

Janet T. Mills  
Governor

Jeanne M. Lambrew, Ph.D.  
Commissioner



Maine Department of Health and Human Services  
Office for Family Independence  
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Wednesday, February 14, 2024

Honorable John Martin, District Court Judge  
Chair, Family Law Advisory Commission  
Maine District Court  
P.O. Box 249  
Wiscasset, Maine 04578-0249

Re: LD 1024, Resolve, to Study the Impact of Divorce, Child Support Issues and Custody Issues on Children, Parents, Health, Poverty and Housing Insecurity – Response to Child Support Concerns Raised by Senator Anne M. Carney and Representative Matthew W. Moonen in Letter Dated May 5, 2023 to the Family Law Advisory Commission

Dear Judge Martin,

The Division of Support Enforcement and Recovery (“DSER”) of the Office for Family Independence of the Department of Health and Human Services (“DHHS”), is the State of Maine’s child support program. Among DSER’s program requirements (established under both federal and state law) are to: (1) assist parents in establishing and enforcing support orders, including requests to locate noncustodial parents; (2) to establish paternity in child support cases; and (3) to initiate proceedings to establish and collect support awards. Child support is calculated and determined using guidelines that have been adopted pursuant to state statute and promulgated by rule. Federal law requires that states review guidelines at least once every four years and adjust them to reflect the cost of living in each state. Maine most recently updated its guidelines in 2022 (Maine 2023 table, <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Maine%20Child%20Support%20Table.pdf>). DSER published a report, *Review of the Maine Child Support Guidelines*, that explains in detail the guidelines review process, federal and state statutory requirements, and the economic data used to update the table. (2022 Guidelines Report, <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/2022%20Guidelines%20Review.pdf>).

Of concern during the review process was the impact of recent year increases in the cost of living and, in particular, the impact of rising costs on lower income families. A nationally recognized economist, Dr. Jane Venohr, Ph.D., reviewed up-to-date economic studies and adjusted them to Maine which are reflected in the support amounts now listed in the guidelines table. The overall effect of the adjustments was to reduce the amount of child support required of low-income obligors which arguably may result in less support available to obligees at least from the noncustodial parent. Thankfully, inflation has begun to slow and wages have risen which hopefully will provide some measure of relief to low-income families. DSER will study and consider these economic impacts during the next quadrennial guidelines review due under federal law in 2026.

Federal requirements for state guidelines require a state to:

- Consider all income and the evidence of ability to pay;

- Consider the basic subsistence needs of the obligated parent with limited ability to pay;
- Take into consideration the individual circumstances of the obligated parent when income imputation is authorized; and
- Provide that incarceration is not voluntary unemployment.

Maine meets all these requirements as discussed further below.

*Income Shares Model.*

Maine has a shared income model that combines the income of both parents. The obligation is per child and is split in proportion to each parent's share of the total income. In addition, Maine's guidelines rely on economic studies estimating child-rearing expenditures for a range of incomes. This is based on the premise that children should share in the lifestyle afforded by their parents. If the parent's income affords the parent a higher standard of living, the support order should be more for the higher-income parent. The children should benefit from the same level of expenditures had the children and both parents lived together. The underlying economic studies look at the costs for housing, food, transportation, entertainment, and apparel. There are some other costs including personal care products, reading materials, education fees, banking fees, interest paid on lines of credit and other expenses.

*Low Income Adjustment, Self-Support Reserve & the Presumptive Basic Support Obligation.*

As federally required, Maine considers the subsistence needs of the obligated parent. Obligor's who are in poverty (that is, whose gross income is less than \$16,800 per the guidelines table) pay no more than 10% of their gross income for support. Obligor's whose income is above the 10% threshold and within the shaded area of the table (the "self-support reserve") pay child support per the amounts set forth in the table plus a portion of shared costs. Above the self-support reserve in the table, the child support amounts in the table are based upon the parent's combined annual gross income and are presumptive, basic support obligations plus a portion of shared costs. The intent of federal and state law is that full payment of the guidelines-determined amount should allow an obligated parent to live at least as a subsistence level or above.

*Order Review, Change in Circumstances, Imputation of Income for Unemployed and Underemployed Parents & Incarcerated Obligor's.*

State law allows child support orders to be reviewed every 3 years and sooner if there is a substantial change in the circumstances of the parties. A child support order that varies by more than 15% is considered a substantial change in circumstances. Child support orders based upon the up-to-date financial information of the parties should not drive the family into poverty or create homelessness. If post-separation or post-divorce events (such as job loss or a parent starting a new family) result in changed circumstances, a party may seek to modify the support order. Maine is fortunate to have a dual system of order establishment and review; child support orders may be entered into or modified both through the courts and an administrative process that is often more expedited than the judicial system.

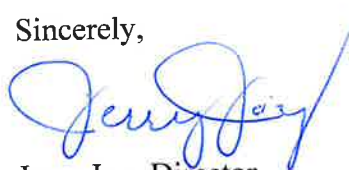
In general, the income of parents is taken into account when determining child support and not the income of nonparents who have no legal obligation to support the child. However, a particular parent's living situation may demonstrate an increased ability to pay (that is, more income of the parent may be

available for support due to fewer household obligations or payments in kind may be taken into account). The law also allows for the imputation of income to a parent who is unemployed, underemployed or declines to provide current financial information. Except when a parent is not working because they are taking care of a child under the age of 2, income is assigned to each parent during the child support calculation process. When imputation is used, the law requires that the process take into consideration the individual circumstances of the obligated parent and provides that incarceration not be considered voluntary unemployment.

I understand that a request was made that the Family Law Advisory Commission use its expertise to examine the State's child support laws and the impact that these laws may have on housing insecurity and poverty. While the guidelines review and report conducted by DSER did not single out housing, economic considerations and conditions in Maine were taken into account as the recommended guidelines were determined. Obligor's living in poverty, the need for self-support and subsistence, and the effect of the guidelines on low-income families were considered. The review and adoption process of the guidelines was open for public comment and the Department reached out to various stakeholders in the community prior to finalizing the guidelines.

If I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jerry Joy". The signature is stylized and includes a date "01/31" written in small text near the end of the signature.

Jerry Joy, Director