

# **2009 NEW HAMPSHIRE CHILD SUPPORT GUIDELINES REVIEW AND RECOMMENDATIONS**

Submitted to:

**THE NEW HAMPSHIRE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES  
Division of Child Support Services**

March 20, 2009

Submitted by:



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# Economic Analysis of NH Child Support Executive Summary

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*The following recommendations are intended to be considered as a package. Any separation of individual issues may impact the overall balance of effects of these recommendations on obligors and obligees. In addition, the authors stipulate that some of the recommended changes may require legislative and/or judicial involvement.*

## **Introduction**

The state of New Hampshire, acting through the NH Department of Health and Human Services/Division of Child Support Services, is responsible for the establishment and enforcement of child support cases upon application of child support services. The Department is federally required to review their Guidelines every four years. In 2008, the Department contracted with the University of New Hampshire Cooperative Extension to conduct such a review.

## **Method**

The project team conducted a review of the literature and current guidelines; met with key stakeholders; held four public forums; solicited input by mail and email from obligees, obligors and other interested parties; conducted site visits with child support staff in six states; and completed an economic review of alternative formulas and sources of child expenditure data.

## **Key Stakeholder Input**

Project team members met with the following groups: the NH Bar Association, the Child & Family Law Committee of the NH Legislature, the NH Commission on the Status of Men, the NH Commission on the Status of Women, Court Obligor Advocates, and Child & Family Advocates.

## **Public Input**

The project team held four public forums in Manchester, Keene, Portsmouth and Littleton, recording more than 12 hours of testimony. Additionally, the team received 67 letters, e-mails and submitted documents.

## **Survey**

A survey was sent to family law practitioners of the NH Bar, resulting in 82 responses. A survey was also emailed to 23 judges and Marital Masters, and resulted in 9 responses.

Team members included Dr. Malcolm Smith, Dr. Michael Kalinowski, Dr. Reagan Baughman and student Megan Henly.
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## **Site Visits**

Project staff visited six states, selected in conjunction with Department staff members, in order to review current policies and procedures in regard to child support. The states selected included Massachusetts (now Income Shares with new guidelines as of 1/1/09; formerly Percentage of Income), Maine (Income Shares), Vermont (Income Shares), Arizona (Income Shares), Minnesota (Income Shares), and Wisconsin (Percentage of Income).

## **Model Comparison**

The most common model of child support, Income Shares (34 states), was analyzed and compared to the Percentage of Income (12 states) and Melson Formula models (3 states), and the Cost Shares model (not used in any state). It was found that New Hampshire identifies itself as using an Income Shares model, but its current guidelines reflect a Percentage of Income model.

## **Findings**

Significant findings of our work in NH from women's and obligee advocates included concerns regarding pay inequity, hidden costs for obligee parents, the relative effectiveness of current guidelines, and the need for better collection and coordination of child support data.

Men's and obligor advocates supported a "basic cost" model, frustration with inaction regarding recommendations in the 2004 review, impoverishment, a need for financial literacy education, and the need for better collection and coordination of child support data.

Child and family advocates were concerned with embedding the best interest of the child in deliberations and decisions, ensuring adequate health care in early childhood, avoidance of a "basic cost" model, and the need for better collection and coordination of child support data.

## Economic Analysis of NH Child Support Executive Summary

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Members of the NH Legislature Child and Family Law Committee were also concerned with the best interests of the child, inadequacy of the “basic cost” model, child support related financial pressure on the prison population, and the need for more and better data.

Attorneys surveyed noted parenting time as their most critical issue and especially its impact on deviations and lack of predictability, followed by the high cost of child care and health insurance.

Judges and marital masters ranked parenting time, child care, and health insurance as the biggest complicating factors.

Site visit states ranked their own concerns differently, but overall parenting time as a major issue, with various formulas for extended visitation, substantially equal care and split custody. It became apparent that it was more expensive to co-parent and some states adjusted their formulas to account for the costs of establishing and maintaining two households.

Health insurance and extraordinary medical expenses and medical costs were other important state issues, impacted by new federal regulations.

In addition, most states appeared to reach out to obligees, obligors, and advocacy groups with some initiative to solicit regular feedback.

### Recommendations

1. Update the child support guideline tables to reflect recent estimates on expenditures for child-rearing, which show a lower fraction of total income spent on children at higher levels of income, and to produce formula results that are consistent with the Income Shares philosophy.
2. Increase the self-support reserve in the New Hampshire guidelines, from 100 percent to 115 percent of the federal poverty line.
3. Adopt the shared parenting adjustment currently used by Vermont by multiplying the basic order by 1.5 (to account for the additional fixed costs associated with raising a child in two

homes) and subtracting an amount directly proportional to the fraction of time an obligor spends with a child, as measured in overnights.

4. Change the guidelines so that the costs of medical insurance and child care be deducted from parental gross income as a part of the initial adjusted gross income calculation (Worksheet lines 4D-E), regardless of whether it is the obligor or obligee who directly pays the cost.

5. Adopt 5 percent of gross income as the definition of reasonable health insurance cost, as suggested in the new federal guidelines, rather than the current 4 percent.

6. Remove the following phrase “...up to no more than an annual total of \$5,000 for one child, \$9000 for 2 children, and \$12,000 for 4 or more children,” in 458-C:2, I-a. Ensure that the term “work-related” in the same section be defined to include necessary educational and/or training costs.

### Suggestions

1. Explore a data alliance with the General Court to establish a simple means of collecting regular data with regards to child support awards.
2. Continually review and assess health and medical care issues as related to the New Hampshire guidelines during the four years before the next required review, with careful consideration given to the impact of new federal regulations, rising health care costs and political developments.
3. With a rapidly changing economic and social landscape in New Hampshire, the research team suggests that DHHS create a stakeholder advisory board that would draw its membership from obligors, obligees, court and legal personnel including the New Hampshire Bar Association, and advocates groups.
4. Collaborate with the NH Department of Corrections to collect and track accurate data on inmate obligors both during and after incarceration.

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## INTRODUCTION

By 2009 the child support population of the United States is projected to reach 72 million people, a 15 percent increase from 1998. “More than 19 million custodians will be the primary caregivers for 30 million children, with a projected 22 million noncustodial parents” (Johnson and O’Brien-Strain, 2000, 2). In New Hampshire, issues related to divorce, particularly those regarding child support, remain a significant social and economic interest even though divorces have declined since a high of 6010 was reached in 2000, as Table 1 demonstrates.<sup>1</sup>

**Table 1. Number of divorces in New Hampshire by number of children involved, 2001-2007**

NUMBER OF CHILDREN	2001 DIVORCES	2003 DIVORCES	2005 DIVORCES	2007 DIVORCES
0	2319	2250	2220	2550
1	1270	1230	1223	1072
2	1380	1271	1175	993
3	435	422	398	253
4	105	90	71	51
5	19	21	12	7
6	5	1	4	1
>6	5	6	1	0
<b>TOTAL</b>	<b>5538</b>	<b>5291</b>	<b>5104</b>	<b>4927</b>

A generation ago, “determining a child support award was at the discretion of the decision maker” (Administration for Children & Families, n.d). However, even with the best of intentions, this did not always result in an adequate and/or equitable award. In 1984 Congress required states seeking federal funding for public welfare programs to establish child support guidelines (Ibid). The Family Support Act of 1988 required that, “state child support guidelines operate as rebuttable presumptions of the proper support amount” (Ibid,

<sup>1</sup> It should be noted, however, that nearly 37 percent of all U.S. children are born to unmarried women (Martin, et. al 2005) , thus although divorce rates appear to be decreasing, child support orders, particularly those involving paternity establishment, continue to grow.

1,1). Each state was charged by the federal government with creating a set of uniform guidelines for addressing how child support is calculated. All utilize some similar criteria.

First, most of the guidelines incorporate a “self-support” reserve for the obligor. Second, all the guidelines have a provision relating to imputed income. Third, by federal regulation, all the guidelines take into consideration the health expenses for the children, by insurance or other means. Lastly, most of the guidelines have incorporated into the presumptive child support formula special additions for child care expenses, special formulas for shared custody, split custody, and extraordinary visitation, and special deductions for the support of previous and subsequent children. (National Conference of State Legislatures, 2008, 1).

The Act also mandated that states review their guidelines at least every four years to ensure that, “their application results in appropriate child support amount awards” (Administration for Children & Families, n.d., Executive Summary, 1).

As part of its compliance with federal guidelines, the state has conducted several reviews of its method for determining child support. In 1989, the guidelines were updated to include a self-support reserve, limiting an obligor’s support amount to \$50 per month if his or her income falls below the federal poverty line. Other changes in this review included a deduction for federal taxes, payroll taxes, and childcare; and a specific exclusion of obligor’s spouse’s income (unless the obligor is voluntarily unemployed) (State of New Hampshire, 1989). A year later, the definition of income was refined (State of New Hampshire, 1990).

According to the report on the most recent guidelines review (Runge et al., 2004) further guidelines reviews were issued in 1992, 1995, and 1998. Recommendations resulting from these reviews were not enacted. In 2003, a formal state commission was designated to study child support issues in the state (State of New Hampshire, 2003). The commission conducted a review of the guidelines in 2004 after considering public input (Runge, et al., 2004). The resulting recommendations were also not enacted.

This report is based upon a 2008-2009 review of the New Hampshire guidelines, policies and procedures. For interesting discussions regarding national issues, see Crowley (2003), Hawthorne and Lennings (2008), Huang, Edwards, and Nolan (2008), Oldham and Melli (2000), and Stirling and Aldrich (2008).

## REVIEW OF THE CURRENT LITERATURE ON CHILD SUPPORT

### BASIC CHILD SUPPORT FORMULAS

The Family Support Act of 1988 required all states to create and use a single income-based formula or guideline for setting child support order amounts. Although states were free to adopt a model of their choice, a federal advisory panel provided recommendations for state guidelines, including (but not limited to) the following:

- a. *Both parents should bear legal responsibility for support of their children, with the economic responsibility divided between the parents in proportion to income;*
- b. *The subsistence needs of each parent should be taken into consideration in setting child support, but in virtually no event should the child support obligation be set at zero;*
- c. *That guidelines meet a child's basic needs as a first priority, but, to the extent either parent enjoys a higher than subsistence level standard of living, the child is entitled to share in the benefit of that improved standard (Morgan 1999).*

States responded by adopting one of three basic models as the framework for their guidelines: the “Income Shares” model, the “Percentage of (Obligor) Income” model and the “Melson Formula” model. Table 2 classifies the states by type of model. We discuss the classification of the New Hampshire model separately later in this section.

**Table 2. Summary of states by child support model used**

Income Shares		Percentage of Income	Melson Formula
Alabama	Nebraska	Alaska	Delaware
Arizona	New Jersey	New York	Hawaii
California	New Mexico	District of Columbia	Montana
Colorado	North Carolina	Georgia	
Connecticut	Ohio	Illinois	
Florida	Oklahoma	Minnesota	
Idaho	Oregon	Mississippi	
Indiana	Pennsylvania	Nevada	
Iowa	Rhode Island	North Dakota	
Kansas	South Carolina	Tennessee	
Kentucky	South Dakota	Texas	
Louisiana	Utah	Wisconsin	
Maine	Vermont		
Maryland	Virginia		
Massachusetts	Washington		
Michigan	West Virginia		
Missouri	Wyoming		

As Morgan (1999) points out, despite differences in both philosophy and calculation methods, most state models (of all types) have self-support reserves designed to protect subsistence needs of parents; are based upon parental income, including imputed income; take into consideration the health care needs of children, as mandated by federal law; and have additions or adjustments for factors like child care costs, shared or split custody, child age and subsequent families.

The state of New Hampshire responded to the federal mandate of the Family Support Act by adopting an Income Shares model in 1988 (House Bill 1128), which it revised in 1989 (House Bill 677) to explicitly mandate that both parents' incomes be considered in setting the child support award, and to add provisions for child care costs, taxes, self-support reserves and minimum support amounts.

For purposes of comparison, we review each of the three models currently in use in the United States below, noting how widely each model is used, its distinguishing features and its major strengths and weaknesses.

### **Income Shares Models**

#### **OVERVIEW**

The Income Shares model is one of two explicitly recommended by the 1987 federal advisory panel (Williams, 1987) and is currently used by 12 states. This model is philosophically based upon the premise that a child should receive the same percentage of total parental income as he or she would have received had the family been intact (Morgan, 1999). Therefore, income shares formulas take into consideration the combined income of both obligor and obligee in setting the total amount that should be spent upon a child, and then divides this amount in proportion to each parent's share of total income. The models produce support amounts for both parents; the obligor is responsible for paying the amount to the obligee or IV-D agency and the obligee is expected to spend the amount directly on the child's needs.

The first step in an Income Shares calculation is to add together both parents' adjusted gross incomes (AGIs) and compare this to a schedule that sets a child support amount for that income level. The ways in which these schedules are set varies across states; methods of estimating expenditures for the schedules are discussed later in this section. After the basic award amount has been determined, factors such as child care and health care costs are usually addressed by either a further reduction in the paying parent's AGI or by adding to the basic award separate child care and medical support amounts. Finally, each parent's share of adjusted gross total income is calculated and the child support amount (basic, plus child care and/or medical care if these are separate awards) is pro-rated between parents according to their income shares.

### EXPENDITURE ESTIMATES

According to Morgan (1999), the distinguishing feature of the Income Shares model is that “it embodies the underlying economic assumption that as income increases, the proportion of income spent on child support decreases.” This relationship is evident in child expenditure/income tables used to set support amounts in Income Shares states, and dates back to the estimates of child-rearing costs by Espenshade (1984), upon which most of the original Income Shares states based their award tables.

