

Frequently Asked Questions About Child Support



<https://courts.delaware.gov/family/>

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CHILD SUPPORT OVERVIEW

Under Delaware law, both parents have a duty to support their child until the child is 18 years of age, or, if the child is still in high school, until the child graduates or turns 19 years of age, whichever comes first.

A support action begins when one parent files a support petition, requesting the Court to order the other parent to pay child support. After the petition is filed, the Court may order genetic testing to establish paternity, if necessary. Most parents seeking support are represented by the Division of Child Support Services (DCSS). In those cases, DCSS files all actions and pursues administrative remedies also. The Court encourages all parents seeking support to explore the services of DCSS.

After filing a Petition for Child Support, the first time that individuals come to Family Court for a child support order, they must attend a mediation conference, unless it is a petition for child support from an out-of-state agency, which will be scheduled directly with a Commissioner. A Family Court mediator will use the Delaware Child Support Formula to calculate the support amount and try to help the parents reach an agreement as to a support amount. If parents cannot reach an agreement at the mediation conference, a temporary order may issue and a hearing before a Commissioner will occur either on the same day or on a future date. If there is a no-contact order between the parties or an adjudicated history of domestic violence, mediation will be bypassed.

The amount of child support is set using the Delaware Child Support Formula, sometimes called the "Melson Formula". The formula considers both parents' incomes and the needs of the child in arriving at a monthly figure. The formula is used in every case to ensure that the amount is fair and that children receive enough support.

CHILD SUPPORT OVERVIEW cont'd

If a parent fails to pay support as ordered, DCSS or the person entitled to receive support may file a petition for "arrearage". At the hearing, an additional amount may be added to the order and remedies such as license suspension or incarceration may be considered. Attachment of wages is the most common remedy and will occur upon identification of an employer. An arrearage petition is not required for a wage attachment.

Upon a substantial change in circumstances, either parent may file a Petition for Child Support Modification.

THE CHILD SUPPORT PROCESS

The Petitioner or DCSS starts the Child Support Process by filing a Petition for Support with the Court.



The Respondent **must** be served with the Petition for Support and has the option of filing an Answer within 20 days after service.



The case will be scheduled for Mediation or Commissioner's hearing upon positive service, unless Mediation is prohibited.



The Petitioner and the Respondent reach an agreement at Mediation and a Consent Order is signed.



The Petitioner and the Respondent do **NOT** reach an agreement at Mediation and an Interim Order is entered.



Court hearing before a Commissioner. This may take place directly following mediation, or at a later scheduled date.

Chapter 1: General Information

What is the Delaware law regarding child support?

Both parents have a duty to support a child until the child is 18 years of age; or, if the child is still in high school until the child graduates or attains age 19, whichever occurs first. This is true regardless of whether the parents are, were, or never married.

-The Delaware law regarding support can be found in the Delaware Code, Title 13, Chapter 5.

How is the amount of the support order calculated?

The Delaware Child Support Formula is used to set the amount of the support order. It is based on both parents' incomes and the needs of the child. The Formula calculation must be performed for every case to ensure that the amount will be fair and the children will receive enough support. However, it may be challenged if there are special circumstances, and a different amount may be ordered.

- Specific instructions for child support calculations are found in chapter 9 of this packet and Family Court Civil Rules 500-509.

What factors are taken into consideration in calculating the child support amount?

1. All earnings and income of both parents.
2. Support of other children.
3. Cost of health insurance, pension plans, union dues and disability insurance.
4. Daycare expenses necessary for the parents to work, and private school expenses (under limited circumstances).
5. The number of average annual overnights the child spends with each parent. 80 and 125 each trigger a parenting time adjustment. At least 164 indicates shared placement.

Will a wage attachment be ordered?

Yes, in most cases. Wage attachments are the best way to get regular payments for the child since the payments are made on the same schedule that the wages are paid (monthly, weekly, bi-weekly, etc.). Delaware law requires a wage attachment to be sent to the employer of the obligated parent. DCSS issues all wage attachments. The employer must honor the wage attachment. If the parent changes jobs, the Court and/or DCSS must be notified by the parent so that a wage attachment can be sent to the new employer. Until a wage attachment is in place, the obligated parent is required to make payments each month directly to DCSS.

Chapter 1: General Information cont'd

If the parent who pays support is not allowed visitation, must he/she continue to pay support?

Yes, visitation and child support are two separate issues. Support is for the child, and his/her needs do not end if visitation stops. If a Court order for visitation is not followed, the obligated parent may file a separate Rule to Show Cause Petition to enforce the order. Similarly, nonpayment of child support is not a justification for withholding visitation.

What are the methods by which I can make my child support payments?

An obligated parent can make a child support payment to DCSS by:

- CHECK or MONEY ORDER
- INCOME WITHHOLDING ORDER (IWO) – Employer must withhold child support payments from the obligated parent's pay and transmit these payments within 7 business days after the date the income would have been paid to the obligated parent.
- iPAYONLINE - Employers & obligated parents can make either a one time or recurring payment for FREE securely via the web using funds from their bank account(s) or debit/credit card. Website: <https://deipay.dhss.delaware.gov/iPayOnline/>
- TOUCH PAY KIOSKS - are now accepting payments in the form of cash or credit/debit @ DMV & Probation offices statewide. A convenience fee is assessed for using the kiosk.

What are the methods by which I can receive child support payments from DCSS?

- DIRECT DEPOSIT: Child support payment can be deposited directly into a Custodial Parents (CP) account. Once a CP enrolls, DCSS sends a credit to their bank, savings and loan, or credit union and the funds are conveniently deposited directly into their checking or savings account. All banking information is confidential.
- U.S. BANK ReliaCard® : This is a pre-paid debit card that is credited whenever a disbursement is made to any/all of a client's child support cases. No line of credit is associated, no bank account is required, and it can be used anywhere credit/debit is accepted. Every CP with a child support case and a valid social security number or Individual Taxpayer Identification Number (ITIN) can enroll; but, they'll have to choose one method of electronic payment only: Direct Deposit or U.S. BANK ReliaCard®. For more information, please contact 302-577-7171 or visit the DCSS web page at <https://dhss.delaware.gov/dcss/>

Division of Child Support Services Information

The Division of Child Support Services provides a full range of child support services to any individual who applies for services and pays an application fee. The Division will file petitions in Family Court for child support, modification of support orders, and enforcement of support orders. The Division also may enforce support orders administratively by intercepting tax refunds and suspending licenses.

DCSS has two Customer Websites offering online access for services 24 hours a day, 7 days a week. These websites are:

- ONLINE APPLICATION WEBSITE - Apply for services online
- CUSTOMER WEBSITE - Receive certain notices electronically
 - Submit case specific questions to a caseworker
 - Update contact and employment information
 - View scheduled appointments, including court hearings
 - View and print child support payment history

Visit DCSS's website <http://www.dhss.delaware.gov/dcss> to learn more.

Delaware Fatherhood Initiative:

- The Delaware Fatherhood Program works with non-custodial parents (NCP) and custodial parents (CP) who are in need of training, educational support and programs to help acquire the skills to obtain and keep long-term employment. Additionally, participants in this program can receive help with receiving GED's and counseling services, such as anger management or parenting classes. For more information on this call (302) 577-7171.
- The Incarceration and Supervision Resource Unit works with individuals who are currently housed by the Department of Corrections or are in Community Supervision with Delaware's Probation offices. This unit provides information regarding next step case processing issues or modification of existing child support orders during incarceration. Additionally, this unit will continue the work of the Individual Assessment, Discharge and Planning Team (I-Adapt) to provide soon-to-be released inmates with state and community resources to reduce the likelihood of returning to incarceration.

