

FAQ'S

Medical Support

1. Does the guideline scale include \$250 per child in annual ordinary uninsured medical costs?

Answer: Yes. These costs are included in the basic support obligation and divided between the parties in proportion to each parent's income share. This means that the custodial parent will pay the first \$250 in uninsured medical costs for each child throughout the year because the non-custodial parent's contributes to these costs as part of his or her monthly support payment.

2. If the custodial parent provides health care coverage, does the obligated parent pay his or her proportionate share of the cost of that insurance? How are unreimbursed costs apportioned?

Answer: Cash medical support is no longer based on pro-rata income shares. The new formula for computing medical support considers each parent individually. Health care coverage is "reasonable in cost" if it does not exceed 4% of the providing party's adjusted income. If a parent does not have insurance available at that price, he or she will be ordered to pay cash medical support in that amount. The guidelines presume that the money ordered as cash medical will reimburse that custodial parent's premium costs as well as unreimbursed medical expenses such as co pays and deductibles. The cash medical support can be rebutted. It is an additional obligation to the amount calculated for child support under the guidelines scale.

3. Are both parents required to provide health care coverage?

Answer: No. OAR 137-050-0750 provides that both parents "may" be ordered to provide coverage. Cases receiving Program services will be required to provide dual coverage unless there is a finding that the parents have agreed that only one parent will provide insurance. Dual coverage maximizes health care coverage for children and eliminates many of the uninsured costs most often born by the custodial parent. If both parents provide insurance, no cash medical support is ordered. However, if dual health care coverage does not make economic or practical sense for a family then the parties can agree that only one parent will carry insurance. If the obligee is the parent providing insurance, the obligor will owe cash medical to the obligee in an amount not to exceed 4% of his/her adjusted income.

4. Why does the summary show that the obligor will provide insurance and also pay cash medical?

Answer: ORS 25.323(3) provides that a medical support clause may be contingent on the availability of another form of medical support. Health care coverage may be lost when an obligated parent loses or changes employment. By providing that the obligor will pay \$XX.00 in cash medical support as an alternative obligation, a modification to the order can be avoided if insurance becomes unavailable.

Rebuttals

1. Do the changes to the rebuttal rule (OAR 137-050-0760) and the “agreed support” rule (137-050-0765) change the law established in *Petersen and Petersen*, 132 Or App 190 (1994)?

Answer: No. As the court stated in *Petersen* the statute and rule contain nonexclusive factors for the court to consider in setting a “just and appropriate” child support amount. ORS 25.270(4) requires that this determination be based on economic factors that bear on the needs and the best interests of children. If the record supports a deviation from the presumed amount based on economic factors not specifically listed in statute or rule the court can rebut the presumed amount established by the guidelines. The parties are free to stipulate to any amount if that amount can be supported by one or more rebuttal factors.

2. Does the “agreed support” rule require a rebuttal?

Answer: No. This new rule (OAR 137-050-0765) is separate from the application of rebuttal factors. The rule reflects a presumption that it is in a child’s best interest to have a support order entered by the agreement of the parties. Accordingly the amount presumed by the guidelines, *even after the application of rebuttal factors*, may be increased or decreased by 10% if the parties forego a hearing. This rule does not limit stipulations that deviate from the guidelines that are based upon rebuttal factors.

Calculation Worksheet

1. Which parent should be entered first? What happened to parent A and parent B?

Answer: Enter parent with the *least* parenting time first. For example, if the children live with the father and the mother has visitation, enter the mother first and the father second. If the parents have equal parenting time, enter the parent with the higher income first. This will help make sure the parent who owes support will be on the left side of the worksheet. However, when the parents’ incomes are close and there are credits or costs, it is possible that the parent on the right will owe support.

The new worksheet reflects what each parent would provide in cash support. In doing so a modification could be avoided if custody of the parties reversed to the obligated parent. (see HB 2277). In addition, a fairer child support order is achieved for those parents who pay a third party guardian or DHS because a combined income model can be used as opposed to the previous “single parent calculation.”

Child Attending School

1. How do I include a child attending school in the support obligation?

Answer. "Child Attending School" (CAS) is treated just like a joint minor child in the support calculation. Include the CAS in the number of children. If there is a parenting

time agreement or order, apply the parenting time percentage from the order or agreement to the CAS, even if the CAS is not named in the agreement or order. OAR 137-050-0730(7).

2. There is only one final support amount. How much is owed to the CAS?

Answer. The CAS is owed an equal share of the final support amount. Divide the amount by the number of children to determine each CAS's portion. If you plan to order the obligee to pay support to the child attending school, please note that the "support summary" prepared by the guidelines calculator does not show the obligee's final support figure. That figure is on line 8a of the Child Support Worksheet.

3. Why isn't the the CAS separate in the calculation any more?

Answer. The previous guidelines separated children attending school and minor children and applied costs and parenting time credits separately. Then it brought the support for all the children back together and divided it evenly among the children. As a result, the costs and credits intended for minor children were included in the CAS's support, and vice-versa. As part of our efforts to simplify the calculation and make it understandable, the CSP stopped separating the CAS from the minor children in the new guidelines and worksheet.

By making this change, we shortened the worksheet and simplified the calculation. The costs and credits being applied to all the children, including the CAS, are more visible than before. If the result is unjust or inappropriate, the amount of support can be rebutted by 137-050-0760(k). In addition, the court has authority to allocate support differently than a prorated share between the children pursuant to ORS 107.108(5)(b).