
IN RE: ADMINISTRATIVE ORDER NUMBER 10: ARKANSAS CHILD SUPPORT GUIDELINES

___ S.W.2d ___

Supreme Court of Arkansas

Opinion delivered January 22, 1998

Per Curiam.

On September 25, 1997, based on recommendations received from the Supreme Court Committee on Child Support pursuant to P.L. 100-485 and Ark. Code Ann. §9-12-312(a), this Court published Administrative Order Number 10, adopting the most recent version of the child-support guidelines including the weekly and monthly family support charts and the Affidavit of Financial Means. The Order became effective October 1, 1997, and certain corrections were made to the charts before the Order reached the printer.

The Committee has now apprised the Court of an unintended omission on the Affidavit of Financial Means. On page one of the Affidavit, Number 10 should include "(h) child care." This item is not a new consideration, having been included on the Affidavit of Financial Means since the Court first adopted it for use in 1991.

THEREFORE, effective immediately, the Court republishes Administrative Order Number 10: Arkansas: Arkansas Child Support Guidelines in its entirety including the corrected weekly and monthly family support charts and the corrected Affidavit of Financial Means.

Newbern, J. dissents. I dissent for the reasons stated in the dissenting opinion of Hickman, J., when the per curiam order adopting the guidelines was issued. *In re: Guidelines for Child Support Enforcement*, 301 Ark. 627, 784 S.W.2d 589 (1990).

ADMINISTRATIVE ORDER NUMBER 10 -- CHILD SUPPORT GUIDELINES

SECTION I. AUTHORITY AND SCOPE.

Pursuant to Act 948 of 1989, as amended, codified at Ark. Code Ann. § 9-12-312(a) and the Family Support Act of 1988, Pub. L. No. 100-485 (1988), the Court adopts and publishes Administrative Order Number 10 -- Child Support Guidelines. This Administrative Order includes and incorporates by reference the attached weekly and monthly family support charts and the attached Affidavit of Financial Means.

It is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart is the amount of child support to be awarded in any judicial proceeding for divorce, separation, paternity, or child support. The court may grant less or more support if the evidence shows that the needs of the dependents require a different level of support.

It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated

pursuant to the Family Support Chart is correct, if the court enters in the case a specific written finding within the Order that the amount so calculated, after consideration of all relevant factors, including the best interests of the child, is unjust or inappropriate. Findings that rebut the guidelines shall state the payor's income, recite the amount of support required under the guidelines, recite whether or not the Court deviated from the Family Support Chart and include a justification of why the order varies from the guidelines as may be permitted under SECTION V. hereinafter.

SECTION II. DEFINITION OF INCOME.

Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

1. Federal and state income tax;
2. Withholding for Social Security (FICA), Medicare, and railroad retirement;
3. Medical insurance paid for dependant children, and
4. Presently paid support for other dependents by Court order.

SECTION III. CALCULATION OF SUPPORT.

a. Basic Considerations.

The most recent revision of the family support charts is based on the weekly/monthly income of the payor parent as defined in Section II.

For purposes of computing child support payments, a month consists of 4.334 weeks. Biweekly means a payor is paid once every two weeks or 26 times during a calendar year. Bimonthly means a payor is paid twice a month or 24 times during a calendar year.

Use the lower figure on the chart for income to determine support. Do not interpolate (i.e., use the \$200.00 amount for all income pay between \$200.00 and \$210.00 per week.)

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to Ark. Code Ann. § 9-12-312(e)(3); § 9-10-109(b)(1); and § 9-14-804 is not to be included as support.

b. Income Which Exceeds Chart.

When the payor's income exceeds that shown on the chart, use the following percentages of the payor's weekly or monthly income as defined in SECTION II. to set and establish a sum certain dollar amount of support:

- One dependent: 15%
- Two dependents: 21%
- Three dependents: 25%
- Four dependents: 28%
- Five dependents: 30%
- Six dependents: 32%

c. Nonsalaried Payors.

For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and/or children on account of the payor's disability.

For Veteran's Administration disability recipients, Workers' Compensation disability recipients, and Unemployment Compensation recipients, the court shall consider those benefits as income.

For military personnel, see latest military pay allocation chart and benefits. BAQ (quarters allowance) should be added to other income to reach total income. Military personnel are entitled to draw BAQ at a "with dependents" rate if they are providing support pursuant to a court order. However, there may be circumstances in which the payor is unable to draw BAQ or may draw BAQ only at the "without dependents" rate. Use the BAQ for which the payor is actually eligible. In some areas, military personnel receive a variable allowance. It may not be appropriate to include this allowance in calculation of income since it is awarded to offset living expenses which exceed those normally incurred.

For commission workers, support shall be calculated based on minimum draw plus additional commissions.

For self-employed payors, support shall be calculated based on last year's federal and state income tax returns and the quarterly estimates for the current year. Also the court shall consider the amount the payor is capable of earning or a net worth approach based on property, life-style, etc.

d. Imputed Income.

If a payor is unemployed or working below full earning capacity, the court may consider the reasons therefor. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a payor up to his or her earning capacity, including consideration of the payor's life-style. Income of at least minimum wage shall be attributed to a payor ordered to pay child support.

e. Spousal Support.

The chart assumes that the custodian of dependent children is employed and is not a dependent. For the purposes of calculating temporary support, a dependent custodian should be counted as two dependents as a guide in determining support. For final hearings, the court should consider all relevant factors, including the chart, in determining the amount of any spousal support to be paid.

f. Allocation of Dependents for Tax Purposes.

Allocation of dependents for tax purposes belongs to the custodial parent pursuant to the Internal Revenue Code. However, the Court shall have the discretion to grant dependency allocation, or any part of it, to the noncustodial parent if the benefit of the allocation to the noncustodial parent substantially outweighs the benefit to the custodial parent.

g. Health Insurance.

In addition to the award of child support, the court order shall provide for the child's health care needs, which

would normally include health insurance if available to either parent at a reasonable cost.

SECTION IV. AFFIDAVIT OF FINANCIAL MEANS.

The Affidavit of Financial Means shall be used in all family support matters. The trial court shall require each party to complete and exchange the Affidavit of Financial Means prior to a hearing to establish or modify a support order.

SECTION V. DEVIATION CONSIDERATIONS.

a. Relevant Factors.

Relevant factors to be considered by the court in determining appropriate amounts of child support shall include:

1. Food;
2. Shelter and utilities;
3. Clothing;
4. Medical expenses;
5. Educational expenses;
6. Dental expenses;
7. Child care;
8. Accustomed standard of living;
9. Recreation;
10. Insurance;
11. Transportation expenses; and
12. Other income or assets available to support the child from whatever source.

b. Additional Factors.

Additional factors may warrant adjustments to the child support obligations and shall include:

1. The procurement and/or maintenance of life insurance, health insurance, dental insurance for the children's benefit;
2. The provision or payment of necessary medical, dental, optical, psychological or counseling expenses of the children (e.g. orthopedic shoes, glasses, braces, etc.);
3. The creation or maintenance of a trust fund for the children;
4. The provision or payment of special education needs or expenses of the child;
5. The provision or payment of day care for a child;
6. The extraordinary time spent with the noncustodial parent, or shared or joint custody arrangements; and
7. The support required and given by a payor for dependent children, even in the absence of a court order.

SECTION VI. ABATEMENT OF SUPPORT DURING EXTENDED VISITATION.

The guidelines assume that the noncustodial parent will have visitation every other weekend and for several weeks during the summer. Excluding weekend visitation with the custodial parent, in those situations where a child spends in excess of 14 consecutive days with the noncustodial parent, the court should consider whether an adjustment in child support is appropriate, giving consideration to the fixed obligations of the custodial parent which are attributable to the child, to the increased costs of the noncustodial parent associated with the child's visit, and to the relative incomes of both parents. Any partial abatement or reduction of child support should not exceed 50% of the child support obligation during the extended visitation period of more than 14 consecutive days.

In situations in which the noncustodial parent has been granted annual visitation in excess of 14 consecutive days, the court may prorate annually the reduction in order to maintain the same amount of monthly child support payments. However, if the noncustodial parent does not exercise said extended visitations during a particular year, the noncustodial parent shall be required to pay the abated amount of child support to the custodial parent.

SECTION VII. PROVISION FOR PAYMENT.

All orders of child support should fix the dates on which payments should be made. All support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement as required by Ark. Code Ann. § 9-14-218(a)(3)(A). Payment should be made through the Clerk of the Court or the Arkansas Clearinghouse pursuant to Ark. Code Ann. § 9-14-805. Times for payment should ordinarily coincide with the payor's receipt of salary, wages, or other income.

IN THE CHANCERY COURT OF _____ COUNTY, ARKANSAS

_____ Division

STATE OF ARKANSAS)
) SS **AFFIDAVIT OF FINANCIAL MEANS**
COUNTY OF) **REVISED 01-98**

Plaintiff

vs.

Defendant

Case No. _____

THE AFFIANT, BEING DULY SWORN, SAYS UNDER PENALTY OF PERJURY THAT AFFIANT IS THE PLAINTIFF() DEFENDANT() PARTY() (*CHECK ONE*) TO THIS SUPPORT ACTION HEREIN, HAS PREPARED THIS FINANCIAL STATEMENT, KNOWS THE CONTENTS THEREOF, AND THAT IT IS TRUE AND CORRECT.

INCOME

Complete item 27 on page 3

1. My weekly take-home pay (from line 27 (i) on page 3) _____|_____.

2. I claim____dependents for the purpose of determining my State of Arkansas withholding. I claim____dependents for the purpose of determining my federal withholding. I did() or did not() (check one) claim myself as dependent. I do() or do not() (check one) have additional amount withheld from my payroll checks for tax purposes and, if so, that amount is _____|_____per week of _____|_____per pay period and itemized on reverse side. All other deductions taken from my payroll check before I receive it: total:_____|_____(from line j8 on page 3).

3. I have income from the following other sources:_____

4. I have cash on hand in the amount of _____|_____ from the following source(s):_____

5. I have on deposit in banks and savings institutions _____|_____ and its source was _____

6. I have stocks and bonds in the amount of _____|_____ and their source was _____

(Attach additional schedules as needed)

CREDITORS

Complete items 28,29 and 30 on page 4

7. Debts in the name of the plaintiff only: ALL CREDITORS LISTED ON PAGE 4

TOTAL UNPAID BALANCES \$ (a)_____|_____ TOTAL MONTHLY PAYMENTS \$ (b)_____|_____

8. Debts in the name of defendant only: ALL CREDITORS LISTED ON PAGE 4

TOTAL UNPAID BALANCES \$ (a)_____|_____ TOTAL MONTHLY PAYMENTS \$ (b)_____|_____

9. Debts in our JOINT NAMES are: ALL CREDITORS LISTED ON PAGE 4

TOTAL UNPAID BALANCES \$ (a)_____|_____ TOTAL MONTHLY PAYMENTS \$ (b)_____|_____

MONTHLY EXPENSES

10. My present necessary monthly expenses to support myself and _____child(ren) are:

(a) Rent or housepayment \$ _____|_____ (i) Medical \$ _____|_____

(b) Gas and electricity \$ _____|_____ (j) Drugs \$ _____|_____

(c) Water \$ _____|_____ (k) Life Insurance \$ _____|_____

(d) Telephone \$ _____|_____ (l) Auto Insurance \$ _____|_____

(e) Food \$ _____|_____ (m) Fire Insurance \$ _____|_____

(f) Clothing \$ _____|_____ (n) Transportation \$ _____|_____

(g) Laundry \$ _____|_____ (o) Other Expenses\$ _____|_____

(h) Child Care \$ _____|_____ (Attach schedules if needed)

TOTAL..... \$ _____|_____

A check mark should be placed by all expenses which are not being paid currently.

GENERAL INFORMATION

11. My full name is _____

12. My social security number is _____ Military I.D. No. (if applicable)_____

13. My Arkansas Driver's License Number _____

is _____

14. My date of birth is _____ My place of birth
is _____

15. My present resident address is _____
Zip Code _____

16. The full name of children born (or legally adopted) of this marriage are:

(1) _____ Date of Birth _____ S.S. No. _____

(2) _____ Date of Birth _____ S.S. No. _____

(3) _____ Date of Birth _____ S.S.
No. _____

(4) _____ Date of Birth _____ S.S.
No. _____

(5) _____ Date of Birth _____ S.S.
No. _____

(6) _____ Date of Birth _____ S.S.
No. _____ (Attach additional schedule for additional children)

17. My employer
is _____

18. My employer's full address
is _____
Zip Code _____

19. My home telephone number is _____ My work telephone number
is _____

INFORMATION ABOUT OPPOSING PARTY IN THIS CASE, IF KNOWN (DO NOT GUESS)

20. The opposing party's full name
is _____

21. The opposing party's social security number is _____ Military I.D. No. (if
applicable) _____

22. The opposing party's Arkansas Driver's License Number
is _____

23. The opposing party's present resident address is _____
Zip Code _____

24. The opposing party's employer
is _____

25. The opposing party's employer's address _____
Zip Code _____

26. The opposing party's home telephone number _____ work
telephone _____

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INCOME

27. How often are you paid, and what are your gross wages, salary or commissions due each time?

* WEEKLY * BIWEEKLY * SEMI-MONTHLY * MONTHLY * OTHER
52 times a year 26 times a year 24 times a year 12 times a year explain

PAYROLL DEDUCTIONS

(a) GROSS WAGES.....(a)
\$ _____|_____

(b) Federal Income Tax Withheld..... (b) _____|_____

(c) Arkansas Income Tax Withheld.....(c) _____|_____

(d) Social Security (FICA), Medicare, or railroad retirement equivalent.....(d) _____|_____

(e) Health Insurance (**children only**).....(e) _____|_____

(f) Court ordered child support for dependents of previous marriage
or previously legally determined adopted or illegitimate children.....(f) _____|_____

(g) TOTAL WITHHELD (b) thru (f) above.....(g)
\$ _____|_____

(h) INCOME PAY PER PAY PERIOD
(Subtract (g) from (a) above.....(h) \$ _____|_____

(i) CONVERT TO WEEKLY INCOME &
CARRY TO LINE 1 (on front).....27 (i)
\$ _____|_____

Example: h above \$300 & is received bi-weekly,
 26 X \$300 = \$7,800 divided by 52 = \$150 per week
 Carry \$150 to line 1 on front

(j) OTHER ITEMS WITHHELD FROM MY CHECK ARE:

- (1) Union Dues.....(1) _____|_____
- (2) Credit Union, thrift plans.....(2) _____|_____
- (3) Pension Benefits, stock purchase plans.....(3) _____|_____
- (4) Charitable contributions..... (4) _____|_____
- (5) Debt Payments, garnishments.....(5) _____|_____
- (6) Life Insurance payments.....
- (6) _____|_____
- (7) Other
- (identify) _____(7) _____|_____

Items (1) through (7) above are not allowed in computing income.

- (8) TOTAL WITHHELD (total (1) thru (7) above).....j
- (8) _____|_____

CREDITORS & DEBTS

28. Debts in the name of PLAINTIFF/Party only are:

Creditors

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

Attach additional schedules as needed, the TOTAL:

(Total Unpaid Balance)

- 1. \$ _____|_____
- 2. \$ _____|_____
- 3. \$ _____|_____
- 4. \$ _____|_____

5. \$ _____ | _____

6. \$ _____ | _____ *

*Carry to line 7a on page 1

(Monthly Payments)

1. \$ _____ | _____

2. \$ _____ | _____

3. \$ _____ | _____

4. \$ _____ | _____

5. \$ _____ | _____

6. \$ _____ | _____ *

*Carry to line 7b on page 1

29. Debts in the name of DEFENDANT only are:

Creditors

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Attach additional schedules as needed, the TOTAL:

(Total Unpaid Balance)

1. \$ _____ | _____

2. \$ _____ | _____

3. \$ _____ | _____

4. \$ _____ | _____

5. \$ _____ | _____

6. \$ _____ | _____ *

*Carry to line 7a on page 1

(Monthly Payments)

1. \$ _____ | _____

2. \$ _____ | _____

3. \$ _____ | _____

4. \$ _____ | _____

5. \$ _____ | _____

6. \$ _____ | _____ *

*Carry to line 7b on page 1

30. Debts in our JOINT NAMES are:

Creditors

1. _____

2. _____

3. _____
4. _____
5. _____
6. _____

Attach additional schedules as needed, the TOTAL:

(Total Unpaid Balance)

1. \$ _____ | _____
2. \$ _____ | _____
3. \$ _____ | _____
4. \$ _____ | _____
5. \$ _____ | _____
6. \$ _____ | _____ *

*Carry to line 7a on page 1

(Monthly Payments)

1. \$ _____ | _____
2. \$ _____ | _____
3. \$ _____ | _____
4. \$ _____ | _____
5. \$ _____ | _____
6. \$ _____ | _____ *

*Carry to line 7b on page 1

31. The weekly income of the opposing party is.....\$ _____ | _____

32. All other income of the opposing party is.....\$ _____ | _____

Signature of Affiant

Subscribed and sworn to before me on this _____ day of _____, _____
 (month) (year)

My commission expires:

NOTICE

BOTH PARTIES MUST COMPLETE AND EXCHANGE THIS FOUR PAGE AFFIDAVIT PRIOR TO ANY HEARING TO ESTABLISH OR MODIFY A SUPPORT ORDER. BOTH PARTIES MUST SUPPLY THE ORIGINAL NOTARIZED AFFIDAVIT TO THE COURT. THE COURT WILL PUNISH PERJURY BY APPROPRIATE ACTION.

PAYOR NET WEEKLY INCOME	ONE CHILD	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN
100	24	35	42	46	50
110	26	39	46	50	55
120	29	42	50	55	59
130	31	45	54	59	64
140	34	49	58	64	69
150	36	52	61	68	74
160	38	55	65	72	78
170	40	58	69	76	83
180	43	62	73	80	87
190	45	65	77	85	92
200	47	68	80	89	96
210	49	72	84	93	101
220	52	75	88	97	106
230	54	78	92	102	110
240	56	82	96	106	115
250	59	85	100	110	120
260	60	87	102	113	123
270	61	89	104	115	125
280	62	90	106	117	127
290	64	92	108	120	130
300	65	94	110	122	132
310	66	95	112	124	134
320	67	97	114	126	136
330	68	98	115	128	138
340	69	100	117	129	140
350	70	101	119	131	142
360	71	103	121	133	144
370	73	105	123	136	147
380	74	107	125	138	150
390	76	109	128	141	153
400	77	111	130	144	156
410	79	114	133	147	159
420	80	116	136	150	162
430	82	118	138	153	165
440	83	120	141	155	168
450	85	122	143	158	171
460	86	124	146	161	174

470	88	126	148	164	177
480	89	128	150	166	180
490	91	130	153	169	183
500	92	132	155	171	186
510	93	134	157	174	188
520	95	136	160	176	191
530	96	138	162	179	194
540	98	140	164	182	197
550	99	142	167	184	200
560	100	144	169	187	202
570	102	146	171	189	205
580	103	148	174	192	208
590	104	150	176	195	211
600	106	152	178	197	214
610	107	154	181	200	217
620	108	156	185	202	219
630	109	158	186	204	222
640	110	159	187	206	224
650	111	161	189	208	226
660	112	162	190	210	228
670	113	164	192	212	230
680	115	165	194	214	232
690	116	167	196	216	235
700	117	168	198	219	237
710	118	170	200	221	239
720	119	171	201	223	241
730	120	173	203	225	243
740	121	174	205	227	246
750	122	176	207	229	248
760	123	178	209	231	251
770	124	180	212	234	253
780	126	182	214	236	256
790	127	183	216	238	258
800	128	185	218	241	261
810	129	187	220	243	263
820	130	189	222	245	266
830	132	190	224	248	268
840	133	192	226	250	271
850	134	194	228	252	273
860	135	195	230	254	275

870	136	197	232	256	278
880	137	198	234	258	280
890	138	200	235	260	282
900	139	202	237	262	284
910	140	203	239	264	286
920	142	205	241	266	289
930	143	206	243	268	291
940	144	208	245	270	293
950	145	209	247	272	295
960	146	211	248	274	297
970	147	213	250	275	300
980	148	214	252	276	302
990	149	216	254	281	304
1000	150	217	256	283	306

ARKANSAS MONTHLY FAMILY SUPPORT CHART

PAYOR NET MONTHLY INCOME	ONE CHILE	TWO CHILDREN	THREE CHILDREN	FOUR CHILDREN	FIVE CHILDREN
500	122	177	210	232	252
550	133	193	229	253	274
600	144	210	248	274	297
650	155	226	266	294	319
700	166	242	285	315	342
750	178	258	304	336	364
800	189	274	323	357	387
850	200	290	342	377	409
900	212	307	361	399	433
950	223	323	381	421	456
1000	235	340	400	442	479
1050	246	357	420	464	503
1100	257	372	438	485	525
1150	263	381	448	495	537
1200	269	389	458	506	548
1250	275	397	467	516	560
1300	280	405	477	527	571
1350	286	413	486	537	582
1400	291	421	495	547	593
1450	297	429	503	556	603

1500	302	436	512	566	613
1550	308	444	521	575	624
1600	314	453	531	587	636
1650	322	464	544	601	651
1700	330	475	556	615	667
1750	338	486	569	629	682
1800	345	497	582	643	697
1850	353	508	595	657	712
1900	360	518	607	671	727
1950	368	529	620	685	742
2000	375	540	632	698	757
2050	382	550	645	712	772
2100	389	560	656	725	786
2150	396	570	668	738	800
2200	404	581	679	751	814
2250	411	591	691	764	828
2300	418	601	703	776	841
2350	425	611	714	789	856
2400	431	620	726	802	870
2450	438	630	738	815	884
2500	445	640	750	828	898
2550	452	650	762	842	912
2600	458	660	773	855	926
2650	465	670	785	868	940
2700	471	679	796	879	953
2750	476	686	805	889	964
2800	481	694	814	899	975
2850	486	701	823	910	986
2900	491	709	832	920	997
2950	496	716	841	930	1008
3000	501	724	851	940	1019
3050	506	731	860	950	1030
3100	511	739	869	960	1041
3150	517	746	878	970	1052
3200	522	755	888	981	1064
3250	528	764	899	993	1076
3300	534	772	909	1004	1089
3350	540	781	919	1016	1101
3400	546	790	930	1028	1114
3450	552	799	940	1039	1126

3500	558	807	951	1051	1139
3550	564	816	961	1062	1151
3600	570	825	972	1074	1164
3650	576	834	982	1085	1176
3700	582	842	991	1095	1187
3750	587	849	1000	1106	1198
3800	593	857	1010	1116	1209
3850	598	865	1019	1126	1220
3900	604	873	1028	1136	1231
3950	609	881	1037	1146	1242
4000	615	889	1046	1156	1254
4050	620	897	1056	1167	1265
4100	626	905	1065	1177	1276
4150	631	913	1074	1187	1287
4200	637	920	1083	1197	1298
4250	642	928	1092	1207	1309
4300	648	936	1102	1217	1320
4350	653	944	1111	1228	1331
4400	659	952	1120	1238	1342
4450	664	960	1129	1248	1353
4500	670	968	1138	1258	1364
4550	675	976	1148	1268	1375
4600	681	983	1157	1278	1386
4650	686	991	1166	1289	1397
4700	691	998	1174	1297	1406
4750	695	1004	1182	1306	1415
4800	699	1011	1189	1314	1425
4850	704	1017	1197	1323	1434
4900	708	1024	1205	1331	1443
4950	713	1030	1213	1340	1453
5000	717	1037	1220	1348	1462