Espenshade’s first step in estimating the level of expenditure necessary to raise a child was to identify an empirical measure of standard of living. He chose the fraction of income a family spends on food consumed at home, based upon observations of family well-being originally made by Ernst Engel (1857). Given that food is a necessity for all households, regardless of income, and that there are not believed to be large quantity differences in food consumed at home across income groups, a lower fraction of total spending on food at home should reflect higher standard of living. Espenshade demonstrated empirically using data from the 1972-73 Consumer Expenditure Surveys that the fraction of consumption on food at home is a good (inverse) proxy for standard of living, relative to other possible consumption-based measures, in the following ways:

1. it is a necessity and represents a sizeable fraction of consumption for most families;
2. it increases, as we would expect, when the number of children in a family increases, holding constant total expenditures, and;
3. it decreases, as we would expect, when family income rises, holding constant the number of people in the family.

Espenshade went on to estimate what economists refer to as Engel equations of the determinants of consumption of food eaten at home as a function of family size, ages of family members and total family consumption on all goods. He used these estimates to determine the minimum number of dollars in total consumption that a married couple with one child, for example, would have to gain in order to have a standard of living equal to a couple without children. This is the Engel measure of the marginal expenditure associated with one child. Similar calculations can be performed with single parents and differences between 1 and 2 or 2 and 3 children.<sup>2</sup>

Another way of estimating expenditures on children through changes in standard of living is called the Rothbarth method (Rothbarth, 1943). Rothbarth estimates of equivalent standard of living are based upon differences in family expenditures on adult clothing rather than

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<sup>2</sup> Data sources, including the Consumer Expenditure Survey, do not contain enough families with more than three children to permit reliable estimates. States with schedules that go beyond three children apply their own adjustment factors to come up with order amounts for these larger families.

food purchased at home. This method is based upon the empirical observation that parents spend less money on clothing for themselves than do adults of similar age, income and other characteristics. This reduction in adult clothing spending presumably represents money re-allocated toward children. In this case, the measure of standard of living is positively related to the fraction of consumption on clothing, and the measure falls with more children in the household (holding income constant) and rises with more income (holding family size constant).

A study commissioned by the U.S. Department of Health and Human Services and performed by Lewin/ICF (1990) compares Rothbarth and Engel estimates computed using the same data and finds that Engel estimates tend to be higher and have more variability, while Rothbarth estimates are lower and more consistent. The authors recommend that states set their child support amounts neither above Engel estimates nor below Rothbarth estimates.

The most up-to-date Rothbarth estimates are for 2005 and were developed by Dr. David Betson of Notre Dame University for use in the 2006 State of Oregon Child Support Guidelines Review (Venohr et al., 2006). The state of Oregon has made these estimates available to the public. Betson analyzed a sample of 9,245 married couples with and without children from the years 1998 through 2003 in the Consumer Expenditure Survey and updated estimates to 2005 using the Consumer Price Index. The use of new data provides an important and necessary update to the estimates that had previously been used to set state guidelines. Betson does not provide Engel estimates in this report; he states that in previous work Engel estimates were close to those produced by the USDA (see below) (Venohr et al., 2006 p. I-16). His Rothbarth estimates of fraction of net income spent on one [two/three] child[ren] range from 26 [38/46] percent of incomes below \$15,000 per year to 13 [19/22] percent of incomes above \$125,000 per year. He notes that although these fractions fall as incomes rise, the relationship between spending and income has become somewhat flatter over time.

An alternative source of expenditure data for Income Shares models comes from the U.S. Department of Agriculture (Lino, 2008). The USDA uses a direct method to estimate expenditures on children. This direct method was designed to provide an alternative to the indirect Engel and Rothbarth methods, which have been the subject of theoretical economic critiques.

The original USDA estimates are based upon 1990-1992 Consumer Expenditure Data<sup>3</sup> and adjusted to 2006 price levels using a Consumer Price Index. Expenditures on food are

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<sup>3</sup> Betson compares his most recent Rothbarth estimates to estimates he creates using the USDA method using 1998-2003 data and finds them to be statistically similar for 1 and 2 children, but significantly lower for 3 children.

divided between children and adults in a family using data on consumption patterns from the 1994 USDA food plans; similarly, health care costs are divided using data on spending breakdowns from the 1987 National Medical Expenditure Survey. In cases where child expenditures are reported directly, such as children's clothing, child care and education, no allocation within the family is necessary. And for other expenses for which there is no good data on breakdown of spending within families, like housing and non-work related transportation, the USDA divides costs equally between family members. This per capita method generally produces high estimates of the fixed costs associated with raising children, relative to alternative methods.

The estimates produced by the USDA (Lino, 2007) are broken down by child age and three income groups. The percents of expenditures on children for one [two/three] child[ren] range from 35 [57/66 ] percent of a gross income of \$28,600 per year to 17 [28/33] percent of a gross income above \$115,400 per year.<sup>4</sup> The study also presents a comparison of Engel, Rothbarth, USDA and strict per capita estimates. The USDA estimates are consistently smaller than full per capita estimates (i.e. total family expenditures divided by number of members), slightly lower than Engel estimates and slightly higher than Rothbarth estimates.

### **STRENGTHS AND WEAKNESSES**

The primary strength of the Income Shares Model, particularly compared to Percentage of Income models, is its perceived fairness. This is true in the literature (i.e., Morgan 1999) and was a consistent finding of our qualitative review in feedback from both New Hampshire stakeholders and child support officials in the states we visited. Income Shares makes explicit the expectation that both parents contribute to maintaining a child's standard of living. Even though the support amount calculated for an obligee is never paid directly, it serves as a reminder to both parties of the expected level of direct expenditure on the child. The other advantage of Income Shares calculations is that, because they are based upon *both* parents' incomes, it is easier to make appropriate adjustments for medical and child care costs (regardless of which parent pays for them) and for split or shared custody.

The primary criticisms of the Income Shares model is that the method of setting the award is technically complicated, particularly in the way that expenditure amounts are estimated, and that the process lacks transparency (Ellman, 2004). Other critics (including Ellman, 2004) have noted the imperfections in the Consumer Expenditure Survey dataset that underlies all child expenditure estimates currently in use (including those by Epsenshade, Betson and the USDA). These data are admittedly far from perfect; unfortunately, they are the only

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<sup>4</sup> Author's calculation using Lino (2008), Table 1 with accompanying instructions for adjusting by family size. Note that because of income grouping, these estimates may not be as precise as Rothbarth or Engel estimates.

available source of information of their kind. There exist no other nationally-representative surveys of U.S. consumer expenditures with the demographic data necessary to perform the expenditure calculations necessary for setting child support amounts. Finally, a more theoretically-based critique has been advanced by Ellman (2004) and Rogers (2002), disputing the way in which Income Shares estimates allocate costs within a family. We discuss that critique below in a short review of the Cost Shares model proposed by Rogers.

### **Percentage of Income Models**

#### **OVERVIEW**

The Percent of Income model was first developed by, and is still to a large extent associated with, the state of Wisconsin. Today, 12 states including Wisconsin use Percent of Income formulas in their guidelines.

There are two important characteristics to Percentage of Income models. First, only the obligor parent's income is considered when setting the level of child support. Second, the fraction of income awarded in child support does not vary based upon the income level itself in the basic guideline. The resulting model is extremely simple; the base calculation is simply the obligor's income multiplied by the flat percentage of income.

#### **STRENGTHS AND WEAKNESSES**

The strength of the Percent of Income model is the ease of the formula, the speed of calculation and the transparency of the process to all parties. Some advocates of Percent of Income Models have argued that the additional steps of an Income Shares model in analyzing an obligee's income are an unnecessary complication if it is understood that the obligee is contributing to the child through direct spending anyway (Morgan, 1999).

The weakness of the Percent of Income model is its reliance on flat percentages. In order to make allowances for high or low obligor incomes, states must either increase complexity by creating adjustments to the formula (as Wisconsin has done) or invite the courts to grant more deviations from guidelines. Additionally, it has been argued that the Percent of Income model is unfair in the sense that it does not produce results in line with the "continuity of expenditure" philosophy of Income Shares in cases where parental income is unequal. As an example, consider a one-child family in which the obligee earns a net income \$5,000 per month and the obligor only \$1,500. The Rothbarth expenditure estimates provided in the previous section would suggest that, as a married couple, this couple (earning \$78,000 per year) would spend 17% of their income on their child. However, a flat percentage for *all* cases, perhaps fixed upon national median net income, would be closer to 23%. Under this scenario, which is perhaps a unique one, a Percent of Income Model would require one parent to contribute a greater fraction of income to child support than he or she

presumably contributed (or would have contributed) directly to child-rearing costs if the family had been intact.

## **Melson Formula Models**

### **OVERVIEW**

The Melson formula was developed by Judge Elwood F. Melson of the Delaware Family Court (Morgan, 1999). It is undoubtedly the most complex of any child support formula currently being used in the United States, but at the same time accounts directly for more cost factors involved in child-rearing than any other method.

The Melson formula, like Income Shares, takes into account the incomes of both parents. The first step is to establish a self-support allowance for each parent and subtract this from actual income. The remaining income is summed between parents, applied to a table of cost estimates for basic child needs to get a basic support amount, which is then pro-rated between parents according to income shares. To this, child care and extraordinary medical expenses are added. Finally, what is called the “standard of living allowance” is added. This is a flat percentage (based upon number of children) of the parental income remaining after the self-support reserve is taken out. The final support amount owed by the obligor is his/her fraction of: the basic needs amount, plus child care and medical expenses, plus the standard of living allowance.

### **STRENGTHS AND WEAKNESSES**

The strength of this model is its ability to directly account for most of the important factors within the guideline model itself and without necessitating deviations. It also tends to produce the most consistent and predictable awards (Morgan, 1999).

The only weakness of the model, and presumably the reason it has not been used more widely, is that it is significantly more complicated in its basic form compared to basic Income Shares and Percent of Income Models. It is also the least transparent of any model currently in use. Additionally, the Melson model could be subject to the same equity criticisms as the Percent of Income model, given that the standard of living allowance percentage generally does not vary by income.

### **Alternatives**

Rogers (1999), Rogers and Bieniewicz (2002) and Ellman (2004) have criticized the existing models – particularly Income Shares models, which are based upon indirect expenditure estimates such as Engel and Rothbarth calculations. These papers correctly

point out that the theoretical validity of these estimates, particularly the Engel estimates, has not been well-supported in the economics literature.<sup>5</sup>

As an alternative, Rogers and Bieniewicz (2002) propose a “Cost Shares” model. He rejects both the presumption of “continuity of expenditure” and the empirical practice of using the consumption patterns of intact families to estimate expenditures. He argues that when an intact family breaks up, the necessities of dual households necessarily imply that standard of living (for all family members) will fall, and that this should be reflected in child support. He also argues that measures like Engel and Rothbarth, which are intended to reflect standard of living, fail to measure the non-pecuniary changes in standard-of-living that come from the satisfaction of being a parent.

Mechanically, the major difference between the expenditure estimates associated with Cost Shares and the ones associated with Income Shares models is a difference in the way costs are calculated. Rogers and Bieniewicz (2002) state that all costs in the Basic Costs model are marginal costs, which implies that they would be estimated by differences in expenditures between families with different numbers of children or an equivalent measure estimated by regression model.<sup>6</sup> The primary difference in using this approach is that it would be expected to produce smaller estimates of housing and other fixed costs attributable to children, particularly relative to the USDA estimates, which allocate these costs on a per capita basis.

The estimates produced by the Cost Shares model are lower than other existing estimates for at least two reasons. Both have to do with the presumption of a lower standard of living for all family members, including children, in a non-intact family. First, child expenditures are estimated and amounts applied in the calculation based upon the *average* of the parents’ incomes rather than the *sum*. Second, all cost estimates underlying the model are from single-parent families. Due to the lower average income of single parent families in the U.S., most of which are headed by single women, this will produce low cost estimates. There is also the risk that at higher income levels estimates are imprecise because of small sample sizes of single parent families in available data sets.

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<sup>5</sup> However, it should also be noted that theory does allow us to determine the direction of possible bias in both Engel estimates (upward-biased) and Rothbarth estimates (downward-biased) (Lewin/ICF 1990).

<sup>6</sup> Rogers and Bieniewicz (2002) do not provide a citation or an explanation of the specific marginal cost calculation method used for housing costs.

## THE NEW HAMPSHIRE MODEL

### CLASSIFICATION

Although it is not stated in statute (Title XLIII, Chapter 458C), New Hampshire describes itself as having guidelines based upon the Income Shares model. This dates from the adoption of formal guidelines in 1988 and was the consistent response in our contacts with state officials, legislators, attorneys, judges and other stakeholders. However, current statute explicitly states that child support orders “should vary according to the number of children and, with limited exemptions, not according to income level.” (458-C:1, III). The current percent-of-income support amounts (25 percent for one child; 33 percent for two children; 40 percent for 3 children; 45 percent for four or more children) do not vary by income, although “significantly high or low income of the obligee or obligor” (458-C:5, Ib) is considered to an appropriate reason for a deviation from the guideline.

Guidelines based upon flat percentages of income are inconsistent with the Income Shares model (Morgan 1999) and produce award amounts that are approximately equal to those in Percentage of Income models. In fact, any small differences between orders produced by the NH guidelines and other Percentage of Income models at the same rates are usually driven by how the parents split child and health care costs.

Example:

*Consider the very simple case of parents of one child who each earn a net income of \$1,500 per month and have no child or health insurance costs or other adjustments to income. Their combined income is \$3,000 and their basic support amount according to current New Hampshire guidelines is 25 percent of \$3,000, or \$750 per month. Since the obligor earns 50 percent of the combined income, his or her child support order is for \$375. Now suppose that the obligee’s net income doubles to \$3,000 per month. Combined income is \$4,500 and the total award according to the guidelines is 25 percent of \$4,500 or \$1,125 per month. Since the obligor earns 33 percent of the combined income, his or her child support order is for one-third of \$1,125 or \$375 – an amount identical to the previous award. In this case, if the obligee’s income fell to zero, the order would still be \$375 (100% of 0.25 X \$1,500).<sup>7</sup>*

This discrepancy between statute and practice has led to conflicting reports on New Hampshire’s model. While Laura Morgan’s comprehensive summary on each state’s guidelines lists New Hampshire as an income shares state (2008), other experts on the topic

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<sup>7</sup> In practice, the same changes to gross rather than net income would produce very small changes in award amounts, driven only by the way in which tax deductions are applied.

have been classifying New Hampshire as a Percent of Income Model (Venohr, 2007). We agree with this categorization.

### **RESEARCH ON NEW HAMPSHIRE'S GUIDELINES**

Statistics on various aspects of the child support system in New Hampshire are not maintained in a way to permit comparisons across types of cases or across states. For example, there is no data on the number of awards that deviate from the state guidelines. Not only are judges are not required to record when they grant a deviation in a child support case, but there is also no uniform definition of what counts as a deviation.

However, one social scientist (Ellis, 1997, 2000, 2001, 2003, 2005) studied child support awards in the late 1990s in order to evaluate the manner in which cases deviate from the guidelines. This research has estimated that almost half of child support awards in New Hampshire deviate from the guidelines. Among those with deviations, half cited the “catchall” clause rather than one of the other allowable deviation factors. Also worth noting is that of those with deviations, just 12% were upward adjustments to the award amount. Just over half (52%) decreased below the guideline recommendation and over one-third (36%) determined that no award should be made. This research is in line with similar analyses examining deviations in other states (e.g., Minnesota: see Rettig et al., 1991; Rettig and Watters, 2005).

From evidence collected during the research for this report, the authors learned that shared parenting provokes a substantial share of deviations, bringing down the award amount. If the guidelines addressed this issue, then fewer deviations would be warranted, resulting in more uniformity of child support orders.

### **POVERTY**

Obligor living in poverty often face serious difficulties in meeting their child support commitment *and* managing to pay their own basic living expenses. In many states, child support schedules represent a larger proportion of an obligor's income as income decreases. Past research has demonstrated that as many as one-third of obligor fathers cannot meet their child support obligations without being in poverty (Mincy and Sorensen, 1998).

Willing compliance and a state's ability to enforce a support order are linked with not only an obligor's ability to pay but also his (or her) perception of the fairness of the order. Qualitative work (Waller and Plotnick, 2001) has shown that many low-income primary care giving parents have informal support arrangements with the non-primary care giving parent. Once a formal order is established, of which the obligee parent only keeps \$50 (the residual going to reimburse the state for the cost of welfare), obligors viewed the award as unfair and it subsequently went unenforced. Many low-income “deadbeat dads” want to

contribute meaningfully toward their children's needs. When they see their paychecks – which are often a struggle to make – get taken away, they have little incentive to comply.

Although this discussion prompts us to consider the financial impact on the parent who is not providing primary care (typically the father), it is worth noting that mothers and children are much more likely to live in poverty post-divorce (Stirling and Aldrich, 2008). Decreasing the support amount for these low-income individuals may also raise compliance rates, as past research on this topic has shown (Huang, Mincy, & Garfinkel, 2005).

### **KEY STAKEHOLDER AND PUBLIC INPUT**

In accordance with NH Statute 458-C: 6 and U.S. Code 42, 667, which requires the NH Department of Health and Human Services to assess whether the application of the child support guidelines results in the determination of appropriate child support amounts, opportunities for public and key stakeholder input into the efficacy, effectiveness and efficiency of the current guidelines was provided during this review. Input was sought in a variety of ways including public forums, email and written testimony, interviews with key stakeholder groups and surveys conducted with members of the NH Bar Association and with judges and marital masters.

Current research on effective public policy (particularly where policy compliance is critical to the well being of others as in the case of NH child support guidelines) clearly identifies stakeholder input as vital not only to the effectiveness of public policy but also to its very legitimacy (Wallner, 2008; Bogenschneider, 2006). With this research in mind, more than 12 hours of recorded testimony and input, 62 written documents, and over 90 survey responses were collected and analyzed for content during this review.

A protocol established with and approved by the University Of New Hampshire Office Of Sponsored Research, Internal Review Board was utilized in conducting all public forums and stakeholder interviews.

### **HISTORICAL PERSPECTIVE ON PUBLIC INPUT**

Public hearings and stakeholder testimony have been an integral part of the child support guidelines review process in New Hampshire since inception of the guidelines. It should be noted, however, that obligors and their advocates have reportedly been consistently more vocal in public forums and testimony during guideline reviews than have obligee parents and their advocates.

The 1991 guidelines review, for example stated that “although the [guidelines] public hearing was advertised in New Hampshire's daily state-wide newspaper, no custodial

parents appeared and testified” (DHHS, 1991, p-11). Although the 1995 review (NH Child Support Study Committee, 1995) did not specifically detail the number or status of members of the public who provided input, the review mentions public testimony related to obligor concerns over obligee issues by four to one.

In the 2002 review of NH guidelines it was noted, “Although the opportunity to comment was made available to everyone, the majority of oral and written testimony was from child support obligors” (DHHS, 2002). In this current review’s predecessor conducted by a legislative commission in 2004, obligor parent testimony at four public forums outnumbered that from obligee parents by 47 to three (Commission to Study Child Support, 2004, Appendix D).

Based upon this historical analysis of past reviews, the present review expanded the methods used to gather data to include interviews with key stakeholder groups representing both obligee and obligor parents in addition to four public forums. An emphasis was also placed on written testimony that was gathered both electronically and via the postal service. At the suggestion of DHHS, the team also surveyed lawyers and judges whose cases are directly affected by the child support guidelines. In addition, recorded interviews seeking historical, legal and political context were conducted with members of the NH House of Representatives Children and Family Law Committee and members of the NH Bar Association.

### **KEY THEMES FROM PUBLIC TESTIMONY**

Public forums were conducted during October and November of 2008 in Manchester, Keene, Portsmouth, and Littleton, NH. As with past NH child support guideline reviews, nearly all of the attendees at these forums were either obligor parents or fathers’ rights advocates. Twenty six individuals participated, each providing five minutes of testimony relative to the current guidelines.

Written and electronic testimony was more evenly divided between obligee (n=25) and obligor (n=30) parents. However, it should be noted that some of the input received from both obligees and obligors dealt with issues outside of the current guidelines review, including issues relating to enforcement and to the constitutionality and legality of federal child support laws.

Transcripts of audio testimony and the written testimony from the public forums, letters and emails were analyzed for key themes using content analysis coding (Berg, 2001). Among the identified key themes relevant to the current guidelines were:

**Obligor Testimony:**

- Inequity of Current Formula in Reflecting Obligee Parents' Income: Several obligors testified that they felt that the NH guidelines were not really a true "income shares" model because they felt that in cases where obligee parents had significant income, the current formula does not adequately reflect that income.
- Parenting Time/Shared Parenting: A major theme of obligor parent testimony was a perceived need for the guidelines to adequately reflect shared parenting. Testifiers felt that the guidelines need to reflect significant credit for the financial burden associated with the parenting time investment of obligors.
- Inadequacy of Self Support Reserve: Obligor parents testified that they felt that many obligor parents were forced to live in poverty by child support obligations because the current 100% of poverty self support reserve does not adequately reflect the cost of living in New Hampshire.
- Lack of Action on 2004 Guideline Review Recommendations: Several obligors expressed frustration that the recommendations contained in the previous guidelines review (Commission to Study Child Support, 2004) were not enacted.
- Consideration of Other Children: Obligor parents felt that the current guidelines do not adequately account for the cost of raising children from subsequent marriages and additional child support obligations.
- Complexity, Cost and Time of Modification Process: Both obligors and obligees stated that they felt intimidated by the expense, the time investment and the complexity of the modification process.
- Lack of Accountability for Use of Child Support Payments: Obligor parents felt that the guidelines should require accountability on the part of obligees to demonstrate that child support payments are applied directly to the needs of the child.

**Obligee Testimony:**

- Child Care Costs Inadequately Considered in Guidelines: Obligee parents testified that the current guidelines do not adequately reflect the actual cost of providing child care in New Hampshire.
- Increasing Medical and Health Care Costs not Reflected: Obligees stated that the current guidelines do not address the rising costs of providing health care and meeting medical obligations for children.
- Basic Fairness and Effectiveness of Current Guidelines: Several obligee parents testified that in general, the current guidelines are fair and basically assist obligees in adequately supporting their children.
- Complexity, Cost, and Time of Modification Process: As stated above, both obligees and obligors expressed frustration with the current modification process.
- Educational Needs of Children over 18 Years of Age: Obligee parents felt that such costs as college, technical school and other forms of education should be supported for children past the age of 18.

- Complexity of Current Guidelines and the Need for Public Education: Some obligees felt that the current guidelines were complicated and hard to understand, therefore making it hard to determine equity in child support matters. They suggested that more public education, particularly for obligee parents is needed.
- Lack of Accountability of Obligor: Obligee parents testified that some obligors were able to hide sources of income from child support obligation, were underemployed and not held accountable for it by the guidelines, or failed to report increased income.

### KEY THEMES FROM STAKEHOLDER INTERVIEWS

Interviews were conducted with key stakeholder groups identified by the Department of Health and Human Services. These directed interviews lasted from one hour to one and one half hours and were pre-scheduled. Some obligor advocates participated in stakeholder groups and also gave public testimony or submitted email input; however themes from their testimony were only considered once in this report.

Included in this analysis are interviews conducted with members of the NH Commission on the Status of Men, the NH Commission on the Status of Women; child and family advocates representing child and family caring agencies; obligor advocates, members of the Children and Family Law Committee of the NH Legislature, and members of the NH Bar Association. Interviews were tape recorded and analyzed for content following protocol established with UNH Internal Review Board specifically for this project.

Basic themes from an analysis of over eight and one half hours of interviews are summarized below.

#### Women's and Obligee Advocates

- Importance of Guidelines in Offsetting Pay Inequity for Women: Advocates stated that because most obligees in NH are women and that there are inequities in jobs and salaries for women in the state that the current guidelines are vital to keeping women and their children out of poverty.
- Hidden Costs Inherent for Obligee Parent: Obligee advocates felt that regardless of percentage parenting time, obligee parents incur greater costs in supporting children than do obligor parents including not readily visible transportation, housing, school, child care and other financial commitments unique to legal child custody.
- The Relative Effectiveness of Current Guidelines: Women's advocates testified that because the current guidelines are relatively effective and fair, obligees parents in general feel that there isn't a need to dramatically alter the current guidelines.
- Perception of Unfair Tactics by Obligor Advocates: Some women's and obligee's advocates stated that they felt that tactics employed by father's groups in past public forums and legislative testimony were intimidating and discouraged women from providing adequate input into the guidelines review process.

- Need for Better Collection and Coordination of Child Support Data: As with other interviewees, advocates felt that there is currently not sufficient data collection within the New Hampshire court system and there is a lack of coordination of data between the courts and DHHS to adequately assess deviations from the guidelines and to gather evidence from non-4D cases relative to the efficacy of the economic formula.

### Men's and Obligor Advocates

- Basic Cost Model: Obligor advocates felt that the guidelines should reflect a basic cost as opposed to an income shares model of child support.
- Frustration Over Inaction on 2004 Guidelines Recommendations: Advocates stated frustration over the fact that many of the 17 recommendations in the 2004 Commission on Child Support Guidelines were not enacted.
- Need for Education of Obligor: Men's advocates suggested that obligors needed public education on the financial obligations related to child support and needed to receive financial literacy education to avoid becoming impoverished by child support obligations.
- Impoverishment of Obligor: Advocate testimony included anecdotal evidence that the guidelines were unfairly placing obligors in poverty and placed undue emotional and psychological strain on obligors.
- Need for Better Collection and Coordination of Child Support Data: Members of nearly every advocate group stated that there is not currently adequate data collection, particularly concerning non-4D child support cases relating to guidelines deviations. They also felt that DHHS and the NH courts system should coordinate data collection relative to child support cases.

### Child and Family Advocates:

- Best Interest of the Child Assumption: Advocates stated that the guidelines in New Hampshire should always assume the best interest of the child as the first and foremost consideration in establishing child support. It is felt that the current guidelines operate under this assumption and should continue to do so.
- Importance of Guidelines in Healthy Child Development: Child and family advocates felt that the guidelines are vital to the health and well being of children and that the guidelines should reflect adequate health care, medical and child care costs based on real, not percentage, costs. They felt that ensuring adequate support for care during childhood prevents enormous social costs associated with the effects of child maltreatment and poverty.
- Avoidance of "Basic Cost" Model: Advocates expressed concerns over "basic cost" child support formulas such as that suggested by the Commission to Study Child Support (2004) because they feel that these models minimize the needs of children and do not adequately account for the entire cost of supporting children.

- Need for Better Collection and Coordination of Child Support Data: As with other groups, advocates felt that better data collection would provide legislators and DHHS officials with a more accurate guidelines analysis.

### **NH Legislature Children and Family Law Committee**

- Best Interest of the Child Assumption: Members of the Committee indicated that the guidelines should always operate under an assumption that the best interest of the child should be of primary concern in determining child support allocations.
- Inadequacy of Basic Cost Model: Committee members expressed concern over “basic cost” models such as that suggested in a previous guidelines review. They felt that the “basic cost” model does not adequately account for the best interest of the child.
- Concern Members of the Prison Population Owing Child Support: Members felt that obligors who are in prison often leave NH prisons with child support obligations that impoverish them and impede successful community reintegration.
- Need for More Data: As with other interviewees, Committee members expressed concern with the ability of DHHS to adequately track deviations to the guidelines that occur outside the purveyance of their child support cases.

### **Inmate Obligors**

It should be noted that the research team received three letters from inmates at the Lakes Region Facility men’s prison who participate in the Family Connections family resource center located there. These letters indicated that the authors were also representing other prisoners who were not able to write.

The consistent theme in these letters was that when child support obligations continued to accrue during incarceration, the chances of these men being able to leave prison and establish reasonable means to meet child support obligations diminished. This cycle of impoverishment was also mentioned by obligor advocates, members of the Children and Family Law Committee of the Legislature and by child and family advocates.

The State of Wisconsin, we learned, along with the University of Wisconsin, is conducting a pilot study on the effects of waiving prisoner obligations and the impact on prisoners’ compliance to obligations, following their release from prison. This volatile population has a low likelihood of post-release compliance and may often evade the formal child support system (Swisher & Waller, 2008).

## ATTORNEY, JUDGE AND MARITAL MASTERS SURVEYS

In November and December of 2008, the research team met with members of the NH Bar Association Family Law Section to request input into the current guidelines review. As a result of that meeting and discussions with DHHS, a survey regarding the effectiveness and efficacy of the current guidelines was constructed and disseminated electronically to the over 300 members of the Bar who practice family law. Subsequently, a similar survey was designed and disseminated to judges and marital masters in New Hampshire with the assistance of the General Court.

### Attorney Survey

The child support guidelines attorney survey was conducted in accordance with and approval by the University of New Hampshire Internal Review Board and with the cooperation of the NH Bar Association. The response rate (n=82) represents approximately 27 percent of the Bar Association’s approximately 300 family law practitioners who received an email invitation requesting their input. Attorneys who responded to the online survey, on average, have practiced law in New Hampshire for over 16 years and, on average, are involved in more than 50 child support cases each year.

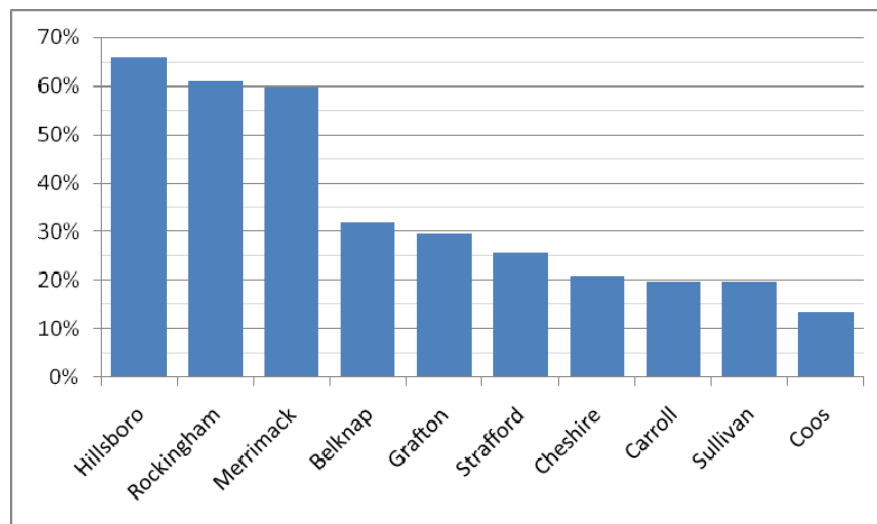


Figure 1: Proportion of responding attorneys practicing in each county

Their cases cover all counties of the state, providing input on a geographically representative range of cases. Hillsboro, Rockingham, and Merrimack – the most heavily populated counties – were the areas from which the largest proportion of responding attorneys practice (66%, 61%, and 60% respectively) (See Figure 1). The majority of respondents (93%) indicated that they, at times, represent both obligors and obligees in child support cases. Over three-quarters of attorneys (78%) represent both obligors and obligees

equally. While 6% indicate that most of their clients are obligors, the balance lean toward representing obligees. While the public forums may have been dominated by input from obligors, these results offer a more balanced representation from the attorneys' point of view.

The support guidelines are designed to provide an award amount for the typical child support case. However, a variety of factors may complicate a case. When asked to rank the extent to which parenting time, childcare and health care issues have complicated their cases, nearly three fourths (74%) of the respondents indicated that "parenting time" issues often (47%) or always (27%) complicated their cases.

When asked to further clarify their responses, many participants stated that shared parenting causes the courts to issue deviations from the guidelines that are often complicated. One respondent, for example, commented, "The biggest problem is the lack of predictability surrounding parenting time. The current guidelines leave parents (and their attorneys) in limbo, making it very difficult to advise clients and, as a result, to settle cases." Others stated that parenting time is the major reason for deviations from the current guidelines.

Seventeen percent of the respondents indicated that childcare costs are a major complication in their cases often (16%) or always (1%). Comments from the respondents about childcare indicated their feelings that current guidelines do not adequately reflect the actual cost and that the high cost of child care is often cause for deviation from the guidelines.

"The child care costs allowed are too low and do not fit the realities that obligees face," wrote one respondent. Another reported, "Issues regarding child care, particularly full time child care for preschool aged children cause great expense that is not taken into account in the formula."

One-third of respondents indicated that health insurance complicated their child support cases often (29%) or always (4%). These respondents commented that the current guidelines do not adequately reflect the rising costs of medical health insurance. One respondent, for example, stated, "It is often difficult to determine if health insurance is available at a reasonable cost." Another stated, "It used to be that parents argued over child support payments. Now they argue over health insurance costs."

The qualitative feedback on the attorneys' experiences with these three big issues (child care, health insurance, and parenting time) could be summarized in three main themes: (1) Shared parenting time results in unpredictability since it is not covered in the guidelines; (2) Because shared parenting usually results in deviations, parenting time is requested for monetary reasons rather than in the best interest of the child (typically by obligors though several attorneys spoke of experiences with obligees); (3) Child care provisions are

substantially below actual costs and there is no provision that states how residual amount is to be paid. This feedback corroborates information obtained through public forums and meetings with stakeholders.

**DEVIATIONS FROM GUIDELINES**

Deviations introduce a degree of uncertainty about the outcome of the order amount. This can create a perception of bias when the outcome is not to the liking of one party. Unfortunately, there are no reliable records on deviations in the state. Not only are judges not required to record when they grant a deviation in a child support case, but there is also no uniform definition of what counts as a deviation. We asked attorneys and judges to indicate the top three reasons why deviations were granted *in their cases* in 2008. The majority of the respondents (55%) indicated that deviations were “granted an appropriate amount of the time.” Another 31% indicated that deviations were not granted often enough, and 14% of the respondents felt that the court “too often” granted deviations.

When asked to select the top three reasons that deviations were granted in their 2008 cases, the majority indicated that “shared parenting” (89%) or “agreement of the parties” (80%) were one of the top reasons. “Extraordinary visitation and custody rights” (27%), “significantly low income of the obligor” (18%), “significantly high income of the obligor” (15%), and “catchall” (19%) were the other top reasons, though these were cited substantially less often than shared parenting (See Table 3).

**Table 3. Attorney reports of top reasons deviations are granted in their 2008 cases**

	Attorneys (%)
Shared parenting	89
Agreement of the parties	80
Extraordinary visitation and custody rights	27
<i>Income disparities:</i>	
Significantly low income of the obligor	18
Significantly high income of the obligor	15
Significantly low income of the obligee	6
Significantly high income of the obligee	1
Economic consequences of stepchildren, stepparents, or natural or adopted children not covered in child support order	9
Economic consequences of disposition of marital home	6
Economic consequences of college costs	5
Extraordinary medical expenses	4
State tax obligation	0
Other (or "catchall")	19

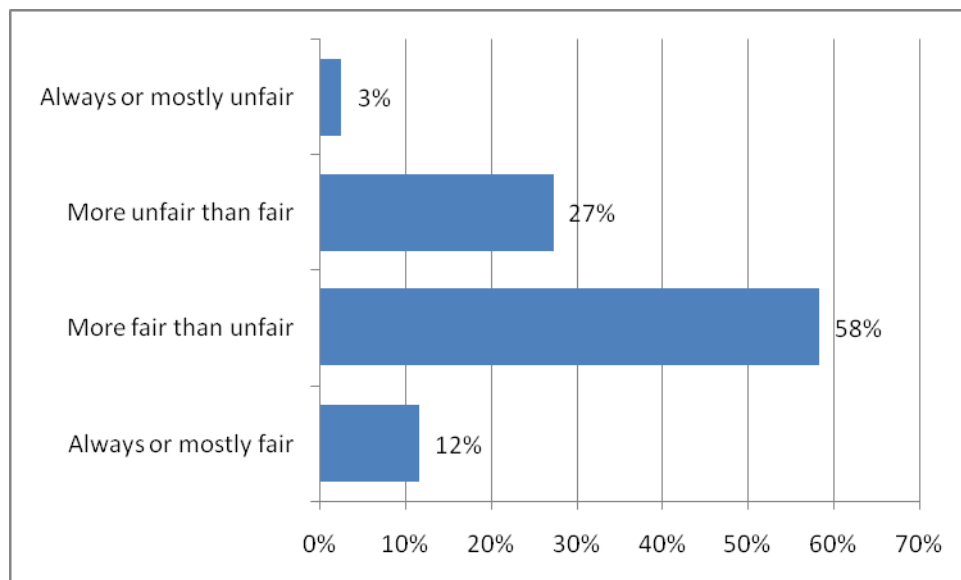
When asked, “If you could recommend a change regarding deviations, what would it be,” most respondents indicated they would clarify the guidelines with regards to shared parenting and parenting time. In addition, respondents frequently mentioned fairness for high income earners, and formula modifications that consider obligee income as areas of the guidelines they would change.

**FAIRNESS OF GUIDELINES**

Participants were asked to rank, based on their experiences, the fairness of the current child support formula in New Hampshire. Figure 2: Fairness of Current Guidelines depicts their responses, indicating that 70% believe in the fairness of the current guidelines.

Respondents were also asked to describe, in their own words, the most difficult thing about the current NH guidelines. Thematically, the most often described difficulties were with shared parenting, the inability of the guidelines to adequately address child care costs, the perceived inability of the current formula to account for obligee income, and the guidelines sometimes have detrimental effects on low income earners.

Finally, participants were asked to name one “overall change that you would recommend regarding child support in New Hampshire.” Again the majority of respondents suggested that a formula for shared parenting or parenting time be implemented, that child care calculations be revamped to consider the actual cost of child care, and that the guidelines be adjusted to better account for obligee income.



**Figure 2: Attorney Survey, Fairness of Current Guidelines**

## **Judge & Marital Master Survey**

As part of our work with the Family Law Section of the New Hampshire Bar Association, a link to an online questionnaire largely similar to the attorney survey was emailed to 23 family law judges and marital masters in the state. While we received over 80 responses from attorneys, the response from others was substantially lower. A number of court offices in the state lack Internet access. Although we attempted to compensate for this by offering printed copies of the survey with an invitation to respond by fax, no judges took advantage of this response option. Over the course of a month from November 19 to December 20, we received responses from just nine judges and marital masters who oversee child support cases (39% of those surveyed). The results are summarized here, though we take care not to generalize to all family court judges due to the small number of responses.

These respondents had an average 16 years experience in family law prior to becoming a judge or marital master. Respondents have held their current position an average of almost seven years. These individuals oversee a large number of child support cases – almost 300 in 2008 and over 900 for the past three years combined. Because of the small number of responses, this summary does not represent experiences of judges in Cheshire or Hillsboro counties. However, the responding judges and marital masters do preside over cases in all eight remaining counties.

### **PARENTING TIME, CHILD CARE, AND HEALTH INSURANCE AS COMPLICATING FACTORS**

We queried those who determine the outcome of child support cases to evaluate which factors are likely to complicate the outcome. The responses corroborated the findings of the attorney survey that found shared parenting to be the major source of concern. Five of the nine judges and marital masters indicated that shared parenting complicates their cases often or always. The balance said that this is an issue “sometimes.”

As this is an issue that all of the judges say they face, every respondent had a comment to explain why shared parenting complicates cases. As one judge summed it up succinctly, “There is no actual formula for child support when there is shared parenting, so we must use our discretion.” As parenting arrangements shift from predominately “traditional” custody agreements where the obligor parent spends just 20 percent of his or her time with the child, to schedules where care is more equally shared, a larger proportion of cases must deviate from the guidelines to account for the sharing of expenses. Judges and marital masters have no standard to refer to and must rely on their own judgment in determining the outcome.

Although parenting time was the primary issue for all respondents, a few judges said that child care was a frequent complicating factor in the cases they oversee and one judge indicated that health insurance caused problems often or always. Childcare becomes a

complicating factor, the judges explain, because of an “unrealistic upper limit” on the allowable amount, in the words of one respondent. The guidelines do not allow for actual childcare costs, which are frequently twice the amount set by the NH statute.

### **DEVIATIONS FROM GUIDELINES**

Judges’ opinions on deviations are split. While most agreed that being able to deviate from the guidelines is “essential” in their ability to create an equitable child support arrangement and no respondent said that deviations were less than important (on a five-point scale where “important” is the midpoint), a few judges felt that deviations are requested too often by the parties. For the most part though, the consensus was that deviations are requested an appropriate amount of the time.

In naming the top reasons deviations are granted in the cases they oversee, the judges’ responses largely mimic those of the attorneys. Shared parenting was cited by all of the judges as one of the three main factors. Following the pattern of the attorney responses, agreement of the parties and extraordinary visitation schedules are also top responses. In contrast to the attorney survey, however, a majority of judges indicated that a top reason for deviating from the guidelines is due to extraordinarily low income of the obligor. When obligors have little income, judges deem it necessary to revise the support order to a manageable amount that is more likely to be enforceable. One judge specifically indicated that he’d like to see “an increase in the self-support reserve.”

### **FAIRNESS OF GUIDELINES**

In sum, all but one of the responding judges rated the state’s guidelines as fair or mostly fair. The judges universally indicated the “predictability” of the outcome using the guidelines as its primary strength. They provided a range of responses about its weaknesses. These comments encompass all of the issues addressed above, including a need for a higher self-support reserve for obligors, a need for guidelines for addressing shared parenting arrangements, and the lack of flexibility in determining what is fair or equitable.

The judges would like these issues addressed as well as an automated method of freeing obligors from their child support obligations once minor children reach adulthood, clear methods of dealing with self-employment income, as well as several issues outside of the scope of this evaluation (related to enforcement, data on opinions of those affected by the guidelines, and educating those involved in the process).

### SURVEY SUMMARY

The online survey provided an opportunity for input from those who work closely with those impacted by the state's child support guidelines – family lawyers, judges, and marital masters. The results indicate that shared parenting is the issue that most of those working in the legal system would like to see addressed in a modification to the current guidelines. While deviations are viewed as necessary in order to create equitable outcomes for atypical cases, most respondents expressed appreciation for the non-arbitrary, predictable outcomes resulting from strict adherence to the guidelines. As more parenting arrangements shift toward more equally shared parenting, those in the state's legal system would like to see guidelines to address this.

### **Implications for Consideration: Stakeholder Input**

It has been well established that stakeholder input strengthens the efficacy, effectiveness, and fairness of child support guidelines (Crowley, 2003). It is clear from the research outlined above that many individuals and groups in New Hampshire are committed to making the guidelines provide the best possible solutions for New Hampshire children. In a rapidly changing economic and social climate in New Hampshire, it is important that the guidelines are constantly monitored to insure that the best interest of children is served, with fairness and equity.

Over the history of the New Hampshire child support guidelines, there has been no ongoing or equitable means for all stakeholders to have regular input into the guidelines. It is the recommendation of this research team that the NH Department of Health and Human Services establishes a Child Support Guidelines Stakeholder Review Committee that will meet regularly and advise the committee on the ongoing effectiveness of the guidelines and assist providing input into future guideline reviews. Members of said committee should include but not be limited to: obligor representatives, obligee representatives, representatives of the child and family advocacy community, and representatives from the NH Bar Association, the NH Legislature, and a NH judge and marital master.

This committee should meet at least bi-annually with DHHS Child Support staff members. The role of this committee would be two-fold: both to advise DHHS on changes, improvements, and needs of the child support guidelines, and to serve as a conduit to assist DHHS in implementing and disseminating information about the guidelines and federal changes to the guidelines to the stakeholder community, so that the guidelines can be better understood and utilized in making child support determinations.

## SITE VISIT REVIEW

As part of this project, project staff visited six states to review current policies and procedures in regard to child support. These states were selected in conjunction with the NH Division of Child Support Services (DCSS) staff members and met one or more of the following criteria: a) Identified in a previous federally mandated New Hampshire review, b) a state that borders New Hampshire, c) Utilized a version of the same model, Income Shares, identified by New Hampshire as the model they utilize, d) approached at least one aspect of child support by utilizing an approach that was different than that of New Hampshire, or e) had recently completed or was in the process of making significant changes. The states selected included Massachusetts (now Income Shares with new guidelines as of 1/1/09; formerly Percentage of Income), Maine (Income Shares), Vermont (Income Shares), Arizona (Income Shares), Minnesota (Income Shares), and Wisconsin (Percentage of Income).

DCSS provided the name, email address and telephone number of an initial contact person in each selected state. Project staff then contacted each relevant state agency and arranged for a site visit. Information including child support regulations, definitions, policies and procedures, and a copy of the most recent federally mandated review was requested to enable project staff to prepare in advance of the visit. During each visit, three project staff members met with the two to nine staff members and in one case magistrates identified by the respective states. Total time spent in these directed interviews ranged from four to six hours per visit. Interviews were recorded and transcribed, and then analyzed.

## RECURRING THEMES

### Guiding Principles

Massachusetts identifies 10 principles utilized in establishing their new guidelines. Vermont regulations note that the income shares model reflects the public policy of the state, that both parents maintain a responsibility to provide child support and, “approximate insofar as possible the standard of living the child would have enjoyed had the marriage not be dissolved” (15 V.S.A.; 650) and is based on the concept that, “children should receive the same proportion of parental income as they would if their parents lived together in one household” (15 V.S.A.; 654). Clear guiding principles facilitate setting priorities and evaluating progress. New Hampshire (458-C:1) lists the following as principles:

- I. Both parents share responsibility for economic support of their children.
- II. The children in an obligor’s initial family are entitled to a standard of living equal to that of the obligor’s subsequent families.

III. The percentage of net income paid for child support should vary according to the number of children and, with limited exceptions, not according to income level.

### **Income**

Arizona, Maine, Massachusetts, Minnesota, and Wisconsin calculate support based on gross income, as does New Hampshire, while Vermont calculates support based on net income.

High annual income is considered separately in Arizona (\$180,000), Maine (\$240,000), Massachusetts (which just increased from \$135,000 combined to \$250,000 combined) and is a deviation factor in Wisconsin. In Minnesota, the basic support obligation for high income cases is generally the same as at the income limit. In Vermont the court can use its discretion in high income cases.

Low income in Maine for an obligor earning less than the poverty level is limited to paying no more than 10% of gross weekly income. In Massachusetts, minimum orders for parents obligated to pay child support whose income is less than \$100 per week are \$18.46 per week. Low income in Minnesota is defined as under 120% of the federal poverty guideline and results in a basic obligation of \$50 for one child. In Wisconsin, high and low income are both deviation factors.

Further information on treatment of high income in various states is available at: <http://www.ncsl.org/programs/cyf/incomehi.htm>.

### **Self-support Reserve**

Many states had some form of self-support reserve, establishing a poverty level standard for individuals paying child support. This issue will be more fully described in Recommendation #2 below.

### **Shared Parenting**

Child support guidelines – in New Hampshire and across the country – were established at a time when most parenting arrangements involved one parent with full custody. In these cases, the obligor parent is visited every other weekend and during two weeks in the summer, or approximately 20 percent of the time. During the last 20 years, however, many families have arrangements where care of the children is split almost equally. New Hampshire's statute does not provide uniform guidelines for addressing shared parenting arrangements. As substantially equal parenting increases in a number of cases, a larger proportion of child support cases must deviate from the guidelines to account for the sharing of expenses. This results in a range of possible outcomes, little predictability for parents

entering the system, and in some cases, judgments that are not fair alternately to the obligee or obligor.

Over the last decade, a number of states have developed guidelines to address shared parenting. Of those states with methods of dealing with this issue, they differ in their formulas, in what constitutes shared parenting, and in how shared parenting is counted. Table 4 displays the various criteria currently in use by 33 states.

There are two primary modes of counting parenting time: overnight visits or hours. Counting overnight visits is the most simple; however, its simplicity may result in solely sleeping time counting towards parenting time. What counting hours gains in precision is paid for in onerous timekeeping.

The primary argument for using overnights is that it is simple and reduces conflict between the parents over visitation time. It has also been argued that overnights reflect higher costs than equivalent daytime visits because overnights usually involve dinner and breakfast (Melli, 1999). Overnights should also result in higher fixed parenting costs compared to daytime visits because they require bedroom space. Using overnights instead of hours does create large, discrete jumps in parenting time (i.e., 14.2 percent for an obligor with 1 night per week of visitation versus 28.7 percent for an obligor with 2 nights per week of visitation). For this reason, and because most state models have a minimum time threshold for shared parenting adjustments, scholars (see, for example, Brown and Brito, 2006) and policymakers have worried about the potential for “cliff effects,” or sharp changes in support payments that might result from relatively small changes in parenting time. These cliff effects could create incentives to change custody arrangements and intensify conflict between parents.

After determining how to count time, the threshold for determining when shared parenting will result in a change to the support order varies tremendously from virtually any amount of time (10%) to almost completely equal time (45%). The most commonly used thresholds are 30 and 35% (used by six states each). The median threshold is 30%.

The third variable in shared parenting guidelines across states is how the support order is modified. Because the cost of maintaining two households is more expensive than the cost of one household, many states employ a multiplier (1.4 or, more commonly, 1.5) to the total support order and then divide the costs between the parties. This adjustment reflects the fact that raising a child in two homes, particularly with overnights in both locations, raises fixed costs for both parents because the child needs a bedroom, bed or crib, safety devices like child gates, high chairs, toys and other items in both homes. The most frequently cited estimate upon which the 1.5 factor is based is Lazear and Michael’s 1988 book, in which they claim that a household with a child in it half the time will spend 75 percent of what it would if the child lived in it full time (Melli, 1999).

**Table 4. Summary of Methods Addressing Shared Parenting, for States with Guidelines**

Formulas Used	Modes of counting time	Shared Parenting Thresholds	
Cross-credit, no multiplier (n=3 states)	Count overnight visits	None/Not specified (n=2 states)	
Cross-credit, Multiplier of 1.5 (n=15)	Count hours spent	10% (n=1)	33% (n=2)
Cross-credit, Multiplier of 1.4 (n=1)		14% (n=1)	34% (n=1)
Modified Betson (n=2)		20% (n=3)	35% (n=6)
Quadratic Equation (n=2)		25% (n=4)	39% (n=1)
Per Diem (n=8)		28% (n=1)	40% (n=4)
Modified Per Diem (n=2)		30% (n=6)	45% (n=1)
			Court-ordered joint custody (n=1)

*Adapted from: National Conference of State Legislatures (2008)*

Other methods include a modified version of the Betson formula (used by two states), a quadratic formula (used by two states), or a per diem credit to the obligor to help off-set parenting costs (used by 10 states).

Although there is variety in terms of how state guidelines deal with shared parenting, the trend is to at the very least address the issue. This follows a 2002 recommendation from the American Law Institute that suggested that states adopt an explicit adjustment to their formula for shared placement, promoting uniformity of support orders, lessening the need for deviations, and streamlining the support order process. New Hampshire is currently in the minority of states that still deal with shared parenting only through deviations to the basic formula (Brown and Brito, 2006).

The states that incorporate a shared parenting adjustment into the child support formulas do so in a variety of ways, as shown in Table 4. Here we summarize in detail the distinctive models of four states that we visited as part of the study – Arizona, Vermont, Wisconsin and Minnesota – in order to provide a broad representation of possible ways of addressing shared parenting.

#### **VERMONT**

For purposes of shared parenting calculations, division of custody in Vermont is measured by the fraction of overnights a child spends with each parent in a given year. The shared parenting adjustment applies in cases where one parent has physical custody for at least 25

percent but less than 50 percent of the time. For time sharing of between 25 and 30 percent there is a lower adjustment rate in order to minimize cliff effects; for simplicity we discuss the 30-49 percent cases here.

The calculation starts in the same way as a basic Income Shares calculation, by computing adjusted gross income for both parents, adding them together and determining a total guideline amount and then computing the proportional share of income for each parent. The first step in the shared parenting adjustment is to multiply the total guideline amount (which presumes sole custody) by a factor of 1.5. After the guideline amount has been increased to account for higher fixed costs, child care costs and extraordinary medical and educational expenses are added to this amount, the total family expenditure is pro-rated between the parents according to their shares of total income. After subtracting any child care, medical or education expenditures made by the obligor from his or her fraction of the award, a credit for the fraction of time spent with the child (percent of time multiplied by the obligor's original obligation) is also deducted. This produces the obligor's final order amount.

### **ARIZONA**

The model used by Arizona is an extremely simple one in terms of calculating a reduction to the basic award. The complexity in the Arizona model is in the way that time is counted. Adjustments to the basic award are based upon the obligor's number of parenting days, with periods of 12 or more hours counting as 1 day, periods of 6 to 11 hours counting as  $\frac{1}{2}$  of a day, periods of 3 to 5 hours counting as  $\frac{1}{4}$  of a day and periods of less than three hours counting as  $\frac{1}{4}$  of a day only if the obligor pays for routine expenses such as meals. The advantage to this method of counting is that it is precise and, if parents can agree upon the breakdown of time, the adjustment percentages applied should be very closely correlated with the breakdown in actual spending on the child, particularly with respect to day-to-day costs like food and entertainment.

In the Arizona model, after adjusted gross incomes for both parents have been calculated, and a total support amount calculated and pro-rated between parents based upon income shares, a reduction percentage is applied to the obligor's order amount. Reductions range from 1.2 percent for 4 to 20 days per year all the way up to 48.6 percent for 173 or more days per year. A traditional visitation schedule such every-other-weekend plus two weeks in the summer would equal 66 days per year and result in an 8.5 percent reduction in an obligor's payment.

### **WISCONSIN**

Wisconsin's shared parenting adjustment is often referred to as an "offset" formula. (Brown and Brito, 2006) It is similar in many ways to the one used by Vermont. Time is measured as a fraction of the year and is counted in overnights, and adjustments are only made in

cases with at least 25 percent time-sharing. Also, the first step in the calculation, once basic support amounts have been set for each parent, is to multiply amounts by 1.5 to account for fixed costs of dual households. Wisconsin refers to this as a “household maintenance expenditure” adjustment. The updated support amounts are then multiplied for *each* parent by the fraction of time he or she spends with the child. The lower amount is subtracted from the higher amount and the parent with the higher amount is the obligor and pays the difference to the other parent. Note that this model produces lower average awards and does produce awards from the parent with primary parenting time to the parent with less parenting time to the extent that the time breakdown is close to 50-50 and the parent with more parenting time has the higher income. Additionally, this type of model tends to produce the strongest cliff effects, with awards decreasing substantially over the threshold between 1 and 2 nights per week (Brown and Brito, 2006).

**MINNESOTA**

Minnesota’s adjustment for shared parenting is the simplest of the state models that we have studied. Minnesota applies a flat 12 percent deduction to awards in cases where the obligor spends between 10 and 45 percent of time with the child. There is no deduction for parenting time less than 10 percent and time sharing between 45.1 and 50 percent is assumed to be split custody (see section below).

**SAMPLE COMPARISONS FOR SHARING PARENTING ADJUSTMENTS**

To illustrate the implications of shared parenting adjustments in general, and to demonstrate the differences between these three models, we provide calculations of awards for a fictional family under: (1) the current New Hampshire guidelines, (2) the current New Hampshire guidelines with the Vermont shared parenting adjustment, (3) the current New Hampshire guidelines with the Arizona adjustment, (4) the current New Hampshire guidelines with the Wisconsin adjustment and (5) the current New Hampshire guidelines with the Minnesota adjustment. For simplicity, these calculations assume no child care or medical costs, state taxes, other child support payments or mandatory retirement contributions.

*Example 1:* There are two children, the obligor and obligee each earn a net income of \$1,500 per month and the obligor has custody for 2 nights per week (28% of the time or 104 days per year).

Current New Hampshire Guideline	\$495
with Vermont Adjustment	\$542
with Arizona Adjustment	\$415

with Wisconsin Adjustment	\$327
with Minnesota Adjustment	\$435

*Example 2:* There are 2 children, the obligor and obligee each earn a net income of \$1,500 per month and the obligor has custody for 3 nights per week (43% of the time or 156 days per year).

Current New Hampshire Guideline	\$495
with Vermont Adjustment	\$371
with Arizona Adjustment	\$315
with Wisconsin Adjustment	\$104
with Minnesota Adjustment	\$435

**SPLIT CUSTODY FORMULAS**

Many states have separate calculation for split physical custody and/or essentially equal shared parenting time (i.e. anything above 45 percent in Minnesota). This is usually referred to as a “cross-calculation” method. It involves separately calculating a support amount for each parent via the basic guideline model without shared parenting assuming that he/she is the obligor (and the other parent is the obligee) and then subtracting the lower from the higher amount. The parent with the higher calculated amount (and income) is the obligor and pays the difference between the two amounts to the other parent.

**Health**

All of the states visited consider health and medical costs to be an important and emerging issue that affects the efficacy of their guidelines. Recent changes in federal mandates to the states have resulted in some confusion and revision in states’ views of medical costs and each of the six states reviewed in this report, while adopting the new guidelines, are carefully monitoring this area.

The New Hampshire guidelines currently deal with health insurance and health care costs in several ways. First, the cost of health insurance paid by the obligor is immediately deducted from obligor income before calculating the adjusted gross income upon which the guideline amount is based. Health insurance costs paid by the obligee are deducted with other expenses at a later point, before proportional share of income is determined. Second, extraordinary medical expenses are given as a special circumstance under which a deviation from the guideline could be appropriate. Finally, New Hampshire statute specifies that if private health insurance is available to either parent at a cost of less than 4 percent of gross

income (or at a cost of less than 4 percent of the parents' combined gross incomes), then the court should order a parent to provide health insurance coverage (548-C:3, V).

We have looked at health insurance cost data from two sources. Premium costs for employer-sponsored coverage for New Hampshire for 2006 come from the Kaiser Family Foundation (2006). Total premiums for all levels of coverage (single, employee-plus-one, family) are higher in New Hampshire compared to the rest of the United States. The fraction of the premium paid by employees is also higher for both single and employee-plus-one coverage, although this is not true for family coverage. The table below provides these cost estimates.

**Table 5. Annual Cost of Employer-Sponsored Health Insurance in New Hampshire, 2006**

	<b>Employee's Cost</b>	<b>Fraction of Total Premium</b>
<b>Single Coverage</b>	\$1,017	22%
<b>Employee- Plus-One</b>	\$2,901	33%
<b>Family Coverage</b>	\$11,381	26%

*Source: Kaiser (2006)*

The most logical estimate of the cost of a single child's coverage (and the one consistent with the new federal directive of July 2008) is the difference between the cost of single and employee-plus-one coverage, which would be \$1,884 per year or \$157 per month. Although we do not know what fraction of income New Hampshire residents spend upon employer health insurance, we can calculate that this would represent 4.6 percent of full-time gross earnings at the 2007 state average hourly wage rate of \$19.60 (wage taken from Kenyon and Churilla, 2008).

Data on the cost of small-group coverage (plans with <50 employees), which is our best measure of the cost of small-employer coverage and a reasonable underestimate of the cost privately purchased plans, comes from a market survey by AHIP (2006). This study also reports high costs in New Hampshire; the state is ranked 6<sup>th</sup> nationally for cost of coverage. The AHIP only reports costs for a single coverage (\$377 per month or \$4,524 per year) and family of four coverage (\$11,868 per year) for plans with 10 to 50 employees. If we split the extra cost of the family plan equally between the 3 new family members covered, we get \$2,448 per year or \$204 per month. This would represent 6 percent of full-time gross earnings at the 2007 state average hourly wage rate of \$19.60 (Kenyon and Churilla, 2008).

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The following table provides health information by state.

**Table 6. Health information by state**

<i>State</i>	<i>Health Insurance Costs</i>	<i>Deductions or Credits of Payments</i>	<i>Additional Notes</i>
<i>Alabama</i>	Added to basic child support obligation; total obligation prorated by income share	Premium paid by obligor is deducted from obligor's support obligation.	If obligee is paying the premium, then no adjustment is made.
<i>Alaska</i>	Combined costs equally prorated; added to prorated obligation	Premium paid by obligor is deducted from obligor's support obligation	If the obligee is ordered to, obtains and pays for insurance, then award will be increased by the obligor's portion
<i>Arizona</i>	Added to basic child support obligation; total obligation prorated by income share	Premium paid by obligor is deducted from obligor's support obligation	
<i>Arkansas</i>	Deducted from income		
<i>California</i>	Assumed to be included in basic award	Premium paid is deducted from income of parent paying	
<i>Colorado</i>	Combined costs are prorated by income share; added to prorated obligation	Premium paid by obligor is deducted from obligor's payment	
<i>Delaware</i>	Deducted from income		
<i>District of Columbia</i>	Combined costs are prorated by income share; added to prorated obligation	Premium paid by obligor is deducted from obligor's income	
<i>Florida</i>	Added to basic child support obligation; total obligation prorated by income share	Premium paid by obligor is deducted from obligor's payment	
<i>Georgia</i>	Added to basic child support obligation; total obligation prorated by income share	Premium paid is deducted from obligation of paying parent	
<i>Hawaii</i>	Added to basic child support obligation; total obligation prorated by income share	Premium paid is deducted from obligation of paying parent	
<i>Idaho</i>	Added to basic child support obligation; total obligation prorated between parents		
<i>Illinois</i>	Deducted from income		
<i>Indiana</i>	Added to basic child support obligation; total obligation prorated between parents	Premium paid is credited to obligation of paying party	

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<i>State</i>	<i>Health Insurance Costs</i>	<i>Deductions or Credits of Payments</i>	<i>Additional Notes</i>
<i>Iowa</i>	Deducted from income of parent ordered to provide insurance		
<i>Kansas</i>	Added to basic child support obligation; total obligation prorated between parents	Premuim paid by obligor is deducted from obligor's payment	
<i>Kentucky</i>	Added to basic child support obligation; total obligation prorated between parents	Premuim paid by obligor is deducted from obligor's payment	Court will order cost of coverage paid by either or both parents regardless of physical custody
<i>Louisiana</i>	Added to basic child support obligation; total obligation prorated between parents	Premuim paid by obligee is deducted from obligee's payment	
<i>Maine</i>	Added to basic child support obligation; total obligation prorated between parents	Premuim paid by obligor is deducted from obligor's payment	
<i>Maryland</i>	Deducted from income		
<i>Massachusetts</i>	If coverage is provided by obligor, obligation is reduced by one-half the cost of family coverage		
<i>Michigan</i>	Added to basic child support obligation; total obligation prorated between parents		Court requires one or both parents to obtain or maintain health care coverage for the child if coverage is available through employer benefits. Proportions paid by either party are no less than 10% or more than 90% of income.
<i>Minnesota</i>	Added to basic child support obligation; total obligation prorated between parents		If child is receiving medical assistance, non-custodial parent must pay a monthly amount toward the cost of the assistance.
<i>Mississippi</i>	Deducted from income		The court may order a parent to provide health insurance for child
<i>Missouri</i>	Added to basic child support obligation; total obligation prorated between parents		

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<i>State</i>	<i>Health Insurance Costs</i>	<i>Deductions or Credits of Payments</i>	<i>Additional Notes</i>
<i>Montana</i>	Added to basic child support obligation; total obligation prorated between parents		
<i>Nebraska</i>	Deducted from income		
<i>Nevada</i>	Added to basic child support obligation		
<i>New Hampshire</i>	Deducted from income		
<i>New Jersey</i>	Added to basic child support obligation; total obligation prorated between parents	Premium paid is deducted from paying parent's income share obligation	Court order must provide for coverage of child's needs and health insurance
<i>New Mexico</i>	Added to basic child support obligation; total obligation prorated between parents		
<i>New York</i>	Amount assumed to be reasonable health care expenses not covered by insurance are multiplied by the percentage of child obligation due by the obligor		Court order must provide for coverage of minor children; obligor may pay directly to provider or obligee
<i>North Carolina</i>	Added to basic child support obligation; total obligation prorated between parents		
<i>North Dakota</i>	Deducted from income		
<i>Ohio</i>	Cost to each parent is added to prorated obligation	Premium paid by obligor is deducted from obligor's obligation	
<i>Oklahoma</i>	Combined costs are prorated by income share; added to prorated obligation	If obligor provides insurance, then obligor receives credit equal to the obligee's share of the award.	If obligee pays directly to provider, then obligor pays directly to obligee.
<i>Oregon</i>	Added to prorated obligation	If obligor provides insurance, then obligor's obligation will be reduced by the share of the obligee.	If obligee provides insurance, then obligor's award will be increased by the prorated share determined
<i>Pennsylvania</i>	Added to basic child support obligation; total obligation prorated between parents	If obligor provides insurance, then obligor's award will be reduced by the allocated share of the obligee.	

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<i>State</i>	<i>Health Insurance Costs</i>	<i>Deductions or Credits of Payments</i>	<i>Additional Notes</i>
<i>Rhode Island</i>	Deducted from income		When health insurance is not available at reasonable cost, obligor must make 5% cash contribution toward medical expenses.
<i>South Carolina</i>	Added to basic child support obligation; total obligation prorated between parents		
<i>South Dakota</i>	Custodial's income share cost is added to recommended obligation; noncustodial's income share cost is deducted from recommended obligation		
<i>Tennessee</i>	Cost to each parent is added to prorated obligation		Only required if health and/or dental insurance can be obtained at a reasonable cost
<i>Texas</i>	Cost to each parent is added to prorated obligation		If obligee provides insurance, then obligor's award will be increased by an amount determined by the court
<i>Utah</i>	Combined costs equally prorated; added to prorated obligation		Court order must provide for coverage of child's needs and health insurance
<i>Vermont</i>	Deducted from income		
<i>Virginia</i>	Added to basic child support obligation; total obligation prorated between parents	Actual cost paid by obligor deducted from his/her obligation	
<i>Washington</i>	Combined costs are prorated by income share; added to prorated obligation		
<i>West Virginia</i>	Added to basic child support obligation; total obligation prorated between parents	Amount paid is credited against obligation of the payor parent	
<i>Wisconsin</i>			Court order will assign responsibility for provision and payment of health insurance
<i>Wyoming</i>	Deducted from income		

## Child Care

There are more dual-income families and more working parents today than ever before. For example, 56.4 percent of mothers with children under age three are employed (Morrison, 2009). This unprecedented involvement of large numbers of mothers into the workforce has greatly impacted families, children, and the workforce. Child care is an essential part of our nation's public and economic policy and an increasingly significant component of the New Hampshire economy. A longitudinal National Institute of Child Health and Human Development study, begun in 1989, has provided findings on the use of child care and its effects on children and families (NICHD, 2006). The following table lists child care information by state.

**Table 7. Child Care Information by State**

State	Summary	Caps	Requirement
Alabama	Added to basic award and prorated between parents	May not exceed the amount based on guidelines by Dept. of HR	Costs must be related to employment or job search
Alaska	Deducted from income	"Reasonable" expenses	Costs must be related to employment or education
Arizona	Added to basic award and prorated between parents	Appropriate to the parents' financial abilities	
Arkansas	Deviation factor		
California	Ordered as additional support		Costs must be related to employment or education/training
Colorado	Added to basic obligation		Costs must be work-related
Connecticut	Obligor's proportional share is added to basic obligation	Special rules for low-income obligors	
Delaware	Added to basic award		Costs must be work-related
DC	Costs paid by parent are offset from award		
Florida	Reduce cost by 25% and add to basic award	Shall not exceed level for quality care from licensed source	Costs must be related to employment, job search, or education
Georgia	Averaged for a monthly amount and entered into worksheet of the parent paying initial expense. Also consider child care costs of noncustodial parent when determining amount of this expense.	Appropriate to the parents' lifestyle	Costs must be related to employment, education, training
Hawaii	Costs subtracted from income		
Idaho	Equal sharing of expenses added to the award	"Reasonable" expenses	
Illinois	No provision		
Indiana	Added to basic award and prorated between parents	"Reasonable" expenses	Costs must be related to employment or job search
Iowa	Costs subtracted from income (less the appropriate tax credit)		Costs must be related to employment
Kansas	Reduce cost by 25% and add to basic award (also less the appropriate tax credit)	"Reasonable" expenses	Costs must be related to employment or job search

State	Summary	Caps	Requirement
Kentucky	Allocate between parents in proportion to their income	"Reasonable" expenses	Costs must be related to employment, job search, or education
Louisiana	Added to basic obligation (less the appropriate tax credit)		Costs must be related to employment or job search
Maine	Added to basic award and prorated between parents	"Reasonable or customary" expenses	Costs must be related to employment, education, training
Maryland	Added to basic award and prorated between parents	Determined by family experience or the level required to provide quality care	Includes costs related to employment or job search but other expenses may be considered
Massachusetts	Costs subtracted from income		
Michigan	Added to basic award and prorated between parents (neither pays >90%)	Based on previous pattern of parties' expenses	Costs must be related to employment, education, job search
Minnesota	Allocate between parents in proportion to their income (adjusted by est child care credits)		Costs must be related to employment or education
Mississippi	Deviation factor		
Missouri	Added to basic obligation	"Reasonable" expenses	Costs must be work-related
Montana	Added to basic obligation for subject child. For add'l child, 50% cost of his care is subtracted from income		
Nebraska	Consider independently	Use guidelines to determine amount	
Nevada	Deviation factor		
New Hampshire	Deducted from income	\$5000 for 1, \$9000 for 2, \$12000 for 3+ kids	Costs must be work-related
New Jersey	Added to basic obligation (less the appropriate tax credit), apportioned between parents		
New Mexico	Added to basic obligation		Costs must be work-related
New York	Added to basic award and prorated between parents		Costs must be related to employment, job training, or seeking work
North Carolina	Added to basic obligation according to formula	"Reasonable" expenses	Costs must be related to employment or job search
North Dakota	Deviation factor		Costs must be related to employment, training, job search

State	Summary	Caps	Requirement
Ohio	Added to basic obligation		Costs must be related to employment, education, training
Oklahoma	Added to basic award and prorated between parents		Costs must be related to employment, education, job search
Oregon	Added to basic obligation (less the appropriate tax credit)	"Reasonable" expenses, not exceeding level for quality care from licensed source	Costs must be related to employment, education, training, job search
Pennsylvania	Both parties' expenses apportioned between them		
Rhode Island	Added to basic award and prorated between parents	"Reasonable" expenses, not exceeding level for quality care	Costs must be related to employment
South Carolina	Added to basic obligation (less the appropriate tax credit)	"Reasonable" expenses, not exceeding level for quality care from licensed source	Costs must be related to employment or job search
South Dakota	Deviation factor		Costs must be related to employment, education, training, job search
Tennessee	Basic award shall include the costs, prorated between the parents		Costs must be related to employment but may consider education, training, job search
Texas	Deviation factor		
Utah	Equal sharing of expenses added to the award		Presumed if work-related; negotiable if education- or training-related
Vermont	Added to basic obligation	"Reasonable" expenses	Costs must be related to employment or employment-related education
Virginia	Added to basic obligation		Costs must be related to employment
Washington	Added to basic award and shared by parents		
West Virginia	Added to basic obligation (less the appropriate tax credit), apportioned between parents		
Wisconsin	Deviation factor		Costs must be related to outside employment
Wyoming	Deviation factor		

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New Hampshire statutes allow for work-related child care to be deducted from the gross income of the parent incurring the expense.

*“Allowable child care expenses” means actual work-related child care expenses for the children to whom the order applies, up to no more than an annual total of \$5,000 for one child, \$9,000 for 2 children, and \$12,000 for 3 or more children” (458-C:2, 1-a).*

These caps no longer represent actual costs, given the significant increase in child care costs in New Hampshire over the past eight years. Both obligees and attorneys in New Hampshire highlighted childcare costs as a significant concern.

Federal regulations mandate states conduct a survey of their child care market rates every two years, and to utilize this information in establishing payment rates to ensure equal access to comparable child care services. In the most recent New Hampshire survey of 1128 licensed programs for young children, a response rate of 89% was achieved, the highest response rate in the country.

In New Hampshire, during November 2007, the mean cost of full-time child care for a single child ranged from \$7367 to \$9172 per year. The following table illustrates how weekly rates, by far the most common way of charging for full-time care, increased from 2001 to 2007 (Kalinowski & Kalinowski, 2008).

**Table 8. Full-Time Mean Weekly Rates for Child Care in NH, by age of child**

	0-12 Mos.	13-24 Mos.	25-35 Mos.	36-59 Mos.	60-72 Mos.
2001	\$140.77	\$131.59	\$128.30	\$131.59	\$117.96
2003	\$158.45	\$131.59	\$141.12	\$130.46	\$124.10
2005	\$172.41	\$160.27	\$152.44	\$141.89	\$132.49
2007	\$183.43	\$172.12	\$163.20	\$152.36	\$147.33

The cost a particular parent will pay depends primarily upon four factors:

Amount of time: As the duration increases so does the cost.

Age of child: Infants are significantly more expensive to care for than five year olds, primarily because of teacher-child ratios mandated by the NH Bureau of Licensing, as well as accepted best practice. As a child gets older costs tend to decrease.

Type of facility: In New Hampshire, the highest percentage of licensed programs were Centers (30%), followed respectively by Family Home Care (18%), Nursery

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Schools/Preschools (17%), School Aged programs (13%), and Family Group Care (10%). Centers tend to be more expensive than family home settings.

Geographic location of the facility: There is variation in cost across the state and considerable variability in looking at the previous two factors. If we look at just the 50th percentile for the largest group of children enrolled in child care in New Hampshire (those aged 36 to 59 months), in 2001 and 2007 we can see examples of change and variation (see Figure 3 below).

Conclusion: Thus it would appear that the fairest method would be to eliminate the cap, and allow the parent incurring the work-related expense to deduct the full cost. A parent's choice of facility should, to the degree possible, be related to parental income. Allowable child care expenses (7A) will change and should be able to be reviewed, upon the request of either parent, every three years.

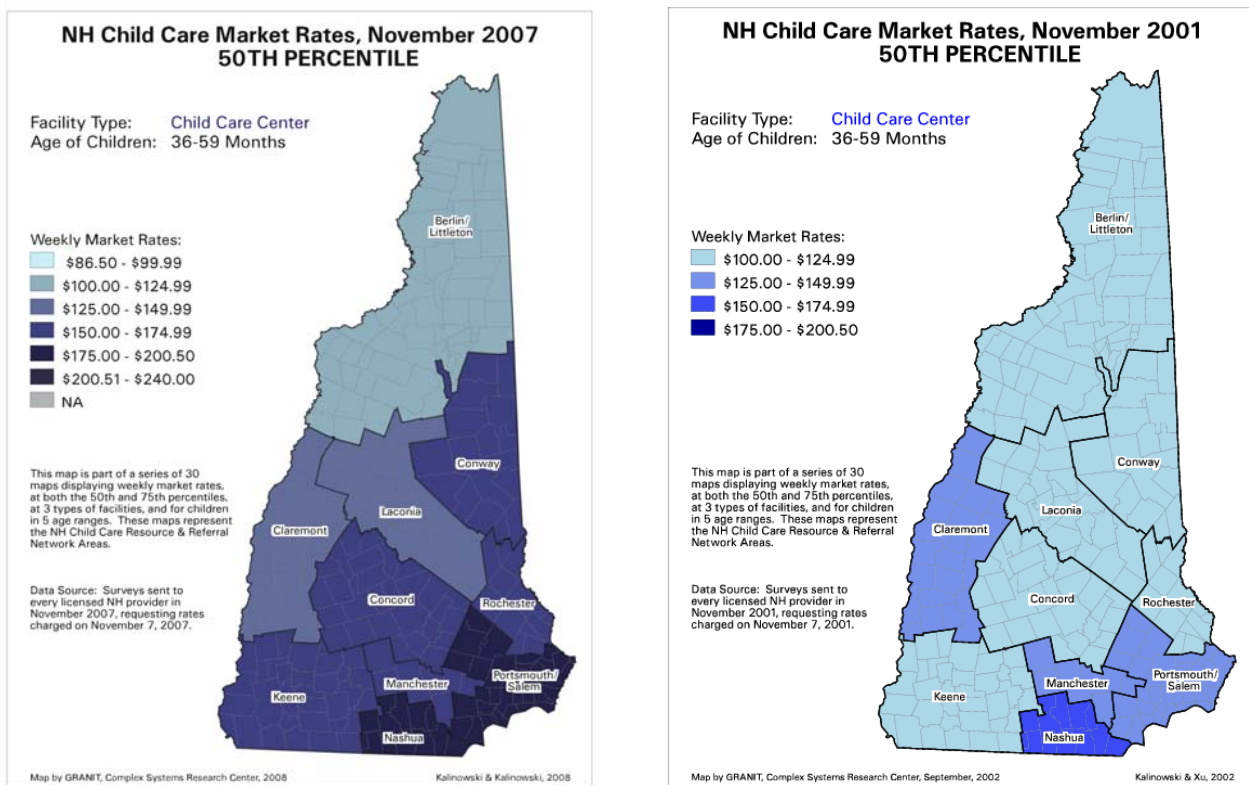


Figure 3. Cost of Child Care in New Hampshire by County, 2007 and 2001

### Deviations

The diversity and complexity of child support cases often necessitate court deviations from state guidelines. Although each state attempts to reduce these deviations by the clarity and effectiveness of their guidelines, deviations are expected and either are explicitly spelled out in state guidelines or fall into a “catchall” area. The table that follows shows deviation factors considered by each of the six states visited.

Across the six states we visited, we observed a good deal of variation in how deviations are treated. For some states (e.g., Massachusetts), the ability to deviate from the guidelines is viewed as a useful option for ensuring fair outcomes. In this respect, deviations are viewed as a tool for judges to utilize so that award judgments are in the best interest of the child. The philosophy towards deviations is quite different in other states (e.g., Maine), where strict adherence to the guidelines is preferred. Maine lists 17 explicit factors for deviating. Given such a long list, it is implicit that other reasons would not easily qualify as a deviating factor (though Maine does have a catchall option as well).

While neither of these states tracks statistics on the number of cases deviating from the guidelines, representatives at Maine believe that very few cases deviate. By contrast, in Massachusetts, child support experts feel that if the guidelines only apply to 80 percent of all cases, then they have served their purpose. Forcing the guidelines on the remaining 20 percent of families will result in inequities. Therefore, giving judges discrepancy is a good thing and is often in the best interest of the child.

Each state’s guidelines provide a list of possible deviating factors. Table 9 outlines the deviation factors in the guidelines of each of the six states we visited. It is worth noting that, while states such as Arizona only specifically note “agreement of the parties” as a deviating factor, due to the “catchall” clause, seemingly any reason may be grounds for deviating if the presiding judge concurs.

Another important observation is what the orders are deviating from. Some states’ formulas are more complicated than others. Other states, such as Arkansas, Illinois, Mississippi, Nevada, and Texas, have such simple guidelines, they simply take a percentage of the obligor’s income without taking note of any complicating factors (Morgan, 2008). The complexity of the state’s formula may also have a bearing on the need to provide for deviations.

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**Table 9. Deviation factors by state**

Deviation factor	States that include as a factor
Financial resources or needs (ability for self-support) of parents	Maine, Massachusetts <sup>8</sup> , Minnesota, Wisconsin, Vermont
Education needs of the children	Maine, Massachusetts, Minnesota, Wisconsin, Vermont
Financial resources of the child	Maine, Minnesota, Wisconsin, Vermont
Standard of living the child would have enjoyed if parents were together	Maine, Minnesota, Wisconsin, Vermont
Physical/emotional condition of the children	Maine, Minnesota, Wisconsin, Vermont
Travel costs associated with visitation	Maine, Massachusetts, Wisconsin, Vermont
Application of guidelines would be inequitable or not in the best interest of the child	Maine, Massachusetts, Wisconsin
Tax consequences of award	Maine, Minnesota, Wisconsin
Agreement of the parties	Arizona, Massachusetts
Day care costs	Maine <sup>9</sup> , Wisconsin
Inflation	Maine, Vermont
Other dependents of the parents	Maine, Wisconsin
Health insurance costs	Maine
Imputed income on non-income-producing assets	Maine
Support order is for more than 6 children	Maine
Inter-relation of property award, alimony, and support	Maine
Income of spouse (for either party)	Maine
Child's extraordinary medical expenses	Massachusetts
Parent has extraordinary medical expenses	Massachusetts
Obligor is incarcerated, unable to pay	Massachusetts
Guidelines would impact reunification (in cases of allegations of neglect)	Massachusetts
Lower cost of living due to extended residence abroad	Minnesota
Parents' debts	Minnesota
Total payments ordered exceed limitations set	Minnesota
Preference for custodian to stay home	Wisconsin
Shared Parenting	Wisconsin
Earning capacity of each parent	Wisconsin
Education needs of the parents	Vermont

*Note: All states studied include a "catchall" allowing for deviation in any other necessary situation.*

<sup>8</sup> Massachusetts specifies deviation for parents' financial needs (self-support), though not for financial resources

<sup>9</sup> Day care costs specified only for children over age 12 in Maine

### Stakeholder and Parent Input

Most states had some method for soliciting input from stakeholders, obligors and obligees. Some states have established regular stakeholder panels that provide ongoing support, review, and comment to child support officials on issues related to the guidelines. Maine reached out to obligors, attending meetings and encouraging collaboration. Vermont has a long history with shared parenting, and while the guideline amounts are frequently accepted, there is often negotiation on extracurricular expenses, and obligors may feel they have a better sense of what will be expected. In Arizona, fathers' groups and obligor advocates drove changes to visitation, first in 1996, with another change in 2000. It would appear that a sustained effort to solicit regular input and opinions from obligors as well as obligees might yield a long term positive results in New Hampshire.

In several states, (Arizona, Minnesota, Massachusetts, etc.) there is a well established link between the courts and the departments of child support. This link allows for better understanding of how guidelines affect those cases that do not directly flow through the state department of child support and are handled solely by the court. Involving judges, marital masters and attorneys in the ongoing development and refinement of the guidelines helps reduce deviations in the courts and appears to strengthen the data gathering capacities of those states.

## RECOMMENDATIONS

**1. We recommend that New Hampshire update its child support guideline tables to reflect recent estimates of expenditures on child-rearing, which show a lower fraction of total expenditures on children at higher levels of income, and to produce results that are consistent with the Income Shares philosophy.** This recommendation is based upon several factors. First, in historical context and from the point of view of most of the stakeholders we heard from, Income Shares appears to reflect the “spirit” or intention of child support policy in the state of New Hampshire. Secondly, empirical research on family expenditures clearly shows a negative relationship between family income and the fraction of income that is spent on children. Finally, perhaps for reasons related to the first two points, many states that have historically had flat Percent of Income models are also moving in this direction. Georgia, Minnesota and Tennessee have all switched from Percent of Income to Income Shares models in the past four years (Venohr, 2007), and Massachusetts has just switched. Wisconsin, which still has a Percent of Income model, has recently added downward adjustments to its guidelines for high-income obligors.

We recommend that New Hampshire consider a new set of guidelines based upon the recent Rothbarth estimates by Dr. David Betson and published in Venohr et al. (2006), provided below.

**Table 8. Rothbarth Estimates  
Percent of Net Income Devoted to Child-Rearing Expenditures**

Annual Net Income	1 Child	2 Children	3 Children
<\$14,999	26	38	46
\$15,000-\$24,999	26	38	45
\$25,000-\$34,999	25	37	44
\$35,000-\$49,999	23	34	41
\$50,000-\$59,999	21	30	36
\$60,000-\$69,999	19	28	33
\$70,000-\$79,999	18	27	32
\$80,000-\$89,999	17	25	30
\$90,000-\$99,999	17	24	29
\$100,000-\$124,999	15	22	26
\$125,000+	13	19	22

Source: (Venohr et al., 2006)

While we believe that the expenditure estimates provided by the USDA are also appropriate, Betson’s Rothbarth estimates are based upon much newer data and are more easily adaptable to guidelines because of the multiple income categories (11 compared to 3 presented by Lino (2007)). We also note that if this recommendation is taken up, a set of tables can be constructed, incorporating a conversion between net and gross income and possibly (at the state’s discretion): (1) an extrapolation for families above 3 children and (2) an extrapolation for incomes above \$125,000 per year. The last two factors are not taken into consideration in Betson’s analysis because large and high-income families are not well-enough sampled in the data for precise estimates. However, many states have extended tables to higher levels. (The alternative would be to leave larger families and higher income cases as reasons for deviations.)

**2. We recommend a moderate increase in the self-support reserve in the New Hampshire guidelines, from 100 percent to 115 percent of the federal poverty line.**

The current New Hampshire child support guidelines dictate that after a basic order amount has been determined, the order amount and obligor’s gross income should be compared to a self-support reserve income amount. Specifically:

- (a) *If the obligor’s income is less than the self-support reserve and the court has determined that the obligor is not voluntarily unemployed or underemployed, the court shall order the child support obligation in the amount of a minimum support order.*

*(b) If the obligor's gross income is greater than the self-support reserve but payment of the order as calculated under this chapter would reduce the obligor's income below the self-support reserve, the obligor's share of the total support obligation shall be presumed to be the difference between the self-support reserve and that parent's total adjusted gross income, but in any event shall be no less than the amount of the minimum support order. (RSA 458-C:3, IV)*

New Hampshire's self-support reserve is currently set at the most recently estimated federal poverty threshold income for a single person, which was \$10,787 per year or \$898.92 per month in 2007. The goal of including a self-support reserve in the guideline is to ensure that obligors are left with enough income to meet their own basic needs after paying child support. However, the reserve amount set by the federal poverty threshold may not be enough to accomplish this goal.

The federal poverty threshold is calculated each year using a methodology developed by the Social Security Administration in 1965 for measuring poverty among Social Security recipients. The amount is determined by adjusting the current-year price of the U.S. Department of Agriculture's Economy Food Plan (EFP) for family size based upon the assumption of economies of scale in consumption. The base adjustment factor of three times the cost of the EFP is based upon the 1955 estimate that a U.S. family spent approximately one-third of gross income on food. A report by the National Academy of Sciences (Citro and Michaels, 1995) presented a long list of critiques of the federal poverty line measure, most of which caused it to under-measure poverty. Their baseline set of recommendations for updating the threshold values, which have never been implemented, would have increased the federal poverty rate by almost 25 percent in 1992.

An alternative measure of an income that meets self-sufficiency needs is developed by Kenyon (2006) and updated by Kenyon and Churilla (2008). Kenyon uses a methodology similar to the one developed by the Economic Policy Institute to calculate a livable wage for different family sizes and structures for each county in New Hampshire in 2006. The wage is set to cover the following basic needs: food cooked at home; heat, lights and water; basic telephone service; clothing; household expenses; automobile transportation; child care; health insurance/care; and a personal allowance budget of 3 percent of total needs. The updated living wages for 2007 for a single person range from \$9.21 per hour (\$19,156 per year<sup>10</sup>) in Coos County to \$11.55 per hour (\$24,024 per year) in Strafford County.

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<sup>10</sup> This calculation assumes full-time work, 40 hours per week and 52 weeks per year.

Based upon these livable wage estimates, a single obligor would need anywhere between 177 and 222 percent of the poverty threshold to meet basic needs – a range significantly higher than New Hampshire’s current self-support reserve. Applying a new self-support reserve in this range (for example, 185 percent of poverty, a figure suggested in the 2004 Guidelines Review) would be a means of addressing the issue, but has several consequences worth discussing. Most importantly, all obligors working full-time/full-year at the new state minimum wage of \$7.25 per hour would have incomes below this reserve threshold and their cases would fall into the “minimum order” category. This is problematic when one considers that if an obligee in a case like this also worked at the minimum wage and had primary physical custody of two children, he or she would also be earning a gross income of \$15,080 per year but need between \$32,032 and \$46,259 to meet basic needs according to Kenyon and Churilla’s (2008) estimates. In fact, the actual earnings of *intact* families of four with dual earners at the minimum wage fall below livable wage estimates in all New Hampshire counties.

Pirog et al. (2003) summarizes a similar set of findings in the research literature, noting that there are national studies that document the poor economic position of a sizeable fraction of obligors (see Garfinkel et al., 1998) *and* the even worse position of obligee mothers (see Sorenson, 1997). Mincy and Sorenson (1998) observed both phenomena in a study of young obligor fathers and obligee mothers in the 1990 Survey of Income and Program Participation. While 38 percent of the young obligee mothers in the sample were poor, 18 percent of obligor fathers were classified as unable to pay due to very low earnings.

From this analysis, we conclude that in most cases involving two low-income parents, a level of support beyond a minimum order may be necessary from both of the parents, despite the economic hardship this might entail. At the same time, we recognize that there is evidence that higher child support obligations reduce payment rates for low-income obligors. Huang, Mincy and Garfinkel (2005) analyze national data from the Current Population Survey from 1994 to 1998 and find that lower child support orders (as a fraction of obligor income) increase payment by low-income obligors, but that the compliance effect is not large enough to fully offset the associated reduction in funds paid to obligees. Our recommendation represents a compromise solution in the face of these conflicting pieces of evidence.

**3. We recommend that New Hampshire adopt the shared parenting adjustment currently used by Vermont.** This involves multiplying the basic order by 1.5 (to account for the additional fixed costs associated with raising a child in two homes) and subtracting an amount directly proportional to the fraction of time an obligor spends with a child, as measured in overnights. We believe that this is the most intuitive and transparent way of adjusting for shared parenting, while producing support amounts that

adequately address costs in dual-household situations. We also note that while overnights seems to be the easiest and most practical way to measure time in shared parenting situations, many states give judges flexibility in cases with exceptional circumstances, particularly those in which the obligor works night shifts.

We also recommend that New Hampshire adopt a simple “cross-calculation” method for setting awards in cases of exactly equal shared parenting time (split custody).

**4. We have three recommendations with respect to health care:**

**First, we recommend that the guidelines be changed so that the costs of medical insurance (as well as child care costs) be deducted from parental gross income as a part of the initial adjusted gross income calculation (Worksheet lines 4D-E), regardless of whether it is the obligor or obligee who directly pays the cost.** This would both simplify the calculation and bring the guidelines further into line with the shared parental responsibility philosophy of the Income Shares model.

**5. In addition, we recommend that the state adopt 5 percent of gross income as its definition of reasonable health insurance cost, as suggested in the new federal guidelines, rather than the current 4 percent.** Admittedly, the cost of employer-sponsored health insurance is almost 20 percent higher than the nationwide average based upon the estimates presented above. At the same time, New Hampshire’s 2007 median household income of \$62,369 is 21 percent higher than the national median of \$50,740 (U.S. Census Bureau 2008). While health insurance costs are high, they represent a challenge for all types of families. Child support guidelines should do everything within reason to encourage the same coverage for children covered by child support awards that is being purchased in other families.

Finally, we note that the recent revisions to federal law with respect to medical care are significant and are only 6 months old. All of the potentially important issues related to medical care and health insurance that the state will likely want to consider cannot reasonably be included into the proposals that may result from this review. We therefore recommend that the state form a plan to re-visit health insurance and medical care issues regularly during the four-year period before the next guideline review is due.

**6. We recommend, in regard to child care, the removal of the following phrase,**

**“...up to no more than an annual total of \$5,000 for one child, \$9000 for 2 children, and \$12,000 for 4 or more children.”**

In so doing, the current limitations on actual costs of childcare are removed and therefore the guidelines will reflect the real costs of care for children. In a previous section, we

provided data on current child care costs in New Hampshire, and a rationale for removal of the caps listed above.

**We further recommend in 458-C:2 I-a: that “work-related” be defined to include necessary educational and/or training costs.** The intent of this change is to insure that child care costs include those related to acquiring and maintaining the skills necessary for obligees and obligors to be gainfully employed.

## SUGGESTIONS

In addition to the recommendations based upon our review, we would like to offer a few suggestions for consideration that we believe will further improve services and facilitate future reviews of the child support guidelines.

**1. Data Collection:** Currently, although ample data appears to be collected and analyzed by the Department on cases under its own purveyance, there is very little, if any readily available data on cases handled solely by the New Hampshire court system. In order to obtain a full picture of deviation from the guidelines and to obtain a clear picture of the impact of the guidelines across income, geographic, and situational variables, case data outside of DHHS’s jurisdiction must be obtained and analyzed.

Currently there is no methodology in place to easily retrieve data from the New Hampshire court system relative to child support awards and doing so would present enormous obstacles to researchers including overcoming ethical, legal and time constraints.

Although this is a common problem for states (Crowley, 2003) it could be accomplished through regular and ongoing cooperation between the DHHS and the New Hampshire General Court. In some states (Arizona and Wisconsin for example) attempts are currently being made to link court and child support data to allow for regular and consistent extrapolation of information relative to deviations and the effectiveness of the guidelines in court applications.

It is our suggestion that DHHS explore a data alliance with the General Court to establish a simple means of collecting regular data with regards to child support awards.

**2. Health and Medical Care:** At the writing of this review, significant policy changes were recently implemented regarding health and medical care in federal child support policy. In addition, recent rising costs of health and medical care, proposed additional changes in federal policy, and a volatile economy make this area one that must be closely monitored by child support officials.

The research team suggests that health and medical care issues, as related to the New Hampshire guidelines, be continually reviewed and assessed with careful consideration given to rising costs. While no specific recommendations are included at this time due to the proximity of federal guideline changes, this is an area of concern and worthy of constant consideration.

**3. Stakeholder Input:** As noted previously, stakeholder input is vital to the effectiveness, efficacy and efficiency of the guidelines in serving the best interest of New Hampshire's children. It is essential, therefore, that groups with significant interest in the guidelines and who represent individuals whose lives are affected by the guidelines be allowed to assist DHHS in improving the practicality and quality of the guidelines. It is also important that no one interest, be it that of obligors, obligees, advocates, attorneys, or judges dominate guideline refinement and review but that all stakeholders are allowed ongoing input into the process.

Several states have created innovative and effective consumer panels that provide ongoing feedback to the state child support staff about the impact of the guidelines. With a rapidly changing economic and social landscape in New Hampshire, the research team suggests that DHHS create a stakeholder advisory board that would draw its membership from obligors, obligees, court and legal personnel including the New Hampshire Bar Association, and advocates groups.

The purpose of this panel would be to review and comment on implementation of changes to the guidelines made by DHHS, to disseminate back to their constituency information concerning both state and federal mandates relative to the guidelines, and to improve the quality and effectiveness of the guidelines in serving the interests of New Hampshire children.

**4. Inmate Obligor:** As reported above, there is some evidence that prisoners who experience high accrual of child support obligations during their incarceration are likely to not meet those obligations once they are released from New Hampshire prisons. They may also be highly at risk for impoverishment and/or not complying with child support orders. There is great evidence, at a minimum, that this population needs to be further studied with regard to the child support guidelines.

The research team suggests that DHHS form a relationship with the NH Department of Corrections in order to more closely understand the guidelines' impact on obligors who are in prison and the relationship, if any, between child support accrual, further incarceration, and compliance. In addition, the study currently being conducted by the University of Wisconsin should be closely monitored for findings over the coming years.

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