Below is contact information for the Division of Child Support Services:

Customer service: Automated Assistance Lines– Toll Free
 New Castle County: (302) 577-7171
 Kent County: (302) 739-8299
 Sussex County: (302) 856-5386

Office Locations

New Castle County	Kent County	Sussex County
Churchman's Corporate Center 84A Christiana Road New Castle, DE 19720	905 S. Governors Ave 2nd Floor Dover, DE 19901	Georgetown Professional Park 20105 Office Circle Georgetown, DE 19947

Mailing Address: P.O. Box 15012, Wilmington, Delaware, 19850

Chapter 2: Petition for Child Support

What do I need to do to ask for child support?

Most child support petitions are filed through the Division of Child Support Services (DCSS). DCSS offers a broad range of services including establishing paternity and child support, medical support, modification and enforcement. There are NO FILING FEES for petitions filed through DCSS. State of Delaware Deputy Attorneys General facilitate the litigation of all child support petitions filed by DCSS. All persons seeking child support should ALWAYS look into DCSS services before deciding whether to file a child support petition on their own.

Can I seek child support without DCSS?

Yes. If the parents are not living together, either parent may file a Petition for Child Support. Please note the following:

- Only check the first box if you are seeking spousal support (support before a divorce is pending).
- Check the second box if you are requesting the Respondent provide medical support (health insurance/out of pocket expenses) for the child(ren).
- Check the third box if you want the child support to be retroactive (you want the Court to order child support prior to the date of filing the Petition).

What happens after a Petition for Support is filed?

After a Petition for Support is filed, the Respondent will receive a copy of the Petition and has the option of filing an answer within 20 days after being served. Both parties will then receive notice of a scheduling date for a mediation conference or hearing before a Commissioner.

Do I need to attach any evidence to my Petition for Support?

No. Evidence such as pay stubs, child care bills, etc. will be reviewed at the mediation conference and/or hearing, if one is necessary. You do not need to attach any documentation to the Petition for Support.

Chapter 2: Petition for Child Support cont'd

Do I need to state how much child support I want on my Petition?

No. Child Support is calculated based on a formula that considers many factors including, but not limited to the incomes of both parties and expenses for the child.

Where Do I File the Forms?

The Petition and necessary forms may be filed with the Family Court in any county in the State of Delaware. The paperwork will be transferred to the county that has jurisdiction to hear the matter (the county where the child currently lives). In Kent and Sussex Counties, you may file your papers at the Resource Centers on the first floor of the Family Court buildings. In New Castle County, you may file your papers at the Resource Center on Lower Level 1 of the Leonard L. Williams Justice Center.

- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does NOT accept filings that are faxed.

Can I file my petition by email?

Yes, to file by email, you must send the petition and required forms to:
FC_ChildSupport@delaware.gov.

For more information on filing by email, please review the Civil Filing by Email FAQ:
<https://courts.delaware.gov/family/faqs>

Chapter 3: Mediation Conference

What happens at a mediation conference?

The first time parties come to Court for a child support order, they must attend a mediation conference. A Family Court mediator will use the Delaware Child Support Formula to calculate the support amount, and help the parents to come to an agreement.

Do parties have to go to a mediation conference to get a child support order?

Yes, a mediation conference is the first step, unless mediation is prohibited by statute or Court Rule. Most parents reach an agreement during the mediation conference, and a child support consent order is signed. If the parents cannot agree, an interim or temporary order may be issued. Then a hearing before a commissioner will be scheduled to determine the amount of child support and issue a permanent order.

What do I need to bring to the mediation conference?

You must bring any evidence of your income and expenses for your child(ren).

Adequate documentation of income includes, but is not limited to:

- recent tax returns
- W-2 Forms
- three most recent pay stubs
- documentation of payments from Social Security
- documentation of payments from Unemployment Compensation
- documentation of payments from Worker's Compensation
- a recent physician's statement as to any claimed disability

Self-employed individuals must also bring their complete tax return, including a "Schedule C" tax form and supporting documentation for significant expense categories.

Adequate documentation of child care expenses may include, but is not limited to:

- cancelled checks used as payment for childcare
- childcare contracts
- receipts of payment for childcare

Chapter 3: Mediation Conference cont'd

What happens if a party does not bring documentation of income and expenses to the mediation conference?

Failure to bring documentation of income or the Court “attributing income” to that party. This means that the Court will determine how much income the party should be earning based on their education, training and experience and will use that number in the calculation. If this number is more than the party actually makes, it will result in a higher child support payment. Therefore, it is in each party’s best interest to bring documentation of income.

Failure to bring documentation of income or expenses may result in the dismissal of your petition or a result contrary to your interests such as the attribution of income or finding of earning capacity or no consideration of child care expenses.

What happens if the parties cannot agree at mediation?

If the parties cannot agree on a support amount at the mediation conference, an interim or temporary order may be issued. A hearing then will be scheduled before a Commissioner.

Chapter 4: Intergovernmental Registration (Registration of a Foreign Support Order)

If I relocate to another state, do I still have to pay child support orders from the state that originally issued them?

Yes. The Uniform Interstate Family Support Act (“UIFSA”) requires states to enforce child support orders entered by other states.

If I register my out-of-state child support order in Delaware, can it be modified in Delaware?

UIFSA prohibits states from modifying child support orders from other states unless certain jurisdictional requirements are met. Modification of the order can only occur under very strict circumstances. An existing support order can be registered as often as needed when an obligated parent relocates from state to state.

If I have a support order against me from another state and I move to Delaware, is this order still binding?

Yes. Under UIFSA, a support order or income-withholding order issued by another state may be registered in this State for enforcement.

How do I go about registering a child support order from another state in Delaware?

To register your out-of-state child support order in Delaware, you must complete an Affidavit and Request to Register a Foreign Support Order. You must file this form, along with two copies of the most recent foreign support order, one of which must be certified by the Court that issued it.

What happens after I file the Affidavit and Request to Register the Foreign Support Order?

The Court will register the foreign support order and send a letter to the other party informing them that the order has been registered in Delaware. The other party may oppose the registration within 20 days. The Court will then hold a hearing. If the other party does not oppose the registration, the order can now be enforced in Delaware.

It is strongly recommended that anyone seeking to enforce an out of state child support order enlist the services of the Division of Child Support Services.

Chapter 5: Genetic Testing

I am not sure of the paternity of my child. What can be done?

The Court may order genetic testing to establish paternity.

If the father denies paternity, what can be done?

The Court may order genetic testing. An appointment will be made for the man, mother, and child at a laboratory. Samples of blood or other genetic matter will be taken and tested. The tests can prove that the man is not the father, or they can provide evidence that he is the father.

What is the process for genetic testing?

