

CHAPTER 1910. ACTIONS FOR SUPPORT

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Source

The provisions of these Rules 1910.1—1910.31 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625, unless otherwise noted.

Rule 1910.1. Scope. Definitions.

(a) Except as provided by subdivision (b), the rules of this chapter govern all civil actions or proceedings brought in the court of common pleas to enforce a duty of support, or an obligation to pay alimony pendente lite.

Official Note

A duty of support is imposed by the following statutes: 23 Pa.C.S.A. § 4321 and Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973 (repealed) now Act 43-2005, July 7, 2005, P. L. 196. The procedure under the rules of this chapter implements Chapter 43 of Part V of the Domestic Relations Code, Title 23 of the Consolidated Statutes, 23 Pa.C.S.A. § 4301 et seq., relating to support proceedings. The procedure under these rules provides an alternative to the intrastate and interstate procedures under Parts VIII and VIII-A of the Domestic Relations Code, 23 Pa.C.S.A. § § 7101 et seq. and 8101 et seq. For alimony and alimony pendente lite, see Sections 3701 and 3702 of the Divorce Code, 23 Pa.C.S.A. § § 3701, 3702.

Official Note

Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S.A.

§ 4342(c).

(b) The rules of this chapter shall not govern

(1) an action or proceeding for support based upon a contract or agreement which provides that it may not be enforced by an action in accordance with these rules,

(2) an application for a temporary order of support and other relief pursuant to the Protection from Abuse Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 6101 et seq. or

(3) an action for support of an indigent brought pursuant to Chapter 46 of the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq.

Official Note

Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.

(c) As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

“Conference officer,” the person who conducts an office conference pursuant to Rule 1910.11.

“Hearing officer,” the person who conducts a hearing on the record and makes recommendations to the court pursuant to Rule 1910.12.

“Overdue support,” the amount of delinquent support equal to or greater than one month’s support obligation which accrues after entry or modification of a support order as the result of obligor’s nonpayment of that order.

“Past due support,” the amount of support which accrues prior to entry or modification of a support order as the result of retroactivity of that order. When nonpayment of the order causes overdue support to accrue, any and all amounts of past due support owing under the order shall convert immediately to overdue support and remain as such until paid in full.

“Suspend,” eliminate the effect of a support order for a period of time.

“Terminate,” end not only the support order, but the support obligation as well.

“Trier of fact,” the judge, hearing officer, or conference officer who makes factual determinations.

“Vacate,” declare a particular support order null and void, as if it were never entered.

Explanatory Comment—1994

Nothing in this rule should be interpreted to eliminate the distinctions between spousal support and alimony pendente lite which are established by case law.

Alimony pendente lite must be distinguished from permanent alimony for purposes of this rule. The rule applies only to alimony pendente lite. The procedure for obtaining permanent alimony is governed by Section 3702 of the Divorce Code, 23 Pa.C.S.A. § 3702, and Rules of Civil Procedure 1920.1 et seq. Agreements for alimony approved by the court in connection with actions for divorce under Section 3701 of the Divorce Code are deemed to be court orders enforceable under Section 3703 of the Code.

Section 3105(a) of the Divorce Code provides that all agreements relating to matters under the code, whether or not merged or incorporated into the decree, are to be treated as orders for purposes of enforcement unless the agreement provides otherwise. Subdivision (b)(1) is amended to conform to the statute.

There is considerable diversity in the terminology used throughout the rules, and in the various counties, to describe the individuals who conduct conferences and hearings pursuant to the support rules. The addition of subdivision (c) to the rules standardizes terminology and eliminates the confusion which results from individual counties using inconsistent terms to refer to persons performing the same function. All references in the rules to conference or hearing officers have been amended to conform to the terminology set forth in subdivision (c).

In an effort to further standardize the terminology used in support matters, the additional terms are defined.

Explanatory Comment—2000

Act 1998-127 technically amended Act 1997-58 to define and differentiate between past due and overdue support to clarify that only overdue support constitutes a lien by operation of law against the obligor's real or personal property. 23 Pa.C.S.A. § 4302 now defines overdue support as "support which is delinquent under a payment schedule established by the court." Past due support is defined as "support included in an order of support which has not been paid."

The definitions of past due and overdue support in this rule do not substantively change the legislative definitions. They merely elaborate on them in terms which are more familiar and helpful to the bench and bar. Specifically, past due support consists of the purely retroactive arrearages which accumulate between the date of the filing of the complaint or petition for modification and the date of the hearing and entry of the initial or modified support order. Overdue support refers to the delinquent arrearages which accrue after entry of the order due to the obligor's failure to pay support pursuant to the order.

These definitions are important for determining the remedies available for collecting support arrearages. Pursuant to 23 Pa.C.S.A. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against the obligor's property. Conversely, past due support (retroactive arrears) does not operate as a lien against this property as long as the obligor remains current on the support order.

Rule 1910.20 extends this legislative distinction between overdue and past due support to the following remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S.A. § 4303; (2) suspension of licenses under 23 Pa.C.S.A. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S.A. § 4305(b)(10). Accordingly, these remedies are available only to collect overdue support. They are not available to collect past due support as long as the obligor remains current on the order. If, however, the obligor subsequently defaults on the support order, Rule 1910.20(c) provides that any past due support still owing under the order immediately becomes overdue support subject to the full range of collection remedies. It remains overdue support until collected in full.

Pursuant to Rule 1910.20(c), all overdue support, including past due support which has converted to overdue support, remains subject to Act 58 remedies until paid in full. Any repayment plan subsequently agreed to by the parties, or ordered by the court pursuant to a contempt proceeding (including any arrearage component), does not preclude the use of these remedies for collecting overdue support more quickly, whenever feasible.

In cases involving past due support only, the obligee is not entirely without remedy in the event that additional income or assets of the obligor are discovered after the hearing which would enable collection of past due support more quickly. In these cases, identification of those income sources or assets provides a basis for modification pursuant to Rule 1910.19. Modification includes increasing the rate of repayment on past due support and, if appropriate, ordering that the past due support be paid in full. In these cases, the

obligee may also petition the court for special relief pursuant to Rule 1910.26 to have the income or assets frozen and seized pending the petition for modification in order to secure payment of past due support.

Explanatory Comment—2007

Act 43-2005, July 7, 2005, P. L. 196, repealed the Act of June 24, 1937 (P. L. 2045, No. 397), known as The Support Law and added Chapter 46 to the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq. Section 4 of Act 43-2005 states that the addition of Chapter 46 is a continuation of the Act of June 24, 1937 (P. L. 2045, No. 397). Chapter 46 addresses the responsibility of certain family members to maintain indigent relatives, whether or not the indigent person is a public charge. New subdivision (b)(3) clarifies that the support rules and guidelines do not apply to actions brought under Chapter 46 of the Domestic Relations Code.

Source

The provisions of this Rule 1910.1 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended April 15, 1994, effective July 1, 1994, 24 Pa.B. 2296; amended December 8, 1994, effective July 1, 1995, 24 Pa.B. 6399; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended February 2, 2007, effective February 3, 2007, 37 Pa.B. 522. Immediately preceding text appears at serial pages (324674) and (293831).

Rule 1910.2. Venue. Transfer of Action.

(a) An action may be brought in

- (1) the county in which the defendant resides, or
- (2) the county in which the defendant is regularly employed, or
- (3) the county in which the plaintiff resides and that county is the county in which the last marital domicile was located and in which the plaintiff has continued to reside.
- (4) the county in which the child resides if the relief sought includes child support.

Official Note

If an action for support is brought in the county in which the plaintiff resides but that county is not the county in which the last family domicile was located and in which the plaintiff has continued to reside, the action shall proceed in accordance with the Revised Uniform Reciprocal Enforcement of Support Act (1968), 23 Pa.C.S. § 4501 et seq. if the defendant is outside the Commonwealth, or in accordance with 23 Pa.C.S. § 4533 which provides for intrastate application of RURESA if the defendant is within the Commonwealth, and not in accordance with these Rules.

(b) Where jurisdiction is acquired over the defendant pursuant to the long arm statute, 23 Pa.C.S. § 4342(c), the action may be brought in the county where the plaintiff resides.

Official Note

23 Pa.C.S. § 7201 sets forth the specific bases for long arm jurisdiction over a non-resident defendant.

(c) If, at the time of the filing of the action, there is a divorce or custody action pending between the parties in an appropriate court in another county, the court upon good cause shown may transfer the support action to that county.

(d) For the convenience of the parties and witnesses the court may transfer an action to the appropriate

court of any other county where the action could have been brought at the time of transfer.

Official Note

The standards for transfer of an action for the convenience of parties and witnesses are the same as the standards under Rule 1006(d).

(e) A support order may be enforced in accordance with the Uniform Interstate Family Support Act, 23 Pa.C.S. § 7101 et seq., if the defendant resides outside the Commonwealth, or in accordance with the Intrastate Family Support Act, 23 Pa.C.S. § 8101 et seq., if the defendant resides in another county within the Commonwealth.

Source

The provisions of this Rule 1910.2 amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 8, 1994, effective July 1, 1995, 24 Pa.B. 6399; amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16; amended October 31, 2002, effective immediately, 32 Pa.B. 5632. Immediately preceding text appears at serial pages (267729) to (267730).

Rule 1910.2-1. Procedures Pursuant to the Intrastate Family Support Act.

(a) The court in the county in which the complaint for support is filed shall retain and process the case for so long as all of the following conditions are met:

- (1) there is proper venue pursuant to Rule 1910.2;
- (2) the defendant-obligor's mailing address is known;
- (3) sufficient information is known about the defendant-obligor's employment to enable the court to issue an earnings subpoena; and
- (4) the obligee consents.

Official Note

A support action should be maintained in the county in which the obligee and/or the child(ren) reside and should not involve a second county unless the county of residence is unable to obtain service on the defendant-obligor or obtain information regarding the defendant-obligor's employment. However, the obligee is permitted to request that the case proceed under the Intrastate Family Support Act (IFSA) in accordance with 23 Pa.C.S. § 8103.

If the venue requirements are met, the court in the obligee's county of residence should attempt to retain the case if there already is an order in that county against the same defendant-obligor in this or another child/spousal support case or if the defendant-obligor is incarcerated.

(b) If courts in two or more counties must be involved in the establishment and enforcement of an obligation for support:

- (1) the case must proceed pursuant to the Intrastate Family Support Act; and
- (2) venue shall follow the defendant-obligor in order to maintain the availability of statutory enforcement remedies.

(c) A support order shall not be registered in another county unless:

- (1) requested by the obligee, or
- (2) necessary to maintain an order for support, to obtain payment of the support obligation or to consolidate multiple cases involving the same defendant-obligor.
- (d) Only one support order shall be charging against a defendant-obligor for the same spouse and/or child(ren) at one time.

Source

The provisions of this Rule 1910.2-1 adopted October 31, 2002, effective immediately, 32 Pa.B. 5632.

Rule 1910.3. Parties. Obligor. Obligee.

- (a) An action may be brought
 - (1) by a person, including a minor parent or a minor spouse, to whom a duty of support is owing, or
 - (2) on behalf of a minor child by a person having custody of the child, without appointment as guardian ad litem, or
 - (3) on behalf of a minor child by a person caring for the child regardless of whether a court order has been issued granting that person custody of the child, or
 - (4) by a public body or private agency having an interest in the case, maintenance or assistance of a person to whom a duty of support is owing, or
 - (5) by a parent, guardian or public or private agency on behalf of an unemancipated child over eighteen years of age to whom a duty of support is owing, or.
 - (6) by any person who may owe a duty of support to a child or spouse. If the person to whom a duty of support may be owed does not appear, the action may be dismissed without prejudice for the petitioner to seek further relief from the court.
- (b) The trier of fact shall enter an appropriate order based upon the evidence presented, without regard to which party initiated the support action, filed a modification petition or filed a petition for recovery of support overpayment. The determination of which party will be the obligee and which will be the obligor will be made by the trier of fact based upon the respective incomes of the parties, consistent with the support guidelines and existing law, and the custodial arrangements at the time of the initial or subsequent conference, hearing or trial. If supported by the evidence, the party named as the defendant in the initial pleading may be deemed to be the obligee, even if that party did not file a complaint for support. The provisions of this subdivision do not apply to parties seeking spousal support or alimony pendente lite. Parties seeking spousal support or alimony pendente lite must assert a claim in an appropriate pleading with proper notice served upon the other party.
 - (1) In general, the party who has primary custody of the children shall be the obligee of a child support order.
 - (2) When the parties share custody of the children equally, the party with the higher income shall be the obligor as provided in Rule 1910.16-4(c)(2).

Explanatory Comment—1999

New subdivision (c) incorporates 23 Pa.C.S. § 4341(b) to confer standing on any person who is caring

for a child to seek support on behalf of that child even though there is no court order granting legal or physical custody to that person. The statutory provision effectively overrules *Larson v. Diveglia*, 549 Pa. 118, 700 A.2d 931 (1997), which held to the contrary.

Subdivision (e) is amended to eliminate the requirement of consent when the child is over 18 years of age. This requirement was originally intended only for applicable child support actions for higher educational support, which actions were abolished by *Curtis v. Kline*, 542 Pa. 249, 666 A.2d 265 (1995). This rule also is intended to apply to children who are unemancipated by reason of physical or mental disability, consistent with 23 Pa.C.S. § 4321(3) as interpreted by case law.

Explanatory Comment—2011

A new category has been added in subdivision (a) to allow a party who may not have primary custody of the parties' child or who may owe a duty of support to a spouse to initiate a support action in which an appropriate order may be entered. In some cases, the obligor may want to start paying spousal support or alimony pendente lite to the obligee as soon as possible to avoid the accumulation of retroactive arrears, but § 71 of the Internal Revenue Code provides that payments to a spouse or ex-spouse must be pursuant to an order or a divorce or separation instrument to receive alimony tax treatment. Thus, any payments made prior to the entry of a support order will not be deductible by the obligor. This provision is intended to allow an obligor to commence the process by which he or she may pay support earlier.

A new subdivision (b) has been added to clarify that in all initial and subsequent child support actions, the trier of fact may enter a support order against either party, without regard to which party filed the complaint or petition for modification. This facilitates judicial economy, and relieves the parties from incurring additional filing fees, losing time from work or family, losing retroactivity and having to wait for a new proceeding to be scheduled. It enables the trier of fact to base the order on the facts and circumstances at the time of the proceeding, which may be different than at the time of filing.

Source

The provisions of this Rule 1910.3 amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended October 30, 2001, effective immediately, 21 Pa.B. 6273; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended November 5, 2012, effective December 5, 2012, 42 Pa.B. 7091. Immediately preceding text appears at serial pages (358492) to (358494).

Rule 1910.4. Commencement of Action. Fee.

(a) An action shall be commenced by filing a complaint with the domestic relations section of the court of common pleas.

Official Note

For the form of the complaint, see Rule 1910.27(a).

Section 961 of the Judicial Code, 42 Pa.C.S. § 961, provides that each court of common pleas shall have a domestic relations section.

(b) No filing fee shall be required in advance.

Source

The provisions of this Rule 1910.4 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (265459).

Rule 1910.5. Complaint. Order of Court.

- (a) The complaint shall be substantially in the form provided by Rule 1910.27(a).
- (b) The complaint shall not contain a notice to defend or be endorsed with a notice to plead.

Official Note

Neither Rule 1018.1 nor Rule 1361 applies to a complaint in an action for support.

- (c) An order shall be attached at the front of the complaint directing the defendant to appear before an officer for a conference at the time and place directed by the court. The order shall be substantially in the form provided by Rule 1910.27(b) and must include notice that a child support order may be entered against either party without regard to which party initiated the action.

Official Note

For service of original process in support matters, see Rule 1930.4.

Source

The provisions of this Rule 1910.5 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847. Immediately preceding text appears at serial pages (293833) to (293834).

Rule 1910.6. Notification.

Parties to a support action and their attorneys shall be provided notice of all proceedings in which support obligations might be established or modified. Notice must be provided at least 20 days prior to the proceeding. The parties and their attorneys shall also be provided with a copy of any order issued in the support action within 14 days after issuance of the order. If there is no activity in a support action for a period of three years, the domestic relations section shall send a notice to each of the parties' attorneys advising each attorney that his or her appearance in the support action shall be deemed to be withdrawn unless the attorney objects within thirty (30) days of the date the notice is mailed to the attorney. An attorney representing a party in a support action shall not be deemed to be representing that party in any other action, nor shall a withdrawal of appearance in a support action be deemed to be a withdrawal of appearance for the party in any other proceeding.

Source

The provisions of this Rule 1910.6 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended October 2, 1995, effective January 1, 1996, 25 Pa.B. 4518; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended October 30, 2001, effective immediately, 31 Pa.B. 6273. Immediately preceding text appears at serial page (267732).

Rule 1910.7. No Pleading by Defendant Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

- (a) No pleading by the defendant shall be required, but if defendant elects to file a pleading, the domestic relations office conference required by the order of court shall not be delayed.
- (b) If defendant raises a question of jurisdiction or venue or in paternity cases the defense of the statute of limitations, the court shall promptly dispose of the question and may, in an appropriate case, stay the domestic relations office conference.

Rule 1910.8. [Rescinded].

Official Note

The provisions in this Rule now appear in Rule 1910.2(a) through (f).

Source

The provisions of this Rule 1910.8 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded December 18, 1998, effective January 1, 1999, 29 Pa.B. 16. Immediately preceding text appears at serial page (231363).

Rule 1910.9. Discovery.

(a) Except as provided in Rule 1910.11(j) and Rule 1910.12(c), there shall be no discovery in an action for support unless authorized by special order of court.

Official Note

The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(b) Where a party is employed, the court shall ascertain the party's earnings and may enter an order directing the employer to furnish earnings information to the court as provided by Rule 1910.28.

Source

The provisions of this Rule 1910.9 amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (265460).

Rule 1910.10. Alternative Hearing Procedures.

(a) The action shall proceed as prescribed by Rule 1910.11 unless the court by local rule adopts the alternative hearing procedure of Rule 1910.12.

(b) The president judge or the administrative judge of Family Division of each county shall certify that all support proceedings in that county are conducted in accordance with either Rule 1910.11 or Rule 1910.12. The certification shall be filed with the Domestic Relations Procedural Rules Committee, and shall be substantially in the following form: I hereby certify that

County conducts its support proceedings in accordance with Rule

(PRESIDENT JUDGE)

(ADMINISTRATIVE JUDGE)

Official Note

Pursuant to Rule 1910.10, the following counties have certified to the Domestic Relations Procedural Rules Committee that their support proceedings are conducted in accordance with the rule specified below.

Adams	1910.11
Allegheny	1910.12
Armstrong	1910.12
Beaver	1910.11
Bedford	1910.11
Berks	1910.12
Blair	1910.11
Bradford	1910.12
Bucks	1910.11
Butler	1910.11
Cambria	1910.12
Cameron	1910.11
Carbon	1910.12
Centre	1910.11
Chester	1910.12
Clarion	1910.12
Clearfield	1910.11
Clinton	1910.11
Columbia	1910.12
Crawford	1910.11
Cumberland	1910.12
Dauphin	1910.11
Delaware	1910.11
Elk	1910.12
Erie	1910.11
Fayette	1910.11
Forest	1910.12
Franklin	1910.12
Fulton	1910.11
Greene	1910.11
Huntingdon	1910.11
Indiana	1910.12
Jefferson	1910.11
Juniata	1910.11
Lackawanna	1910.12
Lancaster	1910.11
Lawrence	1910.11
Lebanon	1910.12
Lehigh	1910.12
Luzerne	1910.12
Lycoming	1910.12

McKean	1910.12
Mercer	1910.11
Mifflin	1910.11
Monroe	1910.12
Montgomery	1910.11
Montour	1910.12
Northampton	1910.11
Northumberland	1910.11
Perry	1910.11
Philadelphia	1910.12
Pike	1910.11
Potter	1910.11
Schuylkill	1910.12
Snyder	1910.11
Somerset	1910.12
Sullivan	1910.11
Susquehanna	1910.12
Tioga	1910.11
Union	1910.11
Venango	1910.12
Warren	1910.12
Washington	1910.12
Wayne	1910.11
Westmoreland	1910.12
Wyoming	1910.11
York	1910.11

Source

The provisions of this Rule 1910.10 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended September 5, 1995, effective January 1, 1996, 25 Pa.B. 4097; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 8, 2002, effective immediately, 32 Pa.B. 5262; amended July 30, 2003, effective immediately, 33 Pa.B. 4072; amended January 12, effective May 12, 2010, 40 Pa.B. 586; amended September 16, 2013, effective October 16, 2013, 43 Pa.B. 5701. Immediately preceding text appears at serial pages (358495) to (358496) and (360263).

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a)(1) The office conference shall be conducted by a conference officer.

(2) Any lawyer serving as a conference officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

Official Note

Conference officers preside at office conferences under Rule 1910.11. Hearing officers preside at hearings under Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by Rule 1920.51.

(b) If either party fails to appear at the conference before the officer as directed by the court, the conference may proceed.

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their Income and Expense Statements in the forms required by Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks apportionment of expenses pursuant to Rule 1910.16-6. In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.

(2) For cases which are decided according to Rule 1910.16-3.1, the Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) must be submitted.

(d)(1) The conference officer shall make a recommendation to the parties of an amount of support calculated in accordance with the guidelines.

(2) If an agreement for support is reached at the conference, the officer shall prepare a written order substantially in the form set forth in Rule 1910.27(e) and in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter the order in accordance with the agreement without hearing the parties.

(3) In all cases in which one or both parties are unrepresented, the parties must provide income information to the domestic relations section so that a guidelines calculation can be performed.

(4) In cases in which both parties are represented by counsel, the parties shall not be obligated to provide income information and the domestic relations section shall not be required to perform a guidelines calculation if the parties have reached an agreement about the amount of support and the amount of contribution to additional expenses.

(e) At the conclusion of the conference or not later than 10 days after the conference, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:

- (1) the facts upon which the parties agree;
- (2) the contentions of the parties with respect to facts upon which they disagree; and
- (3) the conference officer's recommendation; if any, of

- (i) the amount of support and by and for whom the support shall be paid; and
- (ii) the effective date of any order.

(f) If an agreement for support is not reached at the conference, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Each party shall be provided, either in person at the time of the conference or by mail, with a copy of the interim order and written notice that any party may, within twenty days after the date of receipt or the date of the mailing of the interim order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

(g) A demand for a hearing before the court shall not stay the interim order entered under subdivision (f) unless the court so directs.

(h) If no party demands a hearing before the court within the twenty day period, the interim order shall constitute a final order.

(i) If a demand is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The court shall hear the case and enter a final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the written demand for hearing.

(j)(1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing where:

- (i) there are complex questions of law, fact or both; or
- (ii) the hearing will be protracted; or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note

The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(k) No motion for post-trial relief may be filed to the final order of support.

Explanatory Comment—1994

The domestic relations office conference provided by Rule 1910.11 constitutes the heart of the support procedure. There are two primary advantages to the inclusion of a conference. First, in many cases the parties will agree upon an amount of support and a final order will be prepared, to be entered by the court, thus dispensing with a judicial hearing. Second, those cases which do go to hearing can proceed more quickly because the necessary factual information has already been gathered by the conference officer.

Subdivision (a)(2) prohibits certain officers of the court from practicing family law before fellow officers of the same court. These officers are the conference officer who is an attorney (Rule 1910.11), the hearing officer (Rule 1910.12), and the standing or permanent master who is employed by the court (Rule 1920.51). The amendments are not intended to apply to the attorney who is appointed occasionally to act as a master in a divorce action.

Subdivision (e)(3) makes clear that even if the parties agree on an amount of support, the conference officer is still empowered to recommend to the court that the agreement be disapproved. This provision is

intended to protect the destitute spouse who might out of desperation agree to an amount of support that is unreasonably low or which would in effect bargain away the rights of the children. The officer's disapproval of the agreement serves to prevent an inadequate order being entered unwittingly by the court.

The provision for an interim order in subdivision (f) serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination.

Because the guidelines are income driven, the trier of fact has little need for the expense information required in the Income and Expense Statement. Therefore in guideline cases, the rule no longer requires that expense information be provided. If a party feels that there are expenses so extraordinary that they merit consideration by the trier of fact, that party is free to provide the information. In cases decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), living expenses are properly considered, and therefore must be presented on the Income and Expense Statement.

Explanatory Comment—1995

Rule 1910.11(e) is amended to eliminate the need for a party to request a copy of the conference summary.

Because the court is required to enter a guideline order on the basis of the conference officer's recommendation, there is no need for (g)(2), which provided for a hearing before the court where an order was not entered within five days of the conference. It is eliminated accordingly.

Pursuant to subdivision (g), support payments are due and owing under the interim order which continues in effect until the court enters a final order after the hearing de novo. The provision for an interim order serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination. Therefore, the plaintiff and the dependent children are not prejudiced by allowing the court sixty days, rather than the original forty-five, in which to enter its final order.

Explanatory Comment—2006

The time for filing a written demand for a hearing before the court has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

The amendments reflect the separated Income Statement and Expense Statements in Rule 1910.27(c).

Explanatory Comment—2010

When the parties' combined net income exceeds \$30,000 per month, calculation of child support, spousal support and alimony *pendente lite* shall be pursuant to Rule 1910.16-3.1. Rule 1910.16-2(e) has been amended to eliminate the application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), in high income child support cases.

Explanatory Comment—2011

The rule has been amended to require that income information be provided in all cases, unless both parties are represented in reaching an agreement, so that a guidelines calculation can be performed. The guidelines create a rebuttable presumption that the amount calculated pursuant to them is the correct amount, so there should be a calculation in every case. If parties agree to receive or to pay an order other than the guideline amount, they should know what that amount is so that they can enter an agreement knowingly. If both parties are represented by counsel, it is assumed that their entry into the agreement for an amount other

than a guidelines amount is knowing as it is counsels' responsibility to advise the parties. In addition, part of the mandatory quadrennial review of the support guidelines mandates a study of the number of cases in which the support amount ordered varies from the amount that would result from a guidelines calculation. Federal regulations presume that if a large percentage of cases vary from the guideline amount, then the guidelines are not uniform statewide.

Source

The provisions of this Rule 1910.11 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 15, 1989, 19 Pa.B. 4451; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended September 8, 1995, effective January 1, 1996, 25 Pa.B. 4095; amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 8, 2006, effective immediately, 36 Pa.B. 4709; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7113; amended October 30, 2007, effective immediately, 37 Pa.B. 5976; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended December 23, 2011, effective January 31, 2012, 42 Pa.B. 379, 545; amended July 2, 2014, effective in 30 days on August 1, 2014, 44 Pa.B. 4476; amended March 4, 2015, effective in 30 days on April 3, 2015, 45 Pa.B. 1354. Immediately preceding text appears at serial page (373021).

Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

(a) There shall be an office conference as provided by Rule 1910.11(a) through (d). The provisions of Rule 1910.11(d)(3) and (4) regarding income information apply in cases proceeding pursuant to Rule 1910.12.

(b)(1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

(2) If either party, having been properly served, fails to attend the conference, the court may enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Within twenty days after the date of receipt or the date of mailing of the interim order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

(3) Any lawyer serving as a hearing officer employed by, or under contract with, a judicial district or appointed by the court shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

Official Note

Conference officers preside at office conferences under Rule 1910.11. Hearing officers preside at hearings under Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by Rule 1920.51.

(c)(1) Except as provided in subdivision (c)(2), promptly after conclusion of the conference, a party may move the court for a separate listing of the hearing where:

(i) there are complex questions of law, fact or both; or

- (ii) the hearing will be protracted; or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) Where the conference and hearing are scheduled on the same day, all requests for separate listing must be presented to the court at least seven days prior to the scheduled court date.

(3) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note

The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(d) The hearing officer shall receive evidence, hear argument and, not later than 20 days after the close of the record, file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:

- (1) the amount of support calculated in accordance with the guidelines;
- (2) by and for whom it shall be paid; and
- (3) the effective date of the order.

(e) The court, without hearing the parties, shall enter an interim order consistent with the proposed order of the hearing officer. Each party shall be provided, either in person at the time of the hearing or by mail, with a copy of the interim order and written notice that any party may, within twenty days after the date of receipt or the date of mailing of the order, whichever occurs first, file with the domestic relations section written exceptions to the report of the hearing officer and interim order.

Official Note

Objections to the entry of an interim order consistent with the proposed order may be addressed pursuant to Rule 1910.26.

(f) Within twenty days after the date of receipt or the date of mailing of the report by the hearing officer, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of facts, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions.

(g) If no exceptions are filed within the twenty-day period, the interim order shall constitute a final order.

(h) If exceptions are filed, the interim order shall continue in effect. The court shall hear argument on the exceptions and enter an appropriate final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the filing of exceptions to the interim order. No motion for post-trial relief may be filed to the final order.

Explanatory Comment—1995

Language is added to subdivision (b) to acknowledge that the conference and hearing can be held on the same day, and to provide for the immediate entry of an interim order in judicial districts where the hearing occurs at a later date. New subdivision (b)(2) permits entry of a guideline order after a conference which

the defendant, though properly served, fails to attend. New subdivision (c)(2) is intended to prevent delays in the hearing of complex cases by requiring that requests for separate listing be made at least seven days in advance where the conference and hearing are scheduled on the same day.

In addition, the phrase “record hearing” in subdivision (a) replaces the reference to a “stenographic record” in recognition of the variety of means available to create a reliable record of support proceedings.

Amended subdivision (e) allows an interim order to be entered and served on the parties at the conclusion of the hearing, rather than after the expiration of the exceptions period as was true under the old rule. In addition, the amended subdivision requires that the interim order include language advising the parties of their right to file exceptions within ten days of the date of the order.

Support payments are due and owing under the interim order which continues in effect until the court enters a final order after considering the parties’ exceptions. Therefore, extension of the deadline for entering the final order by fifteen days does not prejudice the persons dependent upon payment of the support.

Explanatory Comment—2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Source

The provisions of this Rule 1910.12 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 15, 1989, 19 Pa.B. 4451; corrected October 27, 1989, effective October 15, 1989, 19 Pa.B. 4603; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended September 28, 1995, effective January 1, 1996, 25 Pa.B. 4095; amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 8, 2006, effective immediately, 36 Pa.B. 4709; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended December 23, 2011, effective January 31, 2012, 42 Pa.B. 379, 545; amended July 2, 2014, effective in 30 days on August 1, 2014, 44 Pa.B. 4476; amended March 4, 2015, effective in 30 days on April 3, 2015, 45 Pa.B. 1354. Immediately preceding text appears at serial pages (373025) to (373027).

Rule 1910.13. [Rescinded].

Source

The provisions of this Rule 1910.13 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949. Immediately preceding text appears at serial page (177461).

Rule 1910.13-1. Failure or Refusal to Appear Pursuant to Order of Court. Bench Warrant.

(a) If a party fails to appear at a conference and/or hearing as directed by order of court, the court may issue a bench warrant for the arrest of the party if it finds

(1) following a hearing on the record that the party had actual notice that the party was ordered to attend the conference and/or hearing, or

(2) upon the affidavit of a hearing officer or conference officer that

(i) the order of court scheduling the conference and/or hearing was served by ordinary mail with the return address of the domestic relations section appearing thereon, that the mail was not returned to the domestic relations section within fifteen days after mailing, and that, at a date after the order of court was mailed, the domestic relations section has verified through the U.S. Postal Service or by electronic means that mail for the party was being delivered at the address to which the court order was mailed; or

(ii) the party signed a receipt indicating acceptance of a copy of the court order; or

(iii) an employee of the court handed a copy of the order to the party; or

(iv) a competent adult handed a copy of the court order to the party, and filed an affidavit of service.

Official Note

See Rule 76 for the definition of “competent adult.”

The support statute, at 23 Pa.C.S.A. § 4353(a), requires parties to a support proceeding to notify the domestic relations section within seven days of a change of personal address. Pursuant to 23 Pa.C.S.A. § 4353(a.1), the court may deem due process service requirements to have been met upon delivery of written notice to the most recent address the party filed with the domestic relations section.

(b) The request for a bench warrant shall be made by the domestic relations office within sixty days following the party’s failure to appear. The request shall be in the form provided by Rule 1910.13-2(b), and shall include the hearing officer or conference officer’s certification that the party has not appeared for any domestic relations matter involving the same parties since the date the party failed to appear.

(c) Upon appearance in court by a party on the matter underlying the bench warrant, the bench warrant shall be vacated forthwith and the notice shall be given to all computer networks into which the bench warrant has been entered.

(d) When a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) When an individual is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge’s designee to conduct bench warrant hearings. As used in this rule, “judicial officer” is limited to the common pleas court judge who issued the bench warrant, or common pleas court judge designated by the president judge or by the president judge’s designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) When the individual is arrested in the county of issuance, and the bench warrant hearing cannot be conducted promptly after the arrest, the individual shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the sheriff’s office and the director of the domestic relations section that the individual is being held pursuant to the bench warrant.

(4) When the individual is arrested outside the county of issuance, the authority in charge of the county jail in the arresting county promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.

(5) The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance of that bench warrant. The individual shall not be detained without a hearing on the bench warrant longer than 72 hours, or the close of the next business day if the 72 hours expires on a non-business day.

(6) At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.

(7) If a bench warrant hearing is not held within the time limits in paragraph (d)(5), the bench warrant shall expire by operation of law.

Explanatory Comment—1994

In 1988, Section 4342 of the Domestic Relations Code, 23 Pa.C.S. § 4342, was amended to require establishment of procedures for expedited contempt in support. Those procedures are set forth in new Rules 1910.13-1, 1910.13-2, and 1910.21-1 through 1910.21-7.

Former Rule 1910.13 provided for the issuance of a bench warrant for failure of a person to obey a court order other than an order for support. It is replaced with new Rule 1910.13-1 which sets forth detailed procedures for the issuance of a bench warrant, and new Rule 1910.13-2 which provides the associated forms. The new rules apply only to a party who fails to appear at a support conference or hearing as directed by an order of court.

An individual arrested pursuant to a bench warrant can be incarcerated for a period not to exceed seventy-two hours prior to hearing as set forth in new Rule 1910.13-1(d). Under the old rules, if the court was unavailable at the time of arrest, the individual could not be held. Therefore, law enforcement officials were unable to execute bench warrants in the evenings or on weekends, when their efforts were most likely to be successful. By limiting the possible period of incarceration to seventy-two hours, new Rule 1910.13-1(d) balances the need to bring parties before the court with the desire to avoid lengthy pre-hearing detention. Bail can be set by the court where appropriate, providing additional protection for the respondent.

Explanatory Comment—1999

The rules of civil procedure governing service of original process and other legal papers have used the term “competent adult.” In certain circumstances, the term has been used with the restrictive language “who is not a party to the action.”

The Supreme Court of Pennsylvania has amended Definition Rule 76 by adding the following definition: “‘competent adult’ means an individual eighteen years of age or older who is neither a party to the action nor an employee or a relative of a party.” In view of this new definition, the rules of civil procedure which used the term “competent adult who is not a party to the action” have been amended by deleting as unnecessary the restrictive language “who is not a party to the action.” These rules using the term “competent adult” will be governed by the new definition. The rules which used the term “competent adult” without the restrictive language have been amended by deleting the word “competent,” thus continuing to permit service by an adult without further restriction.

Explanatory Comment—2006

Beginning in 2006, bench warrants issued for failure to obey a court order to appear in a support matter will be available through the Judicial Network (“JNET”) system. JNET expands the capacity of law enforcement officers throughout the commonwealth to be informed of outstanding bench warrants issued by both the criminal and civil courts. The Supreme Court of Pennsylvania has promulgated new Pa.R.Crim.P. 150, effective August 1, 2006, which sets forth the procedure related to criminal bench warrants. The amendments to Rules 1910.13-1 and 1910.13-2 track the new criminal procedural rule so

that bench warrant procedures will be uniform throughout the commonwealth. For additional information see the Criminal Procedural Rules Committee's Final Report explaining new Pa.R.Crim.P. 150, published with the promulgation order at 36 Pa.B. 184 (January 14, 2006).

Source

The provisions of this Rule 1910.13-1 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7110; amended July 30, 2010, effective immediately, 40 Pa.B. 4634. Immediately preceding text appears at serial pages (324680) to (324682)

Rule 1910.13-2. Form of Request for Bench Warrant and Supporting Affidavit. Form of Bench Warrant.

(a) Request for a bench warrant pursuant to Rule 1910.13-1 shall be in substantially the following form and shall be attached to the Bench Warrant form set forth in subdivision (b) of this rule:

[CAPTION]

REQUEST FOR BENCH WARRANT AND SUPPORTING AFFIDAVIT

1.

_____ did not appear for a conference and/or hearing in the Court of Common Pleas of

_____ County on the

_____ day of

_____, 20

_____, which was scheduled by an order of court compelling this person's appearance, a copy of which is attached to this request.

2. The party received the order of court scheduling the conference and/or hearing in the following manner:

(a) The order of court (i) was served upon the party by ordinary mail with the return address of the court thereon; (ii) the mail was not returned to the court within fifteen (15) days after mailing; and (iii) at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed.

(b) The party signed a receipt indicating acceptance of the court order.

(c) An employee of the court handed a copy of the court order to the party. The employee's affidavit of service is attached.

(d) A competent adult handed a copy of the court order to the party. The adult's affidavit of service is attached.

3. This request for Bench Warrant is made within sixty days following the party's failure to appear for the conference and/or hearing; and

I have reviewed the records of the Court and the Domestic Relations Office concerning this case, and attest that the party has not appeared for any domestic relations matter involving the same parties since the date upon which the party failed to appear in violation of the attached order of court.

4. In my capacity as hearing officer or conference officer, I request that the attached Bench Warrant be issued against the party named on account of the party's failure to appear for a scheduled conference and/or hearing in violation of an order of court.

The records of the Domestic Relations Section show that:

the party owes support arrearages in the amount of \$

.

the party has failed to appear for

hearings relating to this case.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

DATE:

NAME/OFFICIAL TITLE

(b) The Bench Warrant entered by a court pursuant to Rule 1910.13-1 shall be in substantially the following form, and shall be attached to the Request for Bench Warrant form set forth in subdivision (a) of this rule:

[CAPTION]

BENCH WARRANT

AND NOW, this

day of

, 20

, the Sheriff of

County, or any constable, or police officer, or other law enforcement officer is hereby ordered to take

, residing at

, into custody for appearance before this Court.

This bench warrant is issued because it appears that the (plaintiff) (defendant) has failed to appear, after notice, before the court for a scheduled conference and/or hearing.

We command you, the arresting officer, forthwith to convey and deliver the party into the custody of the Court of Common Pleas of

County, at

,

, (address)(city) Pennsylvania, for a hearing.

DESCRIPTIVE INFORMATION

Social Security #

Sex

D.O.B.

Age

Height

Weight

Race

Eyes

Hair

Distinguishing features (scars, tattoos, facial hair, disability, etc.)

Alias

Telephone #

You are further commanded that if the court is unavailable, the party may be held in the County Jail until the court is opened for business, at which time the party shall be promptly conveyed and delivered into the custody of the court at

,

,(address)...(city) Pennsylvania, for hearing.

The authority in charge of the county jail shall notify the sheriff's office and the director of the domestic relations section forthwith that the party is being held pursuant to the bench warrant.

Under no circumstances may the party be held in the county jail of the county that issued this bench warrant for more than 72 hours or the close of the next business day if the 72 hours expires on a non-business day. See Pa.R.Crim.P 150(A)(5).

Bail in this matter shall be set as follows:

No bail.

Bail to be set in the amount of

Official Note

Standards for setting bail are set forth in Rule of Criminal Procedure 525.

BY THE COURT:

JUDGE

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of “district justice” to “magisterial district judge.” The amendments to Rule 1910.13-2 reflect the change in title.

Source

The provisions of this Rule 1910.13-2 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended May 9, 2005, effective immediately, 35 Pa.B. 2994; amended November 6, 2006, effective February 6, 2007, 36 Pa.B. 7110. Immediately preceding text appears at serial pages (311801) to (311803).

Rule 1910.14. Defendant Leaving Jurisdiction. Security.

At any stage of the proceeding, upon affidavit that the defendant is about to leave the jurisdiction, the court may issue appropriate process directing that the defendant be brought before the court at such time as the court may direct. At that time the court may direct that the defendant give security, with one or more sureties, to appear when directed by the court or to comply with any order of court.

Rule 1910.15. Paternity.

(a) *Acknowledgment of Paternity.* If the action seeks support for a child born out of wedlock and the alleged father is named as defendant, the defendant may acknowledge paternity in a verified writing. The conference officer shall advise the parties that pursuant to Section 5103(d) of Title 23 of the Pennsylvania Consolidated Statutes an acknowledgment constitutes conclusive evidence of defendant’s paternity without further judicial ratification in any action to establish support. Upon defendant’s execution of the written acknowledgment, the action shall proceed as in other actions for support.

(b) *Genetic Testing.* If the defendant appears but does not execute an acknowledgment of paternity at the

conference:

(1) The court shall enter an order directing the parties to appear for genetic testing. The order must advise the defendant that his failure to appear for the testing will result in entry of an order finding that he is the father of the child. The order must also advise the plaintiff that her failure to appear for testing may result in sanctions, including entry of an order dismissing the paternity action without prejudice.

(2) The conference officer shall advise and provide written notice to the parties that they may enter into a written stipulation whereby both agree to submit to genetic testing for the purpose of resolving finally the issue of paternity. If the test results indicate a 99% or higher probability of paternity, the defendant shall be stipulated to be the biological father of the child and the case referred for a child support conference. If the test results indicate an exclusion, the action shall be dismissed. The written stipulation constitutes a waiver of the right to a hearing on the genetic testing or trial on the issue of paternity.

(3) The conference officer shall advise and provide written notice to the parties that if they do not enter into a written stipulation and the test results do not indicate an exclusion, there will be a hearing regarding genetic testing or trial before a judge without a jury on the issue of paternity in accordance with the procedures set forth in subdivision (d) of this Rule.

(c) *Estoppel and Presumption of Paternity.* If either party or the court raises the issue of estoppel or the issue of whether the presumption of paternity is applicable, the court shall dispose promptly of the issue and may stay the order for genetic testing until the issue is resolved.

(d) *Post-Testing Procedures.*

(1) The results of the genetic tests shall be provided in writing to counsel for the parties or, if unrepresented, to the parties themselves.

(2) If the results of the genetic tests resolve the issue of paternity pursuant to the stipulation of the parties, a paternity order shall be entered and served on the parties. If the defendant is excluded, the action shall be dismissed. If the defendant is stipulated to be the biological father, the action shall proceed as in other actions for support.

(3) If the results of the genetic tests do not resolve the issue of paternity pursuant to the stipulation of the parties, but the test results indicate a 99% or more probability of paternity, the court shall issue a rule against the defendant to show cause why an order should not be entered finding him to be the father. The rule shall advise the defendant that pursuant to 23 Pa.C.S. § 4343 his defense is limited to a showing by clear and convincing evidence that the results of the genetic tests are not reliable. The rule shall direct that an answer be filed within 20 days after service of the rule on the defendant. The answer shall state the material facts which constitute this defense. Any allegation of fact which does not appear of record must be verified.

If an answer is not timely filed, the court shall enter an order finding paternity and refer the action to conference and hearing as in other actions for support. If an answer is filed raising a disputed issue of material fact relating to the reliability of the genetic testing, the case shall be listed promptly for expedited hearing before a judge. The burden of proof at the hearing is on the defendant and is limited to proof by clear and convincing evidence that the results of the genetic tests are not reliable.

(4) If the results of the genetic tests do not resolve the issue of paternity and the test results indicate less than a 99% probability of paternity, the case shall be promptly listed for expedited trial before a judge.

(5) If, after a hearing or trial, the decision is for the defendant on the issue of paternity, a final order shall be entered by the court dismissing the action as to the child. If the decision is against the defendant on the issue of paternity, an interlocutory order shall be entered by the court finding paternity. The court may enter an interim order for child support at that time and shall refer the action to conference and hearing as

in other actions for support.

(e) *Failure to Appear*. If defendant fails to appear as ordered for a conference, hearing or trial, or for genetic tests, the court shall, upon proof of service on the defendant, enter an order establishing paternity. The court may also enter an interim order for child support at that time and shall refer the action to conference and hearing as in other actions for support.

(f) *Appeal of Paternity Order*. An order establishing paternity is not an appealable order. The issue of paternity may be included in an appeal from the final order of child support.

Source

The provisions of this Rule 1910.15 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1941 and 1953; amended March 24, 1997, effective July 1, 1997, 27 Pa.B. 1549; amended May 21, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256279) to (256280).

Rule 1910.16. Support Order. Allocation.

(a) In an order awarding child support and spousal support, the court may on its own motion or upon the motion of either party

- (1) Make an unallocated award in favor of the spouse and one or more children, or
- (2) State the amount of support allocable to the spouse and the amount allocable to each child.

Official Note

See 23 Pa.C.S. § 4348(d) for additional matters which must be specified in an order of support if arrearages exist when the order is entered.

(b) An unallocated order in favor of the spouse and one or more children shall be a final order as to all claims covered in the order. No motion for post-trial relief may be filed to the final order.

Official Note

The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

Source

The provisions of this Rule 1910.16 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 1, 1989, 19 Pa.B. 4450; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1941. Immediately preceding text appears at serial page (177462).

Rule 1910.16-1. Amount of Support. Support Guidelines.

(a) *Applicability of the Support Guidelines*.

(1) Except as set forth in subdivision (2) below, the support guidelines set forth the amount of support which a spouse or parent should pay on the basis of both parties' net monthly incomes as defined in Rule 1910.16-2 and the number of persons being supported.

(2) In actions in which the plaintiff is a public body or private agency pursuant to Rule 1910.3, the

amount of the order shall be calculated under the guidelines based upon each obligor's net monthly income as defined in Rule 1910.16-2, with the public or private entity's income as zero. In such cases, each parent shall be treated as a separate obligor and a parent's obligation will be based upon his or her own monthly net income without regard to the income of the other parent.

(i) The amount of basic child support owed to other children not in placement shall be deducted from each parent's net income before calculating support for the child or children in placement, including the amount of direct support the guidelines assume will be provided by the custodial parent.

Example 1. Mother and Father have three children and do not live in the same household. Mother has primary custody of two children and net income of \$2,000 per month. Father's net monthly income is \$3,000. The parties' third child is in foster care placement. Pursuant to the schedule at Rule 1910.16-3, the basic child support amount for the two children with Mother is \$1,369. As Father's income is 60% of the parties' combined monthly net income, his basic support obligation to Mother is \$821 per month. The guidelines assume that Mother will provide \$548 per month in direct expenditures to the two children in her home. The agency/obligee brings an action against each parent for the support of the child in placement. Father/obligor's income will be \$2,179 for purposes of this calculation (\$3,000 net less \$821 in support for the children with Mother). Because the agency/obligee's income is zero, Father's support for the child in placement will be 100% of the schedule amount of basic support for one child at the \$2,179 income level, or \$520 per month. Mother/obligor's income will be \$1,452 for purposes of this calculation (\$2,000 net less \$548 in direct support to the children in her custody). Her support obligation will be 100% of the schedule amount for one child at that income level, or \$348 per month.

Example 2. Mother and Father have two children in placement. Father owes child support of \$500 per month for two children of a former marriage. At the same income levels as above, Father's income for determining his obligation to the children in placement would be \$2,500 (\$3,000 less \$500 support for two children of prior marriage). His obligation to the agency would be \$848 per month (100% of the schedule amount for two children at the \$2,500 per month income level). Mother's income would not be diminished as she owes no other child support. She would owe \$685 for the children in placement (100% of the schedule amount for two children at the \$2,000 income level).

(ii) If the parents reside in the same household, their respective obligations to the children who remain in the household and are not in placement shall be calculated according to the guidelines, with the parent having the higher income as the obligor, and that amount shall be deducted from the parents' net monthly incomes for purposes of calculating support for the child(ren) in placement.

Example 3. Mother and Father have four children, two of whom are in placement. Mother's net monthly income is \$4,000 and Father's is \$3,000. The basic support amount for the two children in the home is \$1,628, according to the schedule at Rule 1910.16-3. As Mother's income is 57% of the parties' combined net monthly incomes, her share would be \$928, and Father's 43% share would be \$700. Mother's income for purposes of calculating support for the two children in placement would be \$3,072 (\$4,000 less \$928). She would pay 100% of the basic child support at that income level, or \$1,032, for the children in placement. Father's income would be \$2,300 (\$3,000 less \$700) and his obligation to the children in placement would be \$782.

(iii) In the event that the combined amount the parents are required to pay exceeds the cost of placement, the trier of fact shall deviate to reduce each parent's obligation in proportion to his or her share of the combined obligation.

(3) The support of a spouse or child is a priority obligation so that a party is expected to meet this obligation by adjusting his or her other expenditures.

(b) *Amount of Support.* The amount of support (child support, spousal support or alimony pendente lite) to be awarded pursuant to the procedures under Rules 1910.11 and 1910.12 shall be determined in accordance with the support guidelines which consist of the guidelines expressed as the child support schedule set forth in Rule 1910.16-3, the formula set forth in Rule 1910.16-4 and the operation of the guidelines as set forth in these rules.

(c) *Spousal Support and Alimony Pendente Lite.*

(1) Orders for spousal support and alimony pendente lite shall not be in effect simultaneously.

(2) In determining the duration of an award for spousal support or alimony *pendente lite*, the trier of fact shall consider the duration of the marriage from the date of marriage to the date of final separation.

(d) *Rebuttable Presumption.* If it has been determined that there is an obligation to pay support, there shall be a rebuttable presumption that the amount of the award determined from the guidelines is the correct amount of support to be awarded. The support guidelines are a rebuttable presumption and must be applied taking into consideration the special needs and obligations of the parties. The trier of fact must consider the factors set forth in Rule 1910.16-5. The presumption shall be rebutted if the trier of fact makes a written finding, or a specific finding on the record, that an award in the amount determined from the guidelines would be unjust or inappropriate.

(e) *Guidelines Review.* The guidelines shall be reviewed at least once every four years to insure that application results in the determination of appropriate amounts of support.

Explanatory Comment—2010

Introduction. Pennsylvania law requires that child and spousal support be awarded pursuant to a statewide guideline. 23 Pa.C.S. § 4322(a). That statute further provides that the guideline shall be “established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly.” *Id.*

Pursuant to federal law, The Family Support Act of 1988 (P. L. 100-485, 102 Stat. 2343 (1988)), all states are required to have statewide child support guidelines. Federal regulations, 45 CFR 302.56, further require that the guidelines be reviewed at least once every four years and that such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited. The Pennsylvania statute also requires a review of the support guidelines every four years. 23 Pa.C.S.A. § 4322(a).

The Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania began the mandated review process in early 2007. The committee was assisted in its work by Jane Venohr, Ph.D., an economist with the Center for Policy Research, under contract between the Pennsylvania Department of Public Welfare and Policy Studies, Inc. As a result of the review, the committee recommended to the Supreme Court several amendments to the statewide guidelines.

A. Income Shares Model. Pennsylvania’s child support guidelines are based upon the Income Shares Model. That model was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The Guidelines Project Advisory Group recommended the Income Shares Model for state guidelines. At present, 37 states use the Income Shares Model as a basis for their child support guidelines.

The Income Shares Model is based upon the concept that the child of separated, divorced or never-married parents should receive the same proportion of parental income that she or he would have received if the parents lived together. A number of authoritative economic studies provide estimates of the average

amount of household expenditures for children in intact households. These studies show that the proportion of household spending devoted to children is directly related to the level of household income and to the number of the children. The basic support amounts reflected in the schedule in Rule 1910.16-3 represent average marginal expenditures on children for food, housing, transportation, clothing and other miscellaneous items that are needed by children and provided by their parents, including the first \$250 of unreimbursed medical expenses incurred annually per child.

1. *Economic Measures.* The support schedule in Rule 1910.16-3 is based upon child-rearing expenditures measured by David M. Betson, Ph.D., Professor of Economics, University of Notre Dame. Dr. Betson's measurements were developed for the U.S. Department of Health and Human Services for the explicit purpose of assisting states with the development and revision of child support guidelines. Dr. Betson's research also was used in developing the prior schedule, effective in January 2006. Dr. Betson updates his estimates using data from the Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics. In the current schedule, those figures were converted to 2008 price levels using the Consumer Price Index.

2. *Source of Data.* The estimates used to develop the schedule are based upon national data. The specific sources of the data are the periodic Consumer Expenditure Surveys. Those national surveys are used because they are the most detailed available source of data on household expenditures. The depth and quality of this information is simply not available at the state level and would be prohibitively costly to gather.

The U. S. Department of Agriculture's Center for Nutrition Policy and Promotion ("CNPP") also develops economic estimates for the major categories of child-rearing expenditures. Although the committee reviewed these estimates, it is aware of only one state that relies upon the CNPP estimates as a basis for its child support schedule, and even that state makes certain adjustments.

B. *Statutory Considerations.* The Pennsylvania statute, 23 Pa.C.S.A. § 4322(a), provides:

Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

1. *Reasonable Needs and Reasonable Ability to Provide Support.* The guidelines make financial support of a child a primary obligation and assume that parties with similar net incomes will have similar reasonable and necessary expenses. After the basic needs of the parents have been met, the child's needs shall receive priority. The guidelines assume that if the obligor's net income is at the poverty level, he or she is barely able to provide for his or her own basic needs. In those cases, therefore, the entry of a minimal order may be appropriate after considering the party's living expenses. In some cases, it may not be appropriate to enter a support order at all. In most cases, however, a party's living expenses are not relevant in determining his or her support obligation. Rather, as the statute requires, the obligation is based upon the reasonable needs of a dependent spouse or child and the reasonable ability of the obligor to pay.

2. *Net Income.* The guidelines use the net incomes of the parties. Each parent is required to contribute a share of the child's reasonable needs in proportion to that parent's share of the combined net income. The custodial parent makes these contributions through direct expenditures for food, shelter, clothing, transportation and other reasonable needs. The non-custodial parent makes contributions through periodic support payments to the custodial parent. Rule 1910.16-2(d) has been amended to clarify the provisions

relating to income and earning capacity.

3. *Allowable Deviations.* The guidelines are designed to treat similarly situated parents, spouses and children in the same manner. However, when there are unavoidable differences, deviations must be made from the guidelines. Failure to deviate from these guidelines by considering a party's actual expenditures where there are special needs and special circumstances constitutes a misapplication of the guidelines.

C. *Child Support Schedule.* The child support schedule in Rule 1910.16-3 has been amended to reflect updated economic data, as required by federal and state law, to ensure that children continue to receive adequate levels of support. The support amounts in the schedule have been expanded to apply to a combined net monthly income of \$30,000 and remain statistically valid. The economic data support the revised schedule.

D. *Self-Support Reserve ("SSR").* The amended schedule also incorporates an increase in the "Self-Support Reserve" or "SSR" from \$748 per month to \$867 per month, the 2008 federal poverty level for one person. Formerly designated as the "Computed Allowance Minimum" or "CAM," the Self-Support Reserve, as it is termed in most other states' guidelines, is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor's net income from falling below \$867 per month. Because the schedule in Rule 1910.16-3 applies to child support only, Rule 1910.16-2(e)(1)(B) provides for a similar adjustment in spousal support and alimony pendente lite cases to assure that the obligor retains a minimum of \$867 per month.

E. *Shared Custody.* In creating the new schedule, the amounts of basic child support were first increased to reflect updated economic data, including 2008 price levels. Next, the amounts of basic child support were adjusted to incorporate into the schedule the assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. That does not mean that the entire schedule was reduced by 30%. Only those variable expenditures, such as food and entertainment, that fluctuate based upon parenting time were adjusted.

The calculation in Rule 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The revised schedule assumes that the obligor has 30% parenting time. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method may still result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation which may reduce the obligation so that the obligee does not receive a larger portion of the parties' combined income than the obligor.

F. *Child Care Expenses.* Rule 1910.16-6(a) was amended in 2006 to provide that child care expenses incurred by both parties shall be apportioned between the parties in recognition of the fact that a non-custodial parent also may incur such expenses during his or her custodial periods with the children.

G. *Spousal Support and Alimony Pendente Lite.* Subdivision (c) has been amended to require the court to consider the duration of the marriage in determining the duration of a spousal support or alimony pendente lite award. The language was moved from Rule 1910.16-5 which deals with deviation. The primary purpose of this provision is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

H. *Other Amendments.* All of the examples in the guidelines have been updated to reflect the changes to the basic child support schedule. Prior explanatory comments have been deleted or revised and incorporated into new comments.

The schedule of basic child support has been updated to reflect newer economic data. The schedule was prepared by Jane Venohr, Ph.D., the economist who assisted in the last guideline review using the same methodology. It includes an increase in the Self-Support Reserve to \$931 per month, the 2012 federal poverty level for one person.

Source

The provisions of this Rule 1910.16-1 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000; effective immediately, 30 Pa.B. 5837; amended August 20, 2003, effective immediately, 33 Pa.B. 4435; amended September 27, 2005, effective 4 months from date of this order, 35 Pa.B. 5643; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272. Immediately preceding text appears at serial pages (360276) to (360278), (347827) to (347828) and (364535) to (364536).

Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

(a) *Monthly Gross Income.* Monthly gross income is ordinarily based upon at least a six-month average of all of a party's income. The term "income" is defined by the support law, 23 Pa.C.S.A. § 4302, and includes income from any source. The statute lists many types of income including, but not limited to:

- (1) wages, salaries, bonuses, fees and commissions;
- (2) net income from business or dealings in property;
- (3) interest, rents, royalties, and dividends;
- (4) pensions and all forms of retirement;
- (5) income from an interest in an estate or trust;
- (6) Social Security disability benefits, Social Security retirement benefits, temporary and permanent disability benefits, workers' compensation and unemployment compensation;
- (7) alimony if, in the discretion of the trier of fact, inclusion of part or all of it is appropriate; and

Official Note

Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if the obligor is paying \$1,000 per month in alimony for the express purpose of financing obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

- (8) other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards and verdicts; and any form of payment due to and collectible by an individual regardless of source.

Official Note

The trial court has discretion to determine the most appropriate method for imputing lump-sum awards as income for purposes of establishing or modifying the party's support obligation. These awards may be

annualized or they may be averaged over a shorter or longer period of time depending on the circumstances of the case. They may also be escrowed in an amount sufficient to secure the support obligation during that period of time.

Income tax refunds should not be included as income to the extent they were already factored into the party's actual tax obligation for purposes of arriving at his or her net income.

(b) *Treatment of Public Assistance, SSI Benefits, Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement and Foster Care Payments.*

(1) *Public Assistance and SSI Benefits.* Neither public assistance nor Supplemental Security Income (SSI) benefits shall be counted as income for purposes of determining support.

(2) *Social Security Derivative Benefits for a Child.*

(A) This subdivision (A) shall be applied if a child for whom support is sought is receiving Social Security derivative benefits as a result of either parent's retirement or disability.

(i) If a child for whom support is sought is receiving Social Security benefits as a result of a parent's retirement or disability, the amount of the benefit shall be added to the income of the party receiving the benefit on behalf of the child to calculate child support. Next, apportion the amount of basic child support set forth in the schedule in Rule 1910.16-3 between the parties based upon each party's percentage share of their combined net monthly income, including the child's benefit in the income of the party receiving it.

(ii) If the child's benefit is being paid to the obligee, the amount of the child's benefit shall be deducted from the basic support obligation of the party whose retirement or disability created the child's benefit. If the child's benefit is being paid to the obligor, the child's benefit shall not be deducted from the obligor's obligation, even if the obligor's retirement or disability created the child's benefit. In cases of equally shared custody, first determine which party has the higher income without the benefit, and thus is the obligor, before adding the child's benefit to the income of the party receiving it.

(iii) In cases in which the obligor is receiving the child's benefits, the domestic relations sections shall provide the parties with two calculations theoretically assigning the benefit to each household.

(iv) In allocating additional expenses pursuant to Rule 1910.16-6, the allocation shall be based upon the parties' incomes before the addition of the child's benefit to the income of the party receiving it.

(B) This subdivision (B) shall be applied when determining the support obligation of a surviving parent when the child for whom support is sought is receiving Social Security derivative benefits as a result of the other parent's death. The income of a non-parent obligee who is caring for a child but has no support obligation to that child shall include only those funds the obligee is receiving on behalf of the child, including the Social Security derivative benefits if they are being paid to the obligee. If the benefits are being paid to the surviving parent, the amount of the benefit shall be added to that parent's income to calculate child support.

(3) *Foster Care Payments.* If either party to a support action is a foster parent and/or is receiving payments from a public or private agency for the care of a child who is not his or her biological or adoptive child, those payments shall not be included in the income of the foster parent or other caretaker for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive child.

Example 1. The obligor has net monthly income of \$2,000. The obligee's net monthly income is \$1,500 and the obligee, as primary custodial parent of the parties' two children, receives \$700 per month in Social Security derivative benefits on behalf of the children as a result of the obligor's disability. Add the children's benefit to the obligee's income, which now is \$2,200 per month. At the parties' combined net

monthly income of \$4,200, the amount of basic child support for two children is \$1,272. As the obligor's income is 48% of the parties' combined monthly net income, the obligor's preliminary share of the basic support obligation is \$611. However, because the obligor's disability created the children's Social Security derivative benefits that the obligee is receiving, the obligor's obligation is reduced by the amount of the benefit, \$700. As the amount cannot be less than zero, the obligor's obligation is \$0 per month. If it were the obligee's disability that created the benefit, the obligor's obligation would remain \$611. If the obligor were receiving the children's benefit as a result of the obligor's retirement or disability, the obligor's income would include the amount of the benefit and total \$2,700, or 64% of the parties' combined net monthly income. The obligor's share of the basic support obligation would then be \$814 and would not be reduced by the amount of the children's benefit because the obligor, not the obligee, is receiving the benefit. Therefore, the obligor's obligation is less if the obligee is receiving the benefit created by the obligor.

Example 2. Two children live with Grandmother who receives \$800 per month in Social Security death benefits for the children as a result of their father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$1,500 net per month. For purposes of calculating Mother's support obligation, Grandmother's income will be \$1300, the amount she receives on behalf of the children in Social Security derivative benefits and income from the trust. (If Mother were receiving the benefit on behalf of the children it would be added to her income such that Mother's income would be \$2,300 and Grandmother's would be \$500.) Therefore, the obligee's and Grandmother's combined net monthly incomes total \$2,800. The basic support amount at the \$2,800 income level for two children is \$948. Subtracting from that amount the \$800 in Social Security derivative benefits Grandmother receives for the children, results in a basic support amount of \$148. As Mother's income of \$1,500 is 54% of the parties' combined income of \$2,800, her support obligation to Grandmother is \$80 per month. If Grandmother were not receiving the children's derivative benefits or income from the trust, her income for purposes of calculating Mother's child support obligation would be zero and Mother would pay 100% of the basic support amount because Grandmother has no support obligation to the children.

Official Note

Care must be taken to distinguish Social Security from Supplemental Security Income (SSI) benefits. Social Security benefits are income pursuant to subdivision (a) of this rule.

(c) *Monthly Net Income.*

(1) Unless otherwise provided in these rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

- (A) federal, state, and local income taxes;
- (B) unemployment compensation taxes and Local Services Taxes (LST);
- (C) F.I.C.A. payments (Social Security, Medicare and Self-Employment taxes) and non-voