

SUPPORT GUIDELINES RULE CHANGES

By: Valerie Haight, Support Professional
Reviewed by: David C. Schanbacher, Esquire

Generally, the support guidelines (Pa.R.C.P. 1910.16) specify the amount of support which a spouse or parent should pay based on the parties' net income as defined by the guidelines and the number of person's being supported. The support guidelines are based on the reasonable needs of the child or spouse seeking support and the ability of the obligor to pay support. The guidelines are designed to treat children, spouses, and parents in similar situations in the same manner. Once the net income (as defined by the guidelines) of the parties is determined, the basic support obligation for child and/or spousal support can be calculated. There are situations that are different and unavoidable and therefore, deviations to the guidelines may be made (Pa.R.C.P. 1910.16-5). The amount of child support that a party may be obligated to pay may also be effected by the amount of time the child or children spend overnight with each party.

There are also adjustments to the basic support obligations that are allowed by the guidelines (Pa.R.C.P. 1910.16-6). This section of the guidelines provides adjustments to the basic support obligations as a result of additional expenses. The additional expenses covered under this section include child care expenses, health care premiums, unreimbursed medical expenses, private school tuition, summer camp, and mortgage payments.

Effective October 17, 2006, changes were made to this section of the support guidelines. A new introductory sentence was added to the beginning of this section as follows.

"Additional expenses permitted pursuant to this Rule 1910.16-6 may be allocated between the parties even if the parties' incomes do not justify an order of basic support."

This sentence clarifies that the additional expenses specified in this section may be allocated between the parties even if the basic support obligation calculated per the guidelines is zero.

Under *Unreimbursed Medical Expenses* (c)(3), the following language was added.

"Documentation of unreimbursed medical expenses that either party seeks to have allocated between the parties shall be provided to the other party not later than March 31 of the year following the calendar year in which the final bill was received by the party seeking allocation. Allocation of unreimbursed medical expenses for which documentation is not timely provided shall be within the discretion of the court."

This change requires a timely exchange of documentation of unreimbursed medical expenses that either party seeks to have allocated. It should be noted that the key to the time frame is the receipt of the final bill by the party seeking allocation. This provision also affords to the court the discretion to adjust or even disallow allocation if the documentation is not provided in a timely manner.

The last change is the addition of the following sentence to section (e) *Mortgage Payment*.

"If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation."

Prior to this change to the guideline, a typical scenario is the spouse with the lower net income (obligee) occupying the marital residence and would be responsible for the mortgage payment. Because the payment exceeds 25% of that parties' monthly net income, the spouse with the higher net income may be required to assume up to 50% of the excess amount as part of the total support award. If the spouse with the higher net income (obligor) is occupying the marital residence, there was no specific requirement that would allow for an adjustment such as a reduction as part of the total support award. This change addresses the scenario if the spouse with the higher net income is occupying the marital residence and if the

mortgage payment exceeds the 25% of the parties' monthly net income, the court may make a reduction in the obligor's total support obligation. This change recognizes that in particular circumstances, justice and fairness may call for an adjustment.

These changes may or may not affect any individual's spousal and/or child support obligations. Each person's case is specific and the application of the guidelines to each individual's circumstances requires a comprehensive understanding of the support guidelines to achieve the most advantageous support obligation. The family law attorneys at Hoffmeyer and Semmelman would be glad to discuss your specific circumstances for support or any other family law matter. Just call our office to schedule an appointment with one of our attorneys.