Genetic testing is most commonly ordered in petitions for “New Support” and “Parentage Determination” but may also occur in other types of cases. If the petition was filed by the Division of Child Support Services (DCSS) or the child at issue receives Medicaid and parentage has not previously been established, then DCSS will deposit the cost for the testing subject to reimbursement by a party at a later time. In all other instances, the Court will require one party or the other to pay the cost before testing can be scheduled. The cost is \$97.50 per case. If more than 3 persons need to be tested, an additional \$32.50 per additional person will be required. Thereafter, each party will receive a notice to appear for testing at a nearby LabCorp facility. The child will attend with the party with whom the child lives. When the results are received and distributed, each party will have 14 days to request a hearing if they question the result. Absent such a request, a decree of parentage or non-parentage will issue. If a party is excluded as a parent of the child, this may result in the dismissal of any petition involving the child and that party. If matters other than parentage remain (child support, custody etc.), then a hearing or mediation will be scheduled. Otherwise, the case will be concluded.

How long does it take to get results?

Results of genetic testing are usually received by the Court within 30 days of the date that ALL parties are tested.

How will I be notified of the results?

The Court will notify you of the results of the genetic test by mail. Results will not be given over the telephone due to confidentiality.

What will happen after paternity is determined?

After the genetic testing is completed, the parties will be scheduled for their next court proceeding, unless paternity was the only issue.

Chapter 6: License Suspension & Restoration

Who can suspend my license if I don't pay child support?

Both the Division of Child Support Services (DCSS) and the Family Court can suspend your driver's license.

How does DCSS suspend my license?

If you owe \$1,000 or more in past due child support and have not made a complete payment in the past 30 days, DCSS may send you a notice that it may suspend your driver's license. After you receive the letter, you may avoid suspension by:

- 1) paying your arrears in full **OR**
- 2) certified payment equal to 2 months child support obligation **OR**
- 3) requesting a DCSS administrative hearing in writing.

How can I get my license back if it is suspended by DCSS?

If DCSS suspended your license, you must either pay off your balance or make a certified payment equal to 2 months of your child support obligation.

-If those options are not available and it has been more than 2 ½ years since current support was established or modified, you can file a petition for child support modification. If it has been less than 2 ½ years, your child support modification petition must state a substantial change of circumstances not caused by your own voluntary or wrongful conduct and unrelated to license suspension. During the resulting mediation and hearings or in the context of any pending child support litigation, license restoration can be addressed.

When can Family Court suspend my license?

License suspension occurs automatically when Family Court issues a *capias* for failure to appear at any paternity or child support proceeding. Upon resolution of the *capias* you must apply for reinstatement of your license at the Department of Motor Vehicle.

Family Court can suspend your license if it is found that you are in contempt in a child support arrears action. The Court can suspend a license but defer the suspension for six (6) months on condition of regular payments. At any time during the six-month period or within 30 days, DCSS can file a motion to

Chapter 6: License Suspension & Restoration

Cont'd

suspend the license or extend the deferral. DCSS cannot suspend your license during the period of deferral.

If the Family Court or DCSS directs my license to be restored, can I start driving again?

No. You must go to the Department of Motor Vehicles and pay a reinstatement fee. Additionally, your license may not be reinstated if you have other restrictions unrelated to child support (i.e. unpaid traffic fines, DUI, etc.)

Chapter 7: Arrears & Contempt

What is arrears?

Arrears is the legal term for a type of debt that occurs after missed payments. In the case of child support, arrears refer to the accumulation of missed child support payments by the obligated parent.

If the obligated parent has accumulated arrears, what may the custodial parent file?

The custodial parent (or DCSS on their behalf) may file a Petition for Child Support Arrears. Respondent will then have the opportunity to file an Answer and a hearing may be held to allow Respondent to explain to the Court why the payments have not been made and/or provide proof of an inability to pay.

If the obligated parent has accumulated arrears, what may the Court do?

When an obligated parent owes accumulated arrears or back support the Court will usually add an arrears payment to the obligation. The amount of the arrears payment is determined on a case-by-case basis. A person who is found in contempt of court for not paying child support can also be incarcerated until a designated amount of support is paid. This is called a "civil commitment" and the amount required for release is called a "purge payment". Sometimes the parent is given a designated time to make the purge payment and sometimes civil commitment occurs immediately depending on the circumstances. Persons on civil commitments are either scheduled for review hearings or are released after a designated period of time.

When does the obligation for payment of arrears terminate?

Obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid.

What are the penalties for accumulating and failing to pay arrears?

Any person who owes \$1,000 or more in arrears or retroactive support and is 30 or more days delinquent in payment of a child support order from either Family Court or the Division of Child Support Services may have their license suspended as defined in Title 13 Delaware Code section 516. Additional penalties may include sanctions such as fines and, ultimately, jail.

Chapter 7: Arrears & Contempt

If incarceration is a possibility, will the Respondent be represented by an attorney?

If the possibility for incarceration for failure to pay support exists, the Respondent will receive the paperwork to request the appointment of an attorney. This request may be granted if the Court determines that the Respondent is indigent.

If I do not think that the custodial parent is using the support payments properly, what may I file?

You may file a Petition for Accounting of Support. In this Petition, you must establish good cause for the Court to order an accounting. If the Court finds good cause to believe that the support payments are not being used properly, they may order an accounting. This would require the custodial parent to demonstrate what they are using the support payments for. However, if you ask for an accounting and no good cause is shown, costs and fees will be assessed.

Chapter 8: Calculating Child Support

The instructions found on pages 29-33 for child support calculation are a very detailed explanation of the factors that the Court will consider when determining the appropriate amount of child support to be paid. The following 3 pages offer some key points to remember. For a comprehensive list of factors that can affect your child support calculation, please review section XVII of the Family Court Civil Rules which are available on-line at <http://courts.delaware.gov/forms/download.aspx?id=39308>

Page 24 is a blank child support calculation that you may use to estimate the amount of child support that may be owed. An automated version of this calculation is available on-line at <http://courts.delaware.gov/family/>.

The Family Court of the State of Delaware has established the Delaware Child Support Formula under Family Court Civil Rule 52(c). This formula outlines the procedure for determining a child support obligation in the State of Delaware. The formula is found in the Family Court Rules of Civil Procedure, Rule 500 et seq. The formula is based on the following principles pursuant to 13 Delaware Code §514:

- Each parent is entitled to keep a minimum amount of income for their basic needs.
- Each child's basic needs are taken care of before the parents may retain any additional income.
- If income is available after the primary needs of the parents and each child are met, the child(ren) is (are) entitled to share in any additional income of the parents.

Chapter 8: Calculating Child Support cont'd

Things to keep in mind for child support calculations

The specific instructions for calculating child support are found on pages 25-28. The following are a few key points to remember:

The Melson Formula is a Rebuttable Presumption

-The Delaware Child Support Formula serves as a rebuttable presumption for establishing child support obligations in the State of Delaware. This means that the Court will use the Formula unless it finds that the results would not be in the best interest of the child(ren) or would be unfair to the parties involved.

Income Attribution

- Each party is attributed with their actual income, as shown on pay stubs, tax returns or other similar documents. The Court will attribute income to either party in the following situations:

- voluntary unemployment or unemployment due to misconduct
- underemployment (not working up to one's earning capacity based on training, education and experience)
- failure to provide sufficient evidence of income
- failure to appear at a mediation conference or court hearing

- The Court may use the Department of Labor wage surveys to estimate a party's earning capability.

- In most cases every parent will be presumed to have an earning capacity of at least minimum wage, or \$1,960 per month, unless medically disabled or incarcerated.

- If a party receives unemployment or disability compensation, they must present evidence of this income at the mediation conference or hearing.

