

Chapter **4** Child Support Handbook



# ESTABLISHING THE SUPPORT ORDER

Establishing a support order depends on how much success you and your caseworker or lawyer have in several critical areas, such as locating the noncustodial parent, if necessary; identifying what he or she should pay; and determining the financial needs of the child.

A child support order determines the amount of the *obligation* and how it should be paid. All states have child support *guidelines* (a calculation of how much a parent should contribute to the child's financial support) that must be used to establish support orders unless it is shown, in writing, that doing so is not in the best interest of the child. Most state guidelines consider the needs of the child, other dependents, and the ability of the parents to pay. States must use the guidelines unless they can be shown to be inappropriate in a particular case.

Federal law requires every child support order to include a provision for health care coverage. Medical support can take several forms.

The custodial or noncustodial parent may be ordered to:

- provide health insurance if available through his/her employer,
- pay for health insurance (health care coverage) premiums or reimbursement to the custodial parent for all or a portion of the costs of health insurance obtained by the custodial parent, and/or
- pay additional amounts to cover a portion of ongoing medical bills or as reimbursement for uninsured medical costs.

States today can have arrangements for establishing the support order by an *administrative procedure* or other expedited legal procedure. The hearing may be conducted by a master or a referee of the court, or by an administrative hearings officer. An order approved by this kind of procedure, whether contested or made by agreement between the parties, must be based on the appropriate child support guidelines for setting a child support order and generally has the same effect as one established in court. It is legally binding on the parties concerned.

If an agreement for support is made between the parents, it should provide for the child's present and future well-being. It may be useful to discuss these issues together if you can, or with a mediator or family counselor. You may contact your state or tribal agency to learn more about child support guidelines: [www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts](http://www.acf.hhs.gov/programs/css/resource/state-and-tribal-child-support-agency-contacts)



### **What is the most important action that a custodial or noncustodial parent can take to ensure that the order amount is fair?**

The most important action is to appear at the support order hearing with the documents requested in the notification of the hearing. When both parents appear and bring the necessary documents, the tribunal making the determination will be able to make a fully informed and fair decision.

### **How does the caseworker find out about the other parent's income or assets?**

The caseworker will make every possible effort to identify the parent's employment, property owned, and any other sources of income or assets. This information must be verified before the support order is final. Under certain situations, the Internal Revenue Service may provide financial information about the parent's earned and unearned income, such as interest payments and unemployment compensation. Employers are now required to report their new hires to the state, and the state then provides the information to the *National Directory of New Hires (NDNH)*, which is a part of the *Federal Parent Locator Service (FPLS)*. The FPLS can provide income information from the NDNH and from states' quarterly wage records. The child support agency now has access to financial institution data, such as bank accounts and credit bureau data, which may provide information about employers and assets.

### **I'm sure the other parent is willing to pay support. Can we make an agreement between ourselves and present it to the court?**

Laws vary from state to state, but parents who can work out a fair support agreement between themselves can avoid the discord that may occur with contested support hearings. You can get help from a lawyer, mediator or family counselor to present your proposal to the court or administrative hearing officer. The court's sole interest in your agreement is to see that it is fair to all parties, that the welfare of the children is protected, and that the agreement reflects the guidelines.

### **Are the earnings of both parents considered in setting support awards?**

Some states base their guidelines on both parents' incomes (an income-share model), some only on the income of the noncustodial parent (a percentage model). In the models based only on the noncustodial parent's income, it is presumed that the custodial parent is contributing towards the child(ren)'s needs by providing care, food, clothing, and shelter.

### **My wife and I are working out a joint custody agreement. How would the court decide the amount of child support for each of us?**

That depends a lot on the terms of your custody agreement and on your state's child support guidelines; some states have guideline formulas that take joint custody into account. The same factors would apply: state guidelines, each parent's ability to pay, and the needs of the child.



### **My husband's income is enough to support the children and me without a drop in our standard of living after the divorce. Do the courts consider this?**

These decisions, again, are based on the state's guidelines. However, when one or both parents have high income, the tribunal may decide that strict application of the guidelines is not in the best interest of the children. Such a decision may result in a higher and more appropriate support amount than the amount recommended by the guidelines.

### **I have custody and I just heard that my son's mother has had three promotions in the last four years, but the child support is still like it was six years ago. Is there some way to find out when she has a raise?**

Either parent may ask for a review of the order to make sure it is still accurate. Child support offices will review child support orders at least every three years, or if there is a significant change of circumstances, or if either parent requests such a review. Some states have a procedure for an automatic update. Ask your caseworker for information about reviewing and, if appropriate, modifying your child support order. As part of the review, the caseworker will verify the current income of the noncustodial parent. States can adjust child support orders up or down according to child support guidelines, a cost of living adjustment, or automated methods determined by the state.

### **What can I do to get my support increased if it is too low?**

Check with your child support office to see if your support order should be modified. The agency will consider the income and assets of the *noncustodial parent*; and, in many states, your financial situation; and any special needs of the child. If your support amount is found to be low based on the current financial situation, the agency can seek a legal modification.

### **My ex-husband has remarried and has another family to support. How will this affect the support that my children are due?**

Even though the noncustodial parent has a second family, this does not eliminate his responsibility to the first family. In some states, the judge may grant the noncustodial parent a decrease in the obligation based on application of the child support guidelines. You must be notified beforehand and given an opportunity to contest the proposed change. Other factors that could lower the support order include increases in your earnings, or poor health or decreased earning ability of the noncustodial parent. If your child leaves school and becomes employed, that can reduce, or stop, child support payments, too.



### **My children's father is divorcing again and will have another child support order. He lives in another state and I'm afraid that this other order will be enforced before mine.**

State guidelines may indicate how child support is to be shared when there is more than one support order. If his income will not provide for both orders, the amount of support for your children may be reduced, but you will receive a share of the support collected. For orders enforced by income withholding, states must have a formula for sharing the available income among the support orders. Each family must receive a portion of the available money, and current support has priority over arrearages. Depending on your state child support guidelines, it is also possible that the second support order may be grounds for his requesting a modification of your order. Ask your caseworker for more information.

### **I am the custodial parent. I can't get health insurance with my job but my ex-wife gets good benefits where she works. Can she be required to put the children on her insurance?**

Yes. The child support agency must petition the court to include *medical support* in any order for child support, for example, when employment related or other group health insurance is

available to the noncustodial parent at a reasonable cost. If a custodial parent has access to better health care coverage, the support order may include that coverage instead and increase the noncustodial parent's obligation to offset the cost. Court orders can also be modified to include health care coverage.

States must have laws that should make medical support enforcement easier. For example, insurers can no longer refuse to enroll a child in a health care plan because the parents are not married or because the child does not live in the same household as the enrolled parent. In addition, child support agencies can require an employer to include a child on a medical insurance plan when the noncustodial parent participates in a group health plan but does not enroll the child.

This law provides that custodial parents can obtain information about coverage directly from an insurer, submit claims directly to the insurer, and be reimbursed directly by an insurer. For specific information about these laws in your state, contact the child support office.



For information about your specific child support case or how the child support system works in your state or tribe, contact your [state or tribal child support agency](#).

For general information about the child support program, contact the Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, or visit our [website](#) at [www.acf.hhs.gov/programs/css](http://www.acf.hhs.gov/programs/css). OCSE does not have case-specific information.