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From: Jamie Corkhill
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Subject: Kansas Child Support Guidelines—Deviation adjustments

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As part of the periodic review of our State's support guidelines, a federal regulation (45 CFR 302.56(h)) requires analysis of case data on deviations from the guidelines.

The SRS Child Support Enforcement caseload is a useful statewide source for examining deviation adjustments in both new and modified support orders. The CSE caseload includes 64,500 Kansas current support orders, roughly half of all current orders in Kansas. CSE serves both non public assistance families and those receiving assistance, so the caseload represents a broad range of incomes. It must be noted that CSE tends to serve more low-income families than the average law firm or District Court Trustee. On the other hand, extremely wealthy families are probably under-represented even though CSE has no income restrictions. These factors, however, are not likely to materially decrease the usefulness of the data: (a) to determine generally whether too many orders are being based on deviations from the presumed Guidelines amount, or (b) to evaluate how frequently or rarely specific deviation adjustments are used.

There are no federal standards that prescribe how many deviation adjustments are "too many," nor does federal law define or constrain usage of specific grounds for deviation.

The table below summarizes information in 2,447 Kansas court cases where the worksheet was prepared on the CSE automated system between June 1, 2009, and May 31, 2010, and the worksheet included one or more deviation adjustments. The CSE Program established or modified a total of 11,665 current support orders in state fiscal year 2010. The ratio of cases with deviations compared to all new/modified orders was approximately 21.0 %.

There were a total of 2,559 deviation adjustments, falling into these categories:

- Long distance visitation: 48 1.8 %
- Parenting time adjustment: 192 7.5 %
- Income tax considerations: 2,042 79.8 %
- Special needs: 21 0.8 %
- Agreement past majority: 0 0.0 %
- Overall financial conditions: 256 10.0 %

Deviations applied to Non Custodial Parent's obligation

Category	Total Number	% of All NCP Deviations	Total \$\$ per month	Ave. \$\$ per mo. per order	Largest increase per mo.	Largest decrease per mo.
Long distance parenting costs	48	1.9 %	(\$ 4,177)	(\$ 87.02)	\$ 100	(\$ 250)
Parenting time adjustment	180	7.4 %	(13,385)	(74.36)	200	(490)
Income tax considerations	1,941	79.6 %	(184,969)	(95.30)	155	(408)
Special needs	20*	0.8 %	(594)	(29.70)	617	(800)
Agreement past majority	0	0 %	0			
Overall financial condition	249	10.2 %	(21,207)	(85.17)	276	(918)
All NCP deviations	2,438	100 %	(\$ 224,332)	(\$ 92.01)		

Deviations applied to Custodial Parent's obligation

Category	Total Number	% of All CP Deviations	Total \$\$ per month	Ave. \$\$ per mo. per order	Largest increase per mo.	Largest decrease per mo.
Long distance parenting costs	0	0	\$ 0			
Parenting time adjustment	12	9.9 %	(696)	(\$ 58.00)	\$300	(\$ 523)
Income tax considerations	101	83.5 %	(153)	(1.51)	248	(400)
Special needs	1	0.8 %	225	225.00	225	N/A
Agreement past majority	0	0	0			
Overall financial condition	7	5.8 %	(545)	(77.86)	50	(227)
All CP deviations	121	100 %	(\$ 1,169)	(\$ 9.66)		

Multiple deviations on one worksheet

Combination of adjustments	No. of cases
Taxes + Parenting Time	46
Taxes + Overall Financial Conditions	29
Taxes + Long Distance Parenting	16
Taxes + Special Needs	2
Overall Fin. Cond'ns + Parenting Time	3
Overall Fin. Cond'ns + Long Distance Par.	2
Overall Fin. Cond'ns + Special Needs	2
Special Needs + Long Distance Par.	1
Parenting Time + Long Distance Par.	1
Taxes + Parenting Time + Long Distance Par.	1
Taxes + Long Distance Par. + Overall Fin. Cond'ns	2
Taxes + Parenting Time + Overall Fin. Cond'ns	1
Overall Fin. Cond'ns + Parenting Time + Long Distance Par.	1
Taxes (CP + 24) + Long Distance Par. (NCP +100)	1

Observations:

- Reasons for requiring states to adopt support guidelines included:
 - Simplifying and standardizing calculations to reduce litigation costs and encourage consent orders,
 - Assuring that support orders were realistic with respect to both children's needs and parents' ability to provide, and
 - Encouraging equitable treatment among similarly situated families.

When one in five support orders deviates from the presumed Guidelines amount, it raises a red flag.

- The way the CSE system stores historical data does not allow easy identification of the Mother/Father role. Instead, data is stored for the Applicant/Recipient of CSE services (generally, the custodial parent who will be the payee) or for the Absent Parent (generally, the non custodial parent who will be the obligor). Because the data is categorized by obligor/payee, it is simple to tell what impact a deviation adjustment had on the final support order.

Although exact figures are not available, a number of payees in CSE cases are non-parent caretaker relatives; in foster care cases, both parents are potential obligors; and in a material number of cases the father is the custodial parent/payee and the mother is the non custodial parent/obligor.

- Deviation adjustments applied to the Custodial Parent's share of the obligation occasionally involve divided custody arrangements, but most often reflect children living in foster care or with a caretaker relative.
- The Income Tax adjustment was applied with extraordinary frequency to deviate from the presumed support amount based on the tables. The effect in 93.7% of such cases was to lower the cash support flowing to the child. The average decrease per month was \$95.30, but the decrease was often more substantial. The NCP's support obligation was reduced by \$200 or more per month in 105 instances; in those cases, the order dropped by an average of \$256 per month.
- Without the Income Tax category, the number of NCP deviations would have been only 497 (20% of the actual 2,438 NCP deviations) and the average decrease would have been \$79.20 per month (86% of the \$92.01 average).
- The Special Needs adjustment was used only 21 times during the 12-month period. This is surprising because the CSE caseload includes a higher-than-average number of children with disabilities and extraordinary medical/mental health needs; referrals to CSE from foster care and medical assistance programs are mandatory. CSE would also serve an average number of gifted children for its caseload size.

The low usage of the Special Needs adjustment may reflect lack of understanding about what expenses qualify as a "special need" or reluctance to request or order an adjustment that is much more difficult to calculate objectively than, say, the income tax adjustment.

- The Agreement Past Majority adjustment has clearly fallen out of use. At some point it may be appropriate to merge it with Overall Financial Conditions, leaving a slot open on the worksheet for a new grounds for adjustment. For those who maintain computer programs for mainframe or PC applications, this approach would provide a faster, easier, and less costly way to add a new grounds for adjustment, if the Committee ever decided to do so.

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