Chapter 8: Calculating Child Support cont'd

Child Care Expenses

The Melson Formula allows for the fair allocation of all expenses for child care required for the parent(s) to work. Child care expenses must be documented and presented at the mediation conference/hearing. Cancelled checks, childcare contracts and receipts are acceptable forms of documentation.

Private School

Private school expenses will only be included as primary expenses where:

- 1) the parties have adequate financial resources
- 2) Consideration of the specific case, including whether:
 - the parents previously agreed to pay for private school
 - the child has special needs that cannot be accommodated in a public school setting
 - immediate family history indicates that the child would likely have attended private school but for the parties' separation.

Shared Equal Placement

Shared equal placement of a child(ren) is determined by the number of annual overnights the child(ren) spends in each household. If the number of overnights is at least 164 per year, the parties are considered to have shared equal placement and each child(ren) will be counted at one-half in each household for purposes of the calculation. Be advised that failure to contribute to shared incidental expenses can lead to denial of shared placement status.

Parenting Time Adjustment

If a child spends an average of more than 79, but less than 164 annual overnights in the household of the parent from whom support is sought, the calculation shall be adjusted to reflect the amount of extra time spent with the parent.

Chapter 8: Calculating Child Support cont'd

Adjustment for Support of Other Children

The child support calculation takes into account whether there are other children not of this relationship supported by each parent.

Military Allowances

The Formula currently exempts from income cost of living stipends paid to offset assignments to high income locations. Military Housing Allowances (BAH) vary depending upon both rank and location. BAH shall be limited to no more than the entitlement of a service member stationed at Dover Air Force Base. The BAH tables ("with dependents") for Dover AFB will need to be readily available to mediators and Commissioners and linked to the on-line calculation. Additionally, military allowances for clothing shall be excluded from income.

Incarcerated Parents

Service of a term of incarceration that exceeds or is anticipated to exceed one year may be considered as evidence of a diminished earning capacity unless the individual:

- Has independent income, resources or assets with which to pay an obligation of support consistent with their pre-incarceration circumstances;
or
- Is incarcerated for the nonpayment of child support or for any offense of which his or her dependent child or a child support recipient was a victim.
- However, incarceration is not a ground for modification of a current support obligation last calculated within the last two and one-half years.

2024 Delaware Child Support Formula

Petitioner _____ Respondent _____ Date: _____

File No: _____ Petition No.: _____ DCSS No.: _____

		Gross Income					Parent 1	Parent 2	
		Wages	2d Job	Other	Self	Nontax			
NET INCOME AVAILABLE	1						1		
		Parent 1							
		Parent 2							
	2	Nontaxable Income Adj. (25% of income exempted by law from Federal income tax)					2		
	3	Self-Employment Adjustment (7% of documented SE income up to \$14,050)					3		
	4	Deductions					4		
			Pension	Union Dues	Disability	other			HI not on child
		Parent 1							
	Parent 2								
5	Self Support Allowance					5	\$1,510	\$1,510	
6	Net Income after Self Support (Line 1 plus Line 2 minus Lines 3, 4, and 5)					6			
7	A – Does the parent support other dependent children? (Yes or No)					7	Yes / No	Yes / No	
	B – Adjustment for Other Dependents (If Line 7 = Yes, then 70%, otherwise \$100%)						70% / 100%	70% / 100%	
8	Net Income Available for Primary Support (Line 6 x Line 7B)					8			
PRIMARY	9	Share of Net Available (Line 8 / Line 8 Total; 50% nonparent override: \$ _____)					9		100%
	10	Number of children of this union in each home					10		
	11	Primary Support Allowance (Line 10 x \$400 + \$350)					11		
	12A	A – Childcare for children of this union necessary for parent to maintain employment					12A		
		B – Private School Tuition and Costs / other primary expenses							
	12B	C – Health Insurance					12B		
			Medical	+ Dental	+ Vision	x 75% or 50%			
		If Line 7A=No, 75%	Parent 1				C		
		If Yes, then 50%	Parent 2						
	13	Total Primary Need (Line 11 + Lines 12A, B and C)					13		
14	Primary Support Obligation (Line 9 x Line 13 Total)					14			
SOLA	Standard of Living Adjustment		15 – Net Income Available for SOLA			15		Total	
	# Children	SOLA %	16A - Line 15 - \$15,100 (but not less than 0)			16A			
	1	12%	B – High Income Offset (30% of Line 16A Total)			B			
	2	17%	17 – Standard of Living Percentage (Table)			17		Total	
	3	21%	18A – SOLA (Line 15 - Line 16B x Line 17)			18A			
	Each add'l	2%	B – Per child SOLA (Line 18A Total / Line 10 Total)			B			
CREDITS	19	Gross Obligation (Line 14 plus Line 18A)					19		
	20	Primary and SOLA retained (Line 10 multiplied by Line 18B plus Line 11)					20		
	21	Itemized Primary (Line 12A plus Line 12B plus Line 12C)					21		
	22A	A – Parenting Time Percentage (80 - 124 Overnights, 10%; 125-163, 30%)					22A		
		B – Parenting Time Adjustment (Line 22A x other parent's Line 20)							
	23	A – Does the parent support children in 3 or more households? (Yes or No)					23A	Yes / No	Yes / No
		B – Self Support Protection % (If Line 23A = No, then 50%; if Yes, then 35%)							
		C – Self Support Protection (Line 8 x Line 23B)							
24	Net Obligation (Line 19 minus Lines 20, 21 and 22B, but not more than 23C)					24			
					<input type="checkbox"/> Minimum Order (1 child = \$150 ; 2 or more = \$230)				
25	Cash Medical Support (Line 9 rounded towards 50% to the next multiple of 10)					25			



The Family Court of the State of Delaware

INSTRUCTIONS FOR CHILD SUPPORT CALCULATION (2024)

Effective February 1, 2024, the Family Court revised the Delaware Child Support Formula (“the Formula”) as stated within Family Court Civil Rules 500 through 510. The revised formula applies to both prospective and retroactive calculations. All monetary allowances will be adjusted no later than February 1st of every year in accordance with any changes in the United States Department of Health and Human Services (HHS) poverty guidelines. The entire formula will be reviewed again in 2026. These instructions are intended to assist in determining child support obligations but are not a substitute for the Rules or any applicable law.

The Formula is a rebuttable presumption for establishing child support obligations in Delaware. This means the child support obligation indicated by the Formula should be adopted unless the Court finds the result contrary to the best interest of the child or unfair to the parties and chooses to deviate from the Formula. Every child support order, including consent orders negotiated outside of Court, must have one or more support calculations attached even if the parties agree to another amount. An automated version of the Child Support calculation is available online at <https://courts.delaware.gov/family/>.

REASONABLE EARNING CAPACITY

A **Child Support Financial Disclosure Report** (also known as Form 16A) must be submitted with supporting documentation at any mediation conference and prior to any hearing. Documentation includes a parent’s most recent tax returns, W-2 forms, and 3 most recent pay stubs but may also include documentation of Social Security, unemployment compensation, workers’ compensation, medical disability, childcare, and medical insurance. Self-employed individuals and persons employed through a closely held corporation should be prepared with recent tax returns with all schedules, 1099 forms, documentation of significant expenses categories, and recent bank statements.

