay from there, e.g. tuition for private or school instruments

Jim – Favors lower threshold, could live with 15%, but would like 0. Concerning the 140/150% multiplier, no strong feeling, but thinks it gives better awards in middle income levels. Of the examples, likes third column with 150%. Sharing at 15% is still sharing and it is important that it be recognized. If there is no adjustment until 30 or 40% placement, then the policy does not recognize sharing and involvement with kids.

Anne – 15% is too low because costs not shared there. Agrees that reduction in support orders is not merited. Feels strongly that terminology must be consistent. Need consistency with how costs are labeled. From experience, frequently variable costs are not paid. Therefore, perhaps variable costs should be addressed as fixed cost or better enforcement. Believes important policy issue is the comparable standard of living between two parents, because it has important implications for the children. Courts need the ability to prioritize how parents spend their money, i.e. child support dollars be spent for child, and perhaps at times direct payment for variable costs to provider. Committee considered income shares and rejected it as is reflected in the minutes.

Sally – Not ready to change current law. Tends toward 140% factor, because it recognizes duplicate costs.

Patti – 15% threshold is too low, 25% is the lowest she would go. 150% multiplier does appear to even out the cliff the most.

Judge Kirk - Today should be the end of committee. At previous meetings we suggested remedy for Randle decision and now we are creating a second standard. Hasn't seen that too much support is paid under current formula and cliffs are legitimate. CS is based upon best interests of children, and applying that formula has never been rejected. From judicial interest, removing judicial exercise of discretion is nonnegotiable. He doesn't believe that one formula is better than next. Don't go below 25%, perhaps 30% because it is reasonable amount of placement.

Susan summarized the themes which emerged and possible consensus areas:

1. 150 % formula: 6 people said could support that. Other 4 were silent or didn't support. Could those 4 people support it. Ann, yes; Carol, yes; Katie, yes; Judge Kirk, yes. Everyone agreed to use the 150% factor in the formula.

2. At what percentage of time with the noncustodial parent should there be an adjustment in support paid: 25% - 3; 15% - 2, Key issue is perception of fairness. This is the point at which kick in 150% calculation which means gentle curve rather than large changes. This will result in less litigation and people feel like the system is treating them more fairly and no cliffs to fight about.

All but two members (Sally and Carol) could support the 25% threshold. Committee agreed to have Dept. draft proposed policy with 25% threshold.

Jan stated he could support the proposal as long as committee keeps its previous agreement concerning the Luciani case. Findings in an IRP report support the fact that an increasing percent of female custodial parents have more income than the male noncustodial parents. There was agreement to include reference to IRP report as reliable resource.

There was agreement that courts should order appropriate payment of variable costs. These may include, for example, paying for a child's special needs, tuition, recreation fees and expenses, sports equipment, camp, music lessons, or costs associated with extra-curricular activities.

Consideration of Guidelines for Low Income Payers

Concern was raised whether deviation would still exist when payer has income below 150% FPL. At times the court may believe payer is not telling truth about income. Needs to be some mechanism to allow support to be set based upon credibility of testimony.

Committee agreed to use chart with \$5 increments in income. Chart will be applied in more situations, because more shared placement situations. Shared placement will become more pervasive with low-income situations. Concern was raised whether the shared time policy agreed to earlier by committee will be detrimental to low income payers. Recommendation should reflect that committee did not have time at this meeting to overlay shared time with proposed low income policy.

Susan Pfeiffer requested guidance from the committee about how to proceed in terms of communicating the committee's work to the DWD Secretary.

Judge Kirk - Accomplished substantive amount today which could be communicated to the legislature. Staff could do summary draft and send it to members and there may be a need for one final meeting to hash out any remaining issues.

Jackie - Would prefer another final meeting, but would accept email. Concerned that committee doesn't approve something that is bad for low-income people.

Katie - would like to see more in writing before it goes out. Could do by email, but would not be as effective.

Margaret - Need to complete final report quickly. Committee doesn't want to let the legislature dictate whether we are done or not. We must stick with it to do a good job. Numbers don't look offensive to her in a few examples. There is a small reduction in ordered amount, but it is not outrageous.

Kathy - Could get out a report via email. But there a few outstanding issues and in one more meeting could to deal with them.

Jan - More information is needed to determine low-income policy. Legislature will do something within next couple of weeks and if we don't give them anything, they may act without it. Email acceptable.

Jim - Not much more to do, keep in mind we are guidelines committee and others will take this and proceed with it. Any remaining issues are low level. Shared placement formula is flexible and likely will work with all income levels.

Ann - Meetings have brought consensus and email is acceptable, but we should have one last meeting to finalize the report. Must take advantage of giving good input to legislature. Lots of time spent on small percent of population - high income. Need to make sure we adequately address low income.

Sally – Concerned that we still address high income. Low income agreement except one person.

Patti – Wants final report circulated, and then have short meeting.

In summary, the committee will proceed as follows:

- ✓ Committee members will review shared time and low-income policies off line to satisfy that there is not an unintended negative consequence to low income payers.
- ✓ Staff will draft a preliminary report.
- ✓ Draft report will be distributed for review and comment.
- ✓ Committee will have a short meeting to review final report.

Tentative date – Draft report to committee within a week. The committee will meet the afternoon of February 14th. 1-3:00 at a downtown location to review and finalize Committee report.

Consideration of Guidelines for High Income Payers

Some committee members expressed that a change in policy is not warranted because high-income cases are frequently litigated and they are a small percentage of the total. Committee members were asked to summarize their position about high-income payer policy. Could they support the \$150,000/\$200,000 break points or different amount.

Jim - \$60,000 combined income, if add on \$1000 per month for childcare it becomes \$72,000. At this point there would be a gradual reduction in income.

Ann – Support \$150,000 because \$48,000 isn't high income.

Sally – Prefers current standard and provide other opportunities for some money going to children. Rich should have to pay same percent as others. She could reluctantly support \$150/200 with the higher percentage payment example and putting the difference in a trust.

Patti – can't support \$48,000. Could support \$150/200 as bottom point.

Judge Kirk – Apply current standard with committee proposal for shared placement policy in effect. Furthermore, the committee recommendation regarding the Randle decision to apply percentage standard in shared placement cases will be adequate. Could agree to \$150/200 break points.

Carol – Would agree to \$150/200 break points.

Jacquelyn – Would agree to \$150/200 break points.

Katie – Still not clear what is high income. Could support discretionary trust fund. But, can't see compelling need for proposal. Could support \$150,/200 break points if committee needs to make proposal.

Margaret. – Must address high-income situations because legislature will. Can't support \$48,000. Believes \$150,000 is too low, but question is when should people start getting a break. Economic data shows that higher income people spend proportionately less on their kids. Any proposal should include language that court has discretion and there should be trust for education fund. Questions whether should reduce percentage and apply shared placement policy? Problem is out of state case when shared time won't work.

Jim – how much does a child need,

Kathy - Supports \$150,000 as starting point to reduce percentage with language about trusts.

Jan – If have relationship with kids, parents will take care of them. State should not dictate trust. No support for \$150/200 proposal.

In summary, there is a desire by committee to do something and with the exception of two people there is agreement to a reduction at \$150,000.

Staff will draft high-income proposal \$150,000 and 200,000 break points and with 80% and 60% reductions. Committee report will clarify that some committee members could not support that proposal.

Staff will put today's revisions into an interim report for review and comment prior to the last committee meeting on February 14, 2002.

Minutes not formally approved by the Committee

Minutes
DWD Child Support Guidelines Review Advisory Committee

February 14, 2002 Meeting

Present: Ron Hunt, Chair and Susan Pfeiffer, Substitute Chair, Division of Workforce Solutions; Honorable Philip Kirk, Ann C. Krummel, Carol Medaris, Sally Phelps, Jan Raz, Katie Mnuk, James Luscher, Jacquelyn Boggess, Cathy Kendrigan, Margaret Hickey, Connie Chesnik

Absent: Elaine Richmond, Patti Seger

Attendees: Todd Kummer and Kathy Fullin, Bureau of Child Support; Marquerite Roulet, Allison Lipscomb, Cara Gabor and Louisa Medaris, CFFPP; Robert Andersen, Legal Action of Wisconsin, David Pate, Jr.

Ron Hunt Welcomed the Committee and said that the Committee should complete its work today so a final report could be forwarded to the Department. Anyone who cannot agree to broad consensus items is welcome to forward letters stating their position to him. Those will be added as addenda to the final Committee report.

Ron also thanked the Committee members for their diligent and hard work to complete the work of the Committee and produce substantive recommendations for the Department.

Ron requested Susan Pfeiffer to chair the meeting because he has a conflict in his schedule and will be unable to stay.

The primary work of the Committee at this meeting was to review and edit the draft report. The results of the discussion and edits are reflected in the final report forwarded to the Department.

Jacquelyn requested that the meeting minutes reflect that she is uncomfortable with the shared time proposal only as it is applied to low-income payers. There has not been sufficient discussion and analysis concerning the impact of the proposed policy on low-income payers.

There was discussion at the end of the meeting whether to recommend that the Committee proposals for low-income, high-income and shared time placement be included in statute or as administrative rule. Because a number of Committee members had left at the time of the discussion, it was agreed to poll absent members before making a Committee recommendation.