



Clearinghouse Rule 16-075

State of Wisconsin Department of Children and Families

DCF 150

Child Support Percentage of Income Standard

The Wisconsin Department of Children and Families proposes to repeal s. DCF 150.05 (1) (a) (note); to amend ss. DCF 150.02 (10) and (13) 7. and 8., 150.03 (3) and (5), 150.04 (1) (a) and (b) (8), (2) (a) 1. and (b) 5. and 6., and (5) (a) and (e), 150.05 (1) (a), (b) 2. and 3., and (d) 2., and (2) (a); and to create ss. DCF 150.03 (5) (b) and (Note), 150.03 (5m) and (Note), 150.04 (2) (b) 7. and (Note), (5) (e) and (Note) and (f), and (6) (c) and (Note), 150.05 (1) (g) and (Note), and DCF 150 Appendix E, relating to the child support percentage of income standard.

Analysis Prepared by the Department of Children and Families

Statutory authority: Section 49.22 (9), Stats.

Statutes interpreted: Sections 49.22 (9) (a), 767.225, 767.34, 767.501, 767.511, 767.513, 767.59 (4) and 767.89 (3), Stats

Explanation of Agency Authority

The Wisconsin Department of Children and Families is responsible for administering the Child Support Program in Wisconsin under s. 59.53 (5), Stats.

Section 49.22 (9), Stats., provides that “the department shall promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent.”

Summary of the Proposed Rule

Income and Benefits

The proposed rule removes the word “voluntary” from the reference to employee contributions to any pension or retirement account in the definition of gross income in s. DCF 150.02 (13).

The proposed rule clarifies that a payer may only receive credit for Social Security Disability or Old Age Insurance derivative benefits for a child in a primary placement case if the benefits are being received by the custodial parent. Additionally, in shared placement cases, the proposed rule provides that the child's benefit is based on the parent's percentage of shared care-taking responsibility.

The proposed rule applies the same methodology recommended for Social Security Disability or Old Age Insurance derivative benefits to the calculation of child support in cases where the parents are receiving adoption assistance.

The proposed rule clarifies that veteran's disability benefits are to be considered income available for child support.

Low-Income Cases

The proposed rule retains the current formula for low-income payers at s. DCF 150.04 (4) but modifies the language for imputing income based on earning capacity in s. DCF 150.03 (3) to provide for the court's consideration of a range of 10-35 hours per week based on the availability of work in the parent's community for similarly situated individuals.

The proposed rule provides that the low-income formula may be combined with the shared, serial, and split placement formulas.

The proposed rule adds language suggesting job search or a work experience program, such as Children First, as an alternative to imputing income in low-income cases.

The proposed rule clarifies that the amounts in the low income and birth costs charts apply to incomes at or above 75% of the federal poverty level. The proposed rule permits the court to exercise its discretion in setting support for payers with incomes below 75% of the federal poverty guidelines.

Serial-Family Cases

The proposed rule retains the current serial family formula in s. DCF 150.04 (1) with a clarification that serial family parents may be eligible for application of the low-income formula if multiple child support obligations put their income below the low income threshold.

The proposed rule clarifies the serial family formula as follows:

- A parent subject to an existing child support order is a serial family payer for the purpose of calculating a support obligation for children from a subsequent family under the provisions of this section and s. DCF 150.04 (2).
- A parent with a legal obligation to support a child in an intact family is a serial family payer for the purpose of calculating a support obligation for children from a subsequent family under the provisions of this section and s. DCF 150.04 (2).

- A parent subject to a shared placement order is a serial family payer for the purpose of calculating a support obligation for children from a subsequent family under the provisions of this section and s. DCF 150.04 (2).

Shared-Placement Cases

The proposed rule requires that variable costs shared by the parties be determined based on a list of variable costs agreed to by the parties or ordered by the court based upon lists furnished by the parties. The proposed rule requires that transportation costs related to the exercise of physical placement be included in that list.

The proposed rule requires that a change in circumstances to modify a child support order should be a change in the circumstances of the parties and not a change in variable costs alone.

The proposed rule retains the current formula for calculating support in shared-placement cases in s. DCF 150.04 (2) using overnights or their equivalent as a measure of shared time but provides more examples of equivalent care that include a pattern of time spent with the children that involves blocks of time that may be less than overnight. Consideration of equivalent care requires that the time spent with the children include a requirement that a meal be provided.

The proposed rule repeals the provision allowing variable cost orders to be rolled into the child support amount.

The proposed rule provides that the shared-placement formula may be combined with the low income formula where applicable.

Medical Support

The proposed rule changes the measure of reasonable cost from 5% of each parent's gross monthly income to 10% of the gross monthly income of each parent and applies it to the full cost of the policy as opposed to the incremental cost of adding the child(ren).

The proposed rule provides that a contribution toward the cost of insurance for the children from the custodial parent should not exceed the incremental cost to add the children to the policy.

The proposed rule adds language requiring the court to consider the effect of the dependency exemption on health insurance responsibility.

The proposed rule clarifies that public programs like Badger Care are acceptable sources of medical support that meet federal requirements for minimal essential coverage when private health insurance is not available at reasonable cost.

The proposed rule provides that recovery of birth costs is inappropriate in cases where the alleged father is a member of an intact family that includes the mother and the subject child, and the father's income, if any, contributes to the support of the child.

High-Income Cases

The proposed rule retains the existing child support guidelines for payers with annual incomes up to \$150,000. The percentage reductions for payers with gross annual incomes between \$150,000 and \$300,000 will remain at the levels in the current rule, which represents 60% of the amount due under the Percentage of Income Standard. A sliding scale is proposed to further reduce the existing percentages in DCF 150.04(5)(d), beginning at \$300,000 annual gross income and reaching an amount that represents 30% of the current standard for gross annual incomes of \$500,000 and above.

The proposed rule provides discretion to determine support for incomes above \$500,000 annually.

The proposed rule provides that the high-income formula may be combined with the shared, serial, and split placement formulas.

Summary of Factual Data and Analytical Methodologies

The proposed rule revisions were developed in response to recommendations from the Child Support Guidelines Advisory Committee established to provide guidance to the Department on revisions to the state policy regarding the guidelines used to determine child support payments and the application of those guidelines in special circumstances. This report is the result of the extensive deliberations of the advisory committee composed of representatives of the courts, the Wisconsin Bar, community-based organizations and county child support agencies, state legislators, citizens and the Department of Children and Families.

The proposed rule revisions focus on five areas: high income formula, low income formula, shared time formula, serial family formula and medical support guidelines. Additionally, proposed rule revisions make some clarifications to the definition of gross income.

Summary of Related Federal Requirements

Wisconsin's Percentage of Income Standard was created to comply with federal requirements in 45 CFR 302.56 (a) that require that as a condition of approval of its State plan, all states must establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State. The methodology to be used in calculating support orders is at state discretion.

45 CFR 302.56 (e) also requires states to review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

Comparison to Rules in Adjacent States

Iowa, Minnesota and Michigan use an Income Shares Model to establish child support.

Illinois uses a Percentage of Income Standard. The amount of support calculated under Wisconsin's Percentage of Income Standard is consistent with that of neighboring states.

Effect on Small Business

The rule will not affect small businesses as defined in s. 227.114 (1), Stats.

Analysis Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis

The proposed rule revisions apply to temporary and final orders for child support or family support of a marital or non-marital child in any action affecting the family under ch. 767, Stats., including stipulated child support settlements under s. 767.34, Stats.

Agency Contact Person

Kris Randal
Division Administrator
Division of Family and Economic Support
kris.randal@wisconsin.gov
(608) 422-6187

Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted to Elaine Pridgen, Department of Children and Families, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI, 53708-8916 or dcfpublichearing@wisconsin.gov. The comment deadline is December 20, 2016.

SECTION 1. DCF 150.02 (10) is amended to read:

DCF 150.02 (10) “Equivalent care” means a period of time during which the parent cares for the child that is not overnight, but is determined by the court to require the parent to assume the basic support costs that are substantially equivalent to what the parent would spend to care for the child overnight. Blocks of time with the child of at least 6 hours are the equivalent of a half-day. Two half-day blocks are the equivalent of an overnight.

SECTION 2. DCF 150.02 (13) 7. and 8. are amended to read:

DCF 150.02 (13) 7. Voluntary deferred compensation, employee contributions to any employee benefit plan or profit-sharing, and ~~voluntary~~ employee contributions to any pension or retirement account whether or not the account provides for tax deferral or avoidance.

8. Military allowances and veterans disability compensation benefits.

SECTION 3. DCF 150.03 (3) is amended to read:

DCF 150.03 (3) DETERMINING INCOME IMPUTED BASED ON EARNING CAPACITY. In situations where the income of a parent is less than the parent’s earning capacity or is unknown, and in the absence of credible evidence to the contrary, the court may impute income to the parent at an amount that represents the parent’s ability to earn, based on the parent’s education, training and recent work experience, earnings during previous periods, current physical and mental health, history of child care responsibilities as the parent with primary physical placement, and the availability of work in or near the parent’s community. If evidence is presented that due diligence has been exercised to ascertain information on the parent’s actual income or ability to earn and that information is unavailable, the court may impute to the parent the income that a person would earn by working 10 to 35 hours per week based on the availability of work in or near the parent’s community for individuals in similar circumstances of the parent, for the higher of the federal minimum hourly wage under 29 USC 206 (a) (1) or the state minimum wage in s. DWD 272.03. As an alternative to imputed income, the court may order the parent who is not a custodial parent to search for a job or participate in a work experience and job training program, including the Children First program under s. 49.36, Stats. If a parent has gross income or income modified for business expenses below his or her earning capacity, the income imputed based on earning capacity shall be the difference between the parent’s earning capacity and the parent’s gross income or income modified for business expenses.

SECTION 4. DCF 150.03 (5) is amended to read:

DCF 150.03 (5) ADJUSTMENT FOR CHILD’S SOCIAL SECURITY. (a) The court may include consider a child’s benefit under 42 USC 402 (d) based on a parent’s entitlement to federal disability or old-age insurance benefits under 42 USC 401 to 433 in the parent’s gross income and adjust a payer’s child support obligation by subtracting the amount of the ~~social security~~ child’s benefit received by the payee. In no case may this adjustment require the payee to reimburse the payer for any portion of the child’s benefit. If the payer is receiving the child’s benefit, the support amount is either the percentage standard applied to the payer’s income or the amount of the child’s benefit, whichever is greater.

SECTION 5. DCF 150.03 (5) (b) and (Note) are created to read:

DCF 150.03 (5) (b) If the shared placement guidelines under s. DCF 150.04 (2) apply, the child's benefit is split between the parents in proportion to the amount of time the child spends with each parent. Add the proportion of the child's benefit that represents the proportion of time the child spends with the parent not receiving the benefit to the support obligation of the parent who is receiving the child's benefit. Support shall be determined as follows:

1. Determine each parent's monthly income available for child support under s. DCF 150.03 (1) (intro.). If a parent has one or more previous child support obligations, determine the parent's monthly income available for child support adjusted for the previous obligations as provided in s. DCF 150.04 (1). Include the parent's federal disability or old age insurance benefits under 42 USC 401 to 433 in that parent's income, but do not include the child's benefit under 42 USC 402 (d) in either parent's income.

2. Multiply each parent's monthly income available for child support by the appropriate percentage standard under s. DCF 150.03 (1).

3. Multiply each amount determined under subd. 2. by 150%.

4. Multiply the amount determined for each parent in subd. 3. by the proportion of time that the child spends with the other parent.

5. Multiply the amount of the child's benefit by the proportion of the time the child spends with the parent who is not receiving the child's benefit.

6. Add the amount in subd. 5. to the child support obligation calculated in subd. 4. for the parent who is receiving the child's benefit.

7. Offset the resulting amounts against each other. The parent with the greater child support obligation is the shared-placement payer. The shared-placement payer shall pay either the greater of the amount determined in this subsection or the amount determined using the appropriate percentage standard under s. DCF 150.03 (1).

Note: The following example shows how the child support obligation is determined for a shared-placement parent who receives a child's benefit under 42 USC 402 (d):

Assumptions:

Two children

Parent A has placement 146 days or 40% of the year.

Parent B has placement 219 days or 60% of the year.

Parent A's current monthly income available for support is \$2000.

Parent B's current monthly income available for support is \$2500

Parent B receives a \$1000 per month child's benefit under 42 USC 402(d) based on Parent A's entitlement to federal disability or old-age insurance benefits under 42 USC 401 to 433.

Calculation:

	Parent A	Parent B
Monthly Income Available For Child Support	\$2,000	\$2,500
Monthly Income Available For Child Support x Percentage Standard for Two Children	\$2,000 x 25% = \$500	\$2,500 x 25% = \$625
Amount x 150%	\$500 x 150% = \$750	\$625 x 150% = \$937.50
Amount x Proportion Of Time Spent With Other Parent	\$750 x 60% = \$450	\$937.50 x 40% = \$375
Child's Benefit x Proportion Of Time Spent With Parent Not receiving the Child's benefit		\$1,000 x 40% = \$400
Add Last Two Amounts		\$375 +\$400 = \$775
Offset	\$775-\$450 = \$325 (Parent B)	

SECTION 6. DCF 150.03 (5m) and (Note) are created to read:

DCF 150.03 (5m) ADJUSTMENT FOR ADOPTION ASSISTANCE. The court may consider adoption assistance received by either parent under s. 48.975 (3) (a), Stats. If the shared placement guidelines under s. DCF 150.04 (2) apply, the adoption assistance should be split between the parents in proportion to the amount of time the child spends with each parent. Add the proportion of the adoption assistance that represents the proportion of time the child spends with the parent not receiving the adoption assistance to the support obligation of the parent who is receiving the adoption assistance. Support shall be determined as follows:

(a) Determine each parent's monthly income available for child support under s. DCF 150.03 (1) (intro.). If a parent has one or more previous child support obligations, determine the parent's monthly income available for child support adjusted for the previous obligations as provided in s. DCF 150.04 (1). Do not include the adoption assistance under s. 48.975 (3) (a), Stats., in either parent's income.

(b) Multiply each parent's monthly income available for child support by the appropriate percentage standard under s. DCF 150.03 (1).

(c) Multiply each amount determined under par. (b) by 150%.

(d) Multiply the amount determined for each parent in par. (c) by the proportion of time that the child spends with the other parent.

(e) Multiply the amount of the adoption assistance by the proportion of the time the child spends with the parent who is not receiving the child's benefit.

(f) Add the amount in par. (e) to the child support obligation calculated in par. (d) for the parent who is receiving the adoption assistance.

(g) Offset the resulting amounts against each other. The parent with the greater child support obligation is the shared-placement payer. The shared-placement payer shall pay either the lesser of the amount determined in this subsection or the amount determined using the appropriate percentage standard under s. DCF 150.03 (1).

Note: Section 46.10 (14) (cm) 1., Stats., caps the amount that adoptive parent/s may be ordered to pay for child support to the amount of the adoption assistance.

SECTION 7. DCF 150.04 (1) (a) and (b) 8. are amended to read:

DCF 150.04 (1) (a) *Applicability.* This subsection applies only if ~~the additional child support obligation incurred by a parent is a result of a court order and~~ the support obligation being calculated is for children from a subsequent family or subsequent paternity judgment or acknowledgment. A parent may not use the provisions of this subsection as a basis for seeking modification of an existing order based on a subsequently incurred legal obligation for child support. A parent with a legal obligation to support a child in an intact family is a serial family payer for the purpose of calculating a support obligation for children from a subsequent family under the provisions of this subsection and s. DCF 150.04 (6) (c).

(b) 8. Multiply the appropriate percentage under s. DCF 150.03 (1) for the number of children subject to the new order by the final adjusted monthly income available for child support determined in either subd. 6. or 7. to determine the new child support obligation or if applicable, determine the new child support obligation under sub. (2), (3), (4), or (5). If multiple child support obligations reduce a serial-family parent's income to a level set forth in the schedule in Appendix C, the court may combine the provisions of this subsection with the provisions for determining the support obligation of a low-income payer under s. DCF 150.04 (4).

SECTION 8. DCF 150.04 (2) (a) 1. is amended to read:

DCF 150.04 (2) (a) 1. Both parents have court-ordered periods of placement of at least 25% or 92 days a year. When calculating periods of placement based on “equivalent care” under DCF 150.02 (10), the total number of overnights may exceed 365. The period of placement for each parent shall be determined by calculating the number of overnights or equivalent care ordered to be provided by the parent and dividing that number by ~~365~~ the total number of overnights in a year. The combined periods of placement for both parents shall equal the total number of overnights.

SECTION 9. DCF 150.04 (2) (b) 5. and 6. are amended to read:

DCF 150.04 (2) (b) 5. Offset resulting amounts under subd. 4. against each other. The parent with a greater child support obligation is the shared-placement payer. The shared-placement payer shall pay the lesser of the amount determined under this subd. or the amount determined using the appropriate percentage standard under s. DCF 150.03 (1). If the shared-placement payer is also a low-income or high-income payer, ~~the child support obligation may be the lesser of the amount determined under this subd. or under sub. (4)~~ the court may combine the provisions of either sub. (4) or (5) with the provisions of this section.

6. In addition to the child support obligation determined under subd. 5., the court shall assign responsibility for payment of the child’s variable costs in proportion to each parent’s share of physical placement, ~~with due consideration to a disparity in the parents’ incomes and based upon a detailed list of the variable costs provided by the parties.~~ Due consideration shall be given to a disparity in the parents’ income and the transportation costs associated with each parent’s respective periods of physical placement. The court shall direct the manner of payment of a variable cost order to be either between the parents or from a parent to a third-party service provider. The court shall not direct payment of variable costs to be made to the department or the department’s designee, ~~except as incorporated in the fixed sum or percentage expressed child support order.~~

SECTION 10. DCF 150.04 (2) (b) 7. is created to read:

DCF 150.04 (2) (b) 7. A change in the child’s variable costs shall not in and of itself be considered a substantial change in circumstances sufficient to justify a revision of a judgment or order under s. 767.59, Stats.

SECTION 11. DCF 150.04 (2) (b) (Note) is amended to read:

DCF 150.05 (2) (b) Note: The following example shows how to calculate the child support obligations of shared-placement parents.

Number of children: Two

Parent A: \$2,000 monthly income available for child support

Parent A has court-ordered placement of the child for 219 days a year or 60%.

Parent B: \$3,000 monthly income available for child support

Parent B has court-ordered placement of the child for 146 days a year or 40%.

	<u>Parent A</u>	<u>Parent B</u>
1. Monthly income available for child support	\$2,000	\$3,000
2. Monthly income available for child support X percentage standard for two children	$\$2,000 \times 25\% = \500	$\$3,000 \times 25\% = \750
3. Amount in 2. X 150%	$\$500 \times 150\% = \750	$\$750 \times 150\% = \1125
4. Amount in 3. X the proportion of time that the child spends with the other parent	$\$750 \times 40\% = \300	$\$1125 \times 60\% = \675
5. Offset	$\$675 - \$300 = \$375$	
6. Court also assigns responsibility for payment of the child's variable costs.	Manner of payment is between the parents or from a parent to a third-party service provider, except as incorporated in the fixed sum or percentage expressed child support order.	

Example of equivalent care:

Number of children: Two

Parent A: \$2,000 monthly income available for child support

Parent A has court-ordered placement of the child 271 days a year or 74%.

Parent B: \$3,000 monthly income available for child support

Parent B has court-ordered placement of the child 94 days a year or 26%.

Parent B also provides day care 4 days a week from 3 pm – 9 pm and

Provides dinner to the children 46 weeks per year.

(4) 6 hour blocks per week = 2 overnights X 46 weeks= 92 overnights per year

Total number of overnights = 457

Parent A = 59%

Parent B = 41%

	<u>Parent A</u>	<u>Parent B</u>
<u>1. Monthly income</u> <u>available for child support</u>	<u>\$2,000</u>	<u>\$3,000</u>
<u>2. Monthly income</u> <u>available for child support</u> <u>X percentage standard for</u> <u>two children</u>	<u>\$2,000 X 25% = \$500</u>	<u>\$3,000 X 25% = \$750</u>
<u>3. Amount in 2. X 150%</u>	<u>\$500 X 150% = \$750</u>	<u>\$750 X 150% = \$1125</u>
<u>4. Amount in 3. X the</u> <u>proportion of time that the</u> <u>child spends with the other</u> <u>parent</u>	<u>\$750 X 41% = \$307.50</u>	<u>\$1125 X 59% = \$663.75</u>
<u>5. Offset</u>		<u>\$663.75 - \$307.50 = \$367.50</u>
<u>6. Court also assigns</u> <u>responsibility for payment</u> <u>of the child's variable</u> <u>costs.</u>	<u>Manner of payment is between the parents or from</u> <u>a parent to a third-party service provider.</u>	

SECTION 12. DCF 150.04 (5) (a) is amended to read:

DCF 150.04 (5) (a) The payer's full monthly income available for child support shall be considered in determining the payer's child support obligation. The court may apply the reduced percentages under pars. (c), ~~and (d)~~ and (e) to income at the indicated levels.

SECTION 13. DCF 150.04 (5) (e) and (Note) and (f) are created to read:

DCF 150.04 (5) (e) The court may use the monthly support amount provided in the schedule in Appendix E as the support amount for the portion of a payer's monthly income available for child support that is greater than or equal to \$25,000 and less than or equal to \$41,666.

Note: A monthly income of \$25,000 is an annual income of \$300,000. A monthly income of \$41,666 is an annual income of approximately \$500,000. The percentages that apply to income between \$300,000 and \$500,000 are between 30% and 60% of the full percentage standards in Appendix A.

(f) Support may be established at the discretion of the court for that portion of a payer's monthly income available for child support that is greater than or equal to \$41,666.

SECTION 14. DCF 150.04 (6) (c) is created to read:

DCF 150.05 (6) (c) Shared placement and serial family parent. If a parent is a serial family parent, including a serial family parent in an intact family, and a child support obligation is being established for that parent's children from a subsequent family or a subsequent paternity judgment in which both parents will have periods of placement of at least 25% or 92 days a year, the child support obligations may be determined as follows:

1. Determine the first child support obligation by multiplying the appropriate percentage under DCF 150.03(1) by the parent's monthly income available for child support.
2. Determine the child support obligation for the subsequent family as follows:
 - (a) Adjust the monthly income available for child support by subtracting the support for the first legal obligation under subd. 1. From the parent's monthly income available for child support under sub. 1.
3. Multiply the appropriate percentage under s. DCF 150.03 (1) for the number of children subject to the new order by the final adjusted monthly income available for child support determined under subd. 2. to determine the new child support obligation.

NOTE: The following example shows how the child support obligation is determined for a serial-family parent whose additional child support obligation for a subsequent family and both parents will have periods of placement of at least 25% or 92 days.

Assumption:

Parent A: \$2000 monthly income available for child support

Parent A has court ordered placement for 219 days a year or 60%

Parent A has a child from a previous relationship living with them

Parent B: \$3000 monthly income available for child support

Parent B has court ordered placement for 146 days a year or 40%

Calculation:

Parent A's monthly income available for child support \$2000

Parent A's first legal obligation for support to a child
In an intact family = 17% \$340

Adjust Parent A's monthly income available for
Child support \$2000
 -340

Adjusted monthly income available for support \$1660

Determine support for the second legal obligation
(shared placement):

	<u>Parent A</u>	<u>Parent B</u>
1. Monthly income available for	\$1,660	\$3,000

child support

2. Monthly income available for child support X percentage standard for two children

\$1,660 X 25%	\$3,000 X 25%
= \$415	= \$750

3. Amount in 2. X 150%

\$415 X 150% = \$622.50	\$750 X 150% = \$1125
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4. Amount in 3. X the proportion of time that the child spends with the other parent

\$622.50 X 40% = \$249	\$1125 X 60% = \$675
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5. Offset

\$675 - \$249 = \$426

SECTION 15. DCF 150.05 (1) (a) is amended to read:

DCF 150.05 (1) (a) In this section, "private health insurance" does not include a medical program under subch. IV or V of ch. 49, Stats., including the BadgerCare Plus program under s. 49.471, Stats.

SECTION 16. DCF 150.05 (1) (a) (Note) is repealed.

SECTION 17. DCF 150.05 (1) (b) 2. and 3. are amended to read:

DCF 150.05 (1) (b) Except as provided in par. (d) and (e), the court may order either or both parents to enroll a child in a private health insurance plan that is accessible to the child and available at a reasonable cost, as follows:

2. The court may consider a private health insurance plan to be available at a reasonable cost if the cost ~~to enroll the child or children of the policy~~ does not exceed ~~5%~~ 10% of the insuring parent's monthly income available for child support and would cover hospitalization and other medical costs without large out-of-pocket deductibles or copayments. ~~In applying this 5% The 10% standard applies to the full cost of the health insurance, including, the cost to enroll the child or children in a private health insurance plan is the cost to add the child or children to existing coverage or the difference between the cost of self-only coverage and the cost to that parent after adding the child or children.~~

3. The court may order the non-insuring parent to contribute to the cost to enroll the children in a private health insurance plan in an amount that does not exceed ~~5%~~ 10% of the non-insuring parent's monthly income available for child support. A contribution to the cost to enroll the children may not exceed the cost to add the child or children to existing coverage. If the parent ordered to enroll the children does not have self-coverage, a contribution to the cost to enroll the

child or children may not exceed the difference between the cost of self-only coverage and the cost to the insuring parent to add the child or children.

SECTION 18. DCF 150.05 (1) (d) 2 is amended to read:

DCF 150.05 (1) (d) 2 Responsibility for a contribution to the cost of the other parent’s premium for the BadgerCare Plus program under s. 49.471, Stats., unless the parents income is below 150% of the federal poverty ~~level~~ guidelines. The BadgerCare Plus program is an acceptable source of medical support that meets federal requirements for minimal acceptable coverage when there is no private health insurance plan that meets the requirements of subd. (b). The court may incorporate responsibility for a contribution to the cost of the premium as an upward or downward adjustment to a payer’s child support obligation.

SECTION 19. DCF 150.05 (1) (g) and (Note) are created to read:

DCF 150.05 (1) (g) The court shall consider the impact of the dependency exemption on the availability of insurance in the marketplace and the imposition of penalties under the Affordable Care Act, 42 USC 18091.

Note: Enforcement under the Affordable Care Act (ACA) is tied to the tax household. Subsidized coverage is only available under the ACA to members of the tax household.

The following example shows how to apply the reasonable cost standard.

Parent A: \$4,000 monthly income available for child support 10% = \$400

Parent B: \$2,500 monthly income available for child support 10% = \$250

10% combined monthly income = \$650

Parent A Employer sponsored insurance:

\$350/month self-only coverage

\$210/month to add the child or children

\$560 total policy cost (\$560 < \$650. Therefore, the total cost of the policy exceeds 10%. This is considered reasonable)

- Parent A may be ordered to enroll the child or children and contribute \$400.00/month toward the cost (10% of income)
- Parent B may be ordered to contribute \$160/month toward the cost. (The maximum amount Parent B may be ordered to contribute is \$210/month)
- If Parent A is ordered to pay child support, parent B’s contribution to the cost of health insurance will occur as a downward deviation to the cash monthly support amount.

SECTION 20. DCF 150.05 (2) (a) is amended to read:

DCF 150.05 (2) (a) In this subsection, “birth cost judgment” means an order establishing the amount of the father’s obligation to pay or contribute to the reasonable expenses of the mother’s pregnancy and the child’s birth under s. 767.89 (3) (e), Stats. Recovery of birth costs is inappropriate in cases where the alleged father is a member of an intact family that includes the

mother and the subject child at the time paternity or support is established, and the father's income, if any, contributes to the support of the child.

SECTION 21. DCF 150, Appendix E, is created to read:

SECTION 22. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.