Child support is calculated upon each parent’s **reasonable earning capacity**. Delaware Department of Labor wage surveys (<https://laborfiles.delaware.gov/main/lmi/publications>) can be used to assess whether earnings are appropriate and to determine reasonable earning capacity. A parent employed at least 35 hours per week at a job appropriate to their training and experience, and earning

greater than the “entry” level wage for their profession as reported in the wage surveys is presumed to have reached reasonable earning capacity. A parent in an appropriate job but working fewer than 35 hours per week must be imputed (treated as if they are working) at least 35 hours per week. If income is undocumented, if a parent is un- or underemployed either voluntarily or due to their own misconduct, or if a parent fails to appear for a hearing or mediation, then reasonable earning capacity will be imputed at not less than “presumptive minimum income”. Presumptive minimum income is \$2,090 per month (statewide entry level wage according to the DOL wage surveys at 150 hours per month and updated annually). However, a parent who voluntarily or through misconduct has a decrease in income may be imputed their prior income or an income based upon their education, training, and experience.

For cases facilitated by the Division of Child Support Services (DCSS), quarterly wages earned by parents and reported to government agencies for unemployment compensation purposes (DOL and INQT reports) will be admitted into evidence. Notices for hearings and mediation conferences to establish or modify support have contact information for parties to obtain their own wage reports prior to the hearing or mediation. If credible evidence is presented to contradict a wage report, the court may provide a party 10 days to submit documentation resolving the discrepancy.

Parents who receive **unemployment compensation** are presumed to have lost employment by no fault of their own. A parent who loses employment involuntarily and through no fault of their own will be imputed the greater of one-half of their prior income, any unemployment compensation received, or presumptive minimum income. However, unemployment that exceeds 6 months in duration is presumed to be voluntary. Parents who don't receive unemployment compensation are presumed to have left employment voluntarily or been fired for misconduct. Parents who suffer a loss of income voluntarily or due to misconduct may have their obligation calculated upon actual current earnings if over a reasonable period they have earnestly sought to maximize their income capacity.

Receipt of **Social Security Disability (SSDI)** or Supplemental Security Income (SSI) is proof of a disability which may limit ability to work. A parent receiving SSI will not be assessed an obligation unless the parent has additional income or resources with which to pay support. SSI paid to a household due to a child's disability is also not considered income for any purpose. **Continuous incarceration** of more than 180 days is also evidence of diminished earning capacity. Most orders that issued after January 31, 2019, will automatically decrease to one-half of a “minimum order” on a parent's 181st day of continuous confinement.

NET AVAILABLE INCOME

Net available income is determined by taking gross income and subtracting certain deductions and a self-support allowance, and accounting for each parent's obligation to support other children, if any. If the party seeking support is not a parent, then support is calculated using only the income of the parent in the case before the Court and a primary share of 50% is utilized at Line 9. All amounts must be monthly and rounded to the nearest whole number. To convert from weekly, multiply by 4.333. For biweekly, multiply by 2.167.

Line 1--Monthly Gross Income is the combination of the following:

Wages: This includes salaries, wages, commissions, bonuses, and any other income (other than self-employment income) that is subject to Federal Retirement and/or Medicare taxes including pre-tax compensation.

Secondary Income: Secondary income is income from second jobs and passive income from interest, dividends, and trusts. Whether to include **secondary income** is determined case by case. It is more likely to be included if it has been historically earned, raises the standard of living of the parent, or is necessary to meet the minimum needs of the child. It is more likely to be excluded if it merely allows the parent to make ends meet, is used to pay extraordinary medical or educational expenses (including those of a dependent outside of the case), is necessitated by the nonpayment of support, or the job substantially conflicts with visitation. Passive income may also be excluded if it was historically saved or reinvested.

Overtime: Fluctuations in income or that overtime is not guaranteed is not a basis for exclusion. The Court must determine the average monthly income likely to recur. Secondary income and voluntary overtime that is no longer earned will not be imputed if it has been over 2½ years since the last determination of support, and income from primary employment is consistent with reasonable earning capacity.

Other Income: All other income (including SSDI and SSR) otherwise includable on the parent’s federal income tax return is presumptively considered in the calculation. Some types of nontaxable resources are entered under “nontaxable income” as described below. SSDI (Social Security Disability Insurance) paid into a household for the support of a child of the union due to a parent’s disability are included in that parent’s income but offset the Net Monthly Obligation (Line 24) dollar for dollar. SSI (Supplemental Security Income) paid into a household due to a child’s disability is NOT considered.

Self-Employment: All income from self-employment or as an independent contractor and typically reported on a 1099 Form and includable on a Schedule SE federal income tax return is considered for child support. If actual payment of self-employment taxes is not provided, a 7% deduction is provided on Line 3. But without documentation, it should be reported as “other income”.

Nontaxable Income: Alimony awarded or modified after 2018, nontaxable proceeds from a private or public entity paid to a parent due to an injury or disability, personal injury awards or settlements, military allowances, or any cash entitlement not based on need that enhances the standard of living of a parent but is not taxable under federal law shall be included. This includes Veterans Administration (VA) benefits but does not include any payment made by the Social Security Administration (SSA). Nontaxable income is subject to a 25% surcharge on Line 2.

While all military allowances (except clothing) are included, no military service member shall be attributed a housing allowance (BAH) that exceeds BAH w/dependents at Dover AFB.

2024 Dover Air Force Base BAH w/dependents (BAS is \$460.25 for enlisted & \$316.98 for officers)

E01	\$2,112	E05	\$2,256	E09	\$2,919	W04	\$2,931	O3E	\$2,934	O4	\$2,979
E02	\$2,112	E06	\$2,274	W01	\$2,286	W05	\$2,970	O1	\$2,268	O5	\$3,033
E03	\$2,112	E07	\$2,493	W02	\$2,598	O1E	\$2,538	O2	\$2,271	O6	\$3,054
E04	\$2,112	E08	\$2,742	W03	\$2,901	O2E	\$2,856	O3	\$2,889	O7	\$3,078

Exceptions to income: Expense reimbursements or in-kind payments received in the course of employment, self-employment, or operation of a business should be counted as income only if they are significant and reduce personal living expenses. A cost-of-living stipend given to an employee as compensation due to relocation (whether or not voluntary) to a high-cost location will not be included as income if it is clearly identified on pay documents. Adoption subsidies pursuant to 42 U.S.C. § 673 or a similar statute shall not be counted as income.

Line 2 – Nontaxable Income Adjustment – Multiply any nontaxable income include on Line 1 by 25% to represent the taxable earned income equivalent. Other than payments made by the Social Security Administration, a parent shall be imputed an additional 25% of that nontaxable income in increased by 25% to estimate the taxable earned income equivalent.

Line 3—Self Employment Tax Adjustment: If a parent provides documentation of actual payment of self-employment tax, 7% of the parent's self-employment income will be deducted from gross income. However, the deduction is only available to the extent combined wages and self-employment income does not exceed the Social Security maximum (currently \$14,050).

Line 4--Allowable Deductions

Pension: All mandatory pension contributions are deductible. Voluntary contributions to an IRS approved retirement plans (for example, 401K, TSP, 457, 403(b), SEP) are deductible but only to the extent mandatory contributions do not exceed 5% of gross income. The automated calculation on the Court's website will automatically calculate the maximum allowable amount.

Union Dues: Average monthly union dues.

Disability Insurance: Disability insurance premiums withheld from pay or purchased privately for purposes of income replacement (but not to cover credit card or mortgage obligations).

Medical Insurance NOT covering these children: Medical insurance premiums (including COBRA) covering the parent or their dependents BUT NOT THE CHILDREN OF THIS UNION are a deduction from gross income. Insurance premiums for policies that cover the children of this union are entered on Line 12(c).

Other: Any court ordered alimony payments, or mandatory deductions included on pay stubs (such as uniforms or supplies) required by an employer.

Line 5--Self Support Allowance: The self-support allowance is the minimum amount of income necessary for a parent to remain productive in a workplace. Each parent is given a self-support allowance of **\$1,510**.

Line 6--Net Income after Self Support: Subtract the self-employment adjustment (if applicable), deductions, health insurance & the self-support allowance from gross income.

Line 7A -- Does the parent support other dependent children? Enter “Yes” or “No”. This refers only to natural or adopted children who reside in the parent’s household, or for whom there is a court order for support or proof of a pattern of support. It also includes adult dependents if there is a court order of support or written agreement between the parties before the Court. This does not include stepchildren. If the person seeking support is a guardian, then indicate here whether the guardian has guardianship of any children other than in the pending case.

Line 7B-- Adjustment for Support of Other Dependents: If Line 7A is “Yes” (the parent supports other minor children), enter 70%; if “No” (the parent does not support other minor children), enter 100%.

Line 8--Net Available for Primary Support: Multiply each parent’s Net Income after Self Support (Line 6) by the Line 7B percentage. Add the figures for Father and Mother to get the parent’s combined total available income.

Line 9--Share of Total Net Available: Divide the Net Available for Primary Support for each parent (Line 8) by the Total Net Available (Line 8 Total). Enter the results on Line 9. If the party seeking support is a not a parent, then enter **50%**.

PRIMARY SUPPORT

Primary support consists of a Primary Support Allowance based upon the number of children of this union in each household, work related childcare expenses, private school expenses (under some circumstances), other ongoing special needs of a child and medical insurance premiums for policies covering the children.

Line 10--Number of Children of this Union in each Household: Enter the number of children of this union who reside in each parent's household. If a child resides equally (more than 163 overnights) in both households, assign $\frac{1}{2}$ child or “.5” to each household. Do not include children from other relationships.

Line 11--Primary Support Allowance: Enter the Primary Support Allowance that matches the number of children in Line 10 for each household (see tables below).

<u>Number of Children</u>	<u>Primary Support Allowance</u>	<u>Number of Children</u>	<u>Primary Support Allowance</u>
1	\$750	.5	\$550
each additional	+400	each additional ½	+200

Line 12—Itemized Primary Need

A - Child Care Expenses: Enter actual Monthly Child Care Expenses for the children of this support action required for the parent to work. Hypothetical childcare costs are not permitted.

B - Allowable Tuition or Other Primary Expenses: Private or parochial school expenses may be included if the parents have adequate financial resources and upon consideration by the Court of all the equities especially:

- i. Previous agreement to pay for child(ren)s' attendance in private; or
- ii. The child has special needs that cannot be accommodated in a public-school setting; or
- iii. Immediate family history indicates that the child likely would have attended private or parochial school.

C - Medical Insurance Covering to the Children: Any medical insurance premium for a policy that covers the children of this union is included on Line 12C. Documentation is **REQUIRED**. That amount is then multiplied by 75% if the parent has no other children to support ("No" on Line 7A), or 50% if the parent has other children to support ("Yes" on Line 7A). This includes insurance acquired through a stepparent's or guardian's employment but only if the stepparent's or guardian's own children are not covered by the policy. If the cost to cover the both the parent and the children exceeds 10% of income, then it is presumed to be unaffordable. However, once acquired, coverage must be retained until further order of the Court or written agreement of the parties.

Line 13--Total Primary Need: Add the totals from Lines 11 and Line 12.

Line 14--Primary Support Obligation: Multiply Line 9 (Share of Net Available) by Line 13 Total (Total Primary Need).

STANDARD OF LIVING ADJUSTMENT (SOLA)

If there is income available after the parents have met their own and their child(ren)'s primary support needs SOLA is designed to give the child(ren) a share in each parent's economic well-being.

Line 15--Net Available for SOLA: Subtract the Primary Support Obligation (Line 14) from the Net Income Available for Primary Support (Line 8) for each parent. Enter the result for each parent (but not less than "0").

Line 16A—High Income Excess. If the Net Available for SOLA (Line 15) for both parties is less than \$15,100, enter "0" on Lines 16A and 16B, and proceed to Line 17. Otherwise, for each party subtract \$15,100 from Line 15 and enter the results on Line 16A (but not less than "0"). Then add the amounts together and enter the result on Line 16A Total.

B--High Income Offset. Multiply Line 16A Total by **30%**. Enter the result on both parents' Line 16B.

Line 17--SOLA Percentage: Enter the SOLA percentage corresponding to the Number of Children (Line 10 Total).

<u>Number of Children</u>	<u>SOLA Percentage</u>
1	12%
2	17%
3	21%
each additional	+2%

Line 18A--SOLA Obligation: Subtract the High-Income Offset (Line 16B) from the Net Available for SOLA (Line 15) and multiply the result by the SOLA Percentage (Line 17). Enter the result for each parent, and then combine the parents' individual SOLA obligations for the total.

Line 18B—SOLA per child: Divide the SOLA obligation (Line 18A Total) by the Total Number of Children of this Union in each Household (Line 10 Total). Enter the result on Line 18B.

Line 19--Gross Monthly Obligation: Line 14 (Primary Support Obligation) plus Line 18A (SOLA Obligation).

CREDITS AND THE NET MONTHLY OBLIGATION

The Net Monthly Obligation is the Primary Support obligation plus the SOLA obligation minus applicable credits, but subject to Self-Support Protection as described on Line 23.

Line 20--Retained Primary and SOLA: Multiply the number of children in each household (Line 10) by the "per child" SOLA on Line 18B and add the Primary Support Allowance for each party on Line 11.

Line 21--Child Care / tuition paid by each parent: Enter the total of Line 12 for each parent.

Line 22--Parenting Time Adjustment: If the obligated parent enjoys 80 to 163 overnights per year, that parent retains a portion of primary support and SOLA. The adjustment is controlled by the number of overnights of contact in the currently enforceable contact order or agreement. If there is no order or agreement, or if practice differs from the order or agreement, then a party must by clear and convincing evidence prove a different number of overnights. From the below table, enter the percentage on Line 22A, multiply it by the OTHER PARENT's Line 20, and enter the result on Line 22B.

<u>Annual Overnights</u>	<u>Percentage</u>	<u>Annual Overnights</u>	<u>Percentage</u>
79 or less	0%	125 to 163	30%
80 to 124	10%	164 or more	shared

Line 23--Self Support Protection: Does the parent support children in 3 or more households? Enter Yes or No on Line 23A. If Yes, enter **35%** on Line 23B; if No, enter **50%**. Multiply Line 8 by Line 23B and enter the result on Line 23C. This is the maximum support obligation that can be ordered.

Line 24--Net Monthly Obligation: For each parent, subtract Primary/SOLA retained (Line 20), Childcare/tuition retained (Line 21), and the Parenting Time adjustment (Line 22B) from Gross Monthly Obligation (Line 19). Enter the result but not more than Line 23C. In cases involving shared or split placement, no obligation will be assessed if the calculation suggests an obligation of less than \$50 per month. An obligation may be imposed against either parent without regard to who filed the petition.

Line 25—Cash Medical Support: Each parent is required to contribute to each child’s medical expenses not covered by insurance. The percentage is based on each parent’s Primary Share of Net Available on Line 9. If the percentage is not already a multiple of 10%, then round the percentage to the next multiple of 10% that is closer to 50%. For example, if Line 9 is greater than 40% but less than 60%, then Cash Medical Support will be split 50/50. If it is greater than 30% but not greater than 40%, then the parent’s share is 40% and so on. The automated calculation will do the math:

<u>If Line 9 is at least</u>	<u>but not more than</u>	<u>then Line 25 is</u>	<u>If Line 9 is at least</u>	<u>but not more than</u>	<u>then Line 25 is</u>
0%	10%	10%	50%	59%	50%
11%	20%	20%	60%	69%	60%
21%	30%	30%	70%	79%	70%
31%	40%	40%	80%	89%	80%
41%	49%	50%	90%	100%	90%

Parents should attempt to manage medical reimbursement issues privately. Petitions may be filed for reimbursement for a past medical expense or contribution to an anticipated expense. A petition for a past expense should be filed no later than December 31 in the 2nd year after the expense is incurred. For example, reimbursement for an expense incurred in 2021 must be filed no later than December 31, 2023. Later applications may be considered for good cause shown.

Minimum Orders: Unless the children reside in shared or split placement or the obligated parent is disabled, the Court will impose an obligation of not less than **\$150** for one child and **\$230** for more than one child. The obligation, if any, of a disabled person with limited resources will be determined on a case-by-case basis.

<u># Children</u>	<u>Not Incarcerated</u>		<u>Incarcerated</u>	
	<u>Current Support</u>	<u>Arrears Only</u>	<u>Current Support</u>	<u>Arrears Only</u>
1	\$150	\$180	\$75	\$90
2 or more	\$230	\$276	\$115	\$138

Repayment: If an obligated parent owes back support or arrears, the court will direct the balance to be repaid at an amount equal to 20% of current support but not less than \$20 per month. Furthermore:

- If the obligation terminates due to the change of placement of the children to the obligated parent, then the presumptive repayment is 20% of the prior current support obligation.
- If an obligation terminates for any other reason, the obligation continues in the total amount until all balances are paid.

- Payment on arrears owed to the State of Delaware is limited to \$20 per month if the parent owes current support or arrears to any other private individual or to another State.
- A person is presumed to have the ability to pay at least 120% of what their obligation would have been under the Formula if current support had been ongoing. When using the Formula for this purpose, a 50% “primary share” on Line 9 is utilized.
- The standard repayment for genetic test costs is \$20 per month.

Retroactivity: In a new support petition, 6 months of retroactivity prior to filing is presumed. Each party may present evidence to persuade the Court to impose greater or lesser back support, but it cannot exceed 2 years. Retroactivity in a modification petition cannot go further back than 3 days after the date the summons is mailed. If a person seeking support affirmatively declined current support in a previous petition, then back support cannot go further back than that declination.

Modification: Petitions for modification filed within 2½ years of the last order of current support must allege “with particularity” a substantial change of circumstances not caused by the Petitioner’s voluntary or wrongful conduct. An order will not be modified unless a change of more than 10% is indicated. Beyond 2½ years, neither the “particularity” nor the “10%” applies. A change caused solely by a revision of the child support formula is not ground for modification. Support orders may increase, decrease, or reverse the payer and payee regardless of who filed the petition. The 2½ year ‘particularity’ requirement also applies to petitions to modify an arrears payment.

Shared Incidental Expenses: If a child resides in shared placement, the parents are expected to equally share in all incidental expenses that would otherwise be borne by a primary residential parent. Failure to do so can result in sanctions including, possibly, calculating support as if the child resides primarily with the other parent. At a minimum, shared expenses include:

- Haircuts
- School lunches
- Instrument rentals
- School supplies
- School project supplies
- Enrollment/uniform and other mandatory fees (but not equipment) associated with participating in local recreational sports or extracurricular activities.
- Local field trips not requiring overnight accommodations or air transportation.

Whether other expenses should be shared by the parents depends upon:

- Whether the parents agreed or acquiesced to the expense being incurred (even if the parents did not agree how to divide the expense);
- Whether the expense is customarily incurred by similarly situated families;
- Whether both parents benefit from the expense;
- The amount of the expense and the frequency with which it will be incurred; and
- The parents' respective abilities to contribute to the expense.

Incarceration: The obligation of an incarcerated parents will be based upon pre-incarceration circumstances for the first 180 days of continuous confinement. If the incarcerated parent has insufficient resources to otherwise pay their full obligation, beyond 180 day the obligation is reduced to a one-half of a minimum order thereafter. All orders that issued after January 31, 2019, contain a provision whereby this adjustment occurs automatically upon 181 days of continuous confinement. For obligations determined prior to 2/1/2019, the reduction requires the filing of a Petition for Support Modification.

Exceptions still applicable - Orders issued between 2/1/2019 and 1/31/2023 include exceptions wherein the obligation will not be reduced if the support recipient or the children of the order were the victims of an offense for which the obligated parent is incarcerated, or if the parent is incarcerated for nonpayment of child support. These exceptions will remain in force until the obligation is modified which can be petitioned for by either party upon a substantial change of circumstances or the passage of 2½ years. While the Formula has been modified to remove these exceptions in future orders, a change to the Formula is not in itself a basis for modification.

Chapter 9: Medical Support

What is a medical support order?

A medical support order requires one or both parents to provide health insurance and requires both parents to pay a portion of medical expenses that is not covered by health insurance for their children.

Which parent will be ordered to provide medical support?

If both parents have affordable health insurance available through employment, the parents will usually agree if one, the other or both should maintain the insurance for the child. If they can't agree a Commissioner will decide after a hearing. Whenever insurance is not in place, both parents have a continuing duty to acquire it if it becomes available at a reasonable cost.

What about expenses not covered by insurance?

Under the child support formula, all unreimbursed medical expenses in each calendar year are divided by percentages found in the child support calculation. Unless reimbursement is requested by December 31 of the second year following the year in which the expense was incurred, reimbursement is presumed to have been waived.

If the children are on Medicaid will the parents be ordered to provide medical support?

Yes. Federal law requires that child support orders include medical support if the children are receiving cash public assistance or Medicaid. When children are receiving Medicaid, the insurer reimburses the Medicaid agency for the cost of medical services provided to the children.

Will wages be attached for medical insurance?

Yes, if the parent is employed. Federal and state laws require a medical support attachment, known as a National Medical Support Notice, unless the Court determines the insurance available through the employer is either inaccessible to the child or unreasonable in cost.

When is insurance accessible and reasonable in cost?

Insurance is accessible to a child if primary medical services are available within a reasonable distance from the child's residence. Generally, cost is reasonable if the premium to cover both the parent and parent's dependant children is less

Chapter 9: Medical Support cont'd

than 10% of a parent's gross income. Cost may also be found "not reasonable" if the Court determines the parents have insufficient net income to cover insurance, day care and the child's primary needs.

Will the wage attachment tell the employer what insurance plan to select?

No. The parent(s) may select an insurance plan if the employer offers more than one. The employer will receive a notice telling him/her to deduct the amount of the insurance premium and send it to the insurance company.

Once the wage attachment for medical support is in place, may the parent/employee terminate medical insurance coverage?

No. State law prohibits an employer from terminating coverage unless the Court order is no longer in effect, or the child is enrolled in comparable coverage that will take effect no later than the date of termination.

Can an employer refuse to deduct health insurance premiums or wait for an open enrollment period?

No. An employer must obey the wage attachment for health insurance premiums and may not wait for open enrollment. He/she may be ordered to pay a fine for refusing to honor the wage attachment.

If the parents are not working will they be ordered to provide health insurance?

If the parents are not employed, they may be ordered to provide health insurance if and when it becomes available at a reasonable cost.

Chapter 10: Wage Attachments

What is a wage attachment?

A wage attachment is an order for an employer to deduct child support payments directly from the wages of an employee and send the payment to the Division of Child Support Services. Wage attachments are sometimes called income withholding orders.

Why are wages attached?

Wage attachments are required by Federal and State law because they are the best way to be sure that child support payments are made in full and on time.

Are wage attachments only for parents who are delinquent in their child support payments?

No. Wage attachments are issued for almost all new child support orders. Wage attachments are also issued when existing child support orders are modified.

If I am ordered to pay child support, will my wages be attached?

Yes, most likely. Both Federal and State law require that a wage attachment must be issued for every child support order. The only exception is when the Court finds that there is good reason not to require immediate wage withholding. For example, a wage attachment may not be issued if there is an alternative payment arrangement outside the control of the obligated parent.

Can payments from wage attachments be paid directly to the custodial parent?

No. According to Delaware law, all wage attachments must be paid through the Division of Child Support Services. The Division keeps an official accounting of the payments. After the amount is recorded, a check is sent to the parent or deposited in the payee's account. This helps avoid misunderstandings about amounts owed and protects both parents by ensuring that all payments are recorded.

Is there a limit to how much of an employee's pay may be deducted for a child support wage attachment?

Yes. The Federal Consumer Credit Protection Act applies to wage attachments for child support. Instructions on the wage attachment tell the employer the maximum that may be deducted for that employee. The amount deducted may not be more than: 50% if the employee is supporting a second family or 60% if the employee does not support a second family. If the employee owes child support arrears that are 12 weeks or more past due, an additional 5% is added to the limit.

Chapter 10: Wage Attachments cont'd

Can an employer fire an employee because his/her wages are attached?

No. It is against the law for an employer to fire an employee because his/her wages have been attached. In addition, an employer may not refuse to hire an individual because of a wage attachment.

Can an employer refuse to deduct child support payments from an employee's wages?

No. An employer may be fined for refusing to obey an order to attach the wages of an employee.

If I leave my job, do I have to make payments while I am unemployed?

Yes. You are still responsible for paying child support, even though you are unemployed. You may file a petition asking the Court to modify your child support order while you are unemployed. You should make your payments to the Division of Child Support Services. Do not make payments directly to the custodial parent, or you may not get credit for them. As soon as you find another job, you must report the name and address of the new employer to Family Court so that a new wage attachment can be issued.

Chapter 11: Modification

Can the child support payment amount ever be changed?

Yes, either parent can ask the Court to review an order after 2 1/2 years. A parent can ask for a review within 2 years if there is a substantial change in either parent's income or a change in expenses such as day care or medical expenses. The Melson Formula will be used again to determine the amount.

I would like to modify an existing child support order, what do I need to do?

You must file a Petition for Modification (form #342). There is NO FILING FEE for a modification petition if the person receiving the support is a DCSS client.

When is it appropriate to file a Petition for Modification?

- 1) More than 2 ½ years have passed since the current support amount was last determined or calculated.
- 2) Less than 2 ½ years have passed since the last support determination and a substantial change in circumstances, through no fault of the Petitioner, has occurred regarding:
 - income
 - health insurance cost or availability
 - daycare or private school tuition
 - number of minor children ordered to support
 - number of other minor children to support
- 3) Loss of license and incarceration for nonpayment of child support or incarceration for a crime against the support recipient are not grounds for modification of child support.

Will a modification be granted?

If the order is less than 2 ½ years old, a child support calculation must show a 10% increase or decrease to warrant modification. If the order is greater than 2 ½ years old, the Court will modify the order if warranted.

-If back support or arrears are owed, the modified order may include a reasonable repayment schedule.

Will a modification be retroactive?

The effective date of a new order may be agreed to by the parties or determined by the Court after a hearing. However, the effective date can be no earlier than 3 days after the petition and summons is mailed to the responding party at their last address provided by them to the Court or established by personal service or certified mail signed for by the party.

Chapter 12: Administrative Adjustments & Decisions

What is an administrative adjustment?

An administrative adjustment is a change in child support that is done by the Division of Child Support Services, rather than the Court. Administrative adjustments occur when the change can be made "by operation of law". This means that the change occurs automatically without anyone having to file a petition or motion. However, anything that can be done with an administrative adjustment can also be accomplished with a petition or motion.

-For example, if a parent under a current child support order misses their payments for one calendar month, DCSS may administratively add an arrears payment to the order equal to 20% of current support or \$20, whichever is greater. If there already is an arrears payment, DCSS can increase the payment up to this amount.

What can be addressed by administrative adjustment?

- Termination or revocation of support
- Imposition of an arrears payment
- Change of payee to a new guardian or custodian
- Death of a parent or child
- Removal of an out-of-state order
- Registration of a modified out-of-state order
- Adjustment of current support due to incarceration for at least 180 days (on orders issued after 01/31/2019)

How will I know if the Division of Child Support Services has entered an administrative adjustment?

Within 120 days prior to or 30 days after adjusting its accounts, the Division of Child Support Services files a Notice of Administrative Adjustment (NOAA) with the Court, explaining the action taken. This Notice is also sent to both parties.

What do I file if I disagree with an administrative adjustment? You may file a Motion to Contest an Administrative Adjustment. In this Motion, you must explain to the Court why you disagree with the administrative adjustment. A blank Motion to Contest form is required to be included with every NOAA. You must send the other party a copy of this Motion. The other party then has 10 days in which to respond before the Court will make its decision. A Commissioner will either decide the Motion "on the papers" or schedule a hearing.

Chapter 13: Termination of Support

When does child support terminate?

An order of current child support entered by the Court or a court of competent jurisdiction in Delaware shall terminate by operation of law when all minor children subject to said order have reached 18 years of age and graduated from high school.

If the child is over 18 and is still enrolled in high school, then support shall terminate when the child receives a high school diploma or turns 19, whichever event first occurs.

Support can also terminate if custody of all the child(ren) on the support order is transferred to the obligated parent pursuant to an order of a court of competent jurisdiction or the written voluntary agreement of the parents.

Do I need to file something to terminate child support?

Usually, if you fall into any of the three above categories, your child support obligation terminates by operation of law and you do not need to file anything. When this occurs, the parties may receive a Notice of Administrative Adjustment. If you do not receive a Notice of Administrative Adjustment and you believe that your child support obligation should have terminated, you may file a Notice and Motion to revoke Child Support. By filing this Motion, you are explaining the change in circumstances to the Court.

-a Motion to Revoke may only be filed where current support has terminated by operation of law for all children included on the support order or where arrears have been paid in full. Any other modification of a support order must be addressed with a Petition to Modify a Child Support Order.

What if custody of the child(ren) changes?

If the Court orders a change of primary residential placement, the parent must provide a copy of the Court Order to DCSS in order for an administrative adjustment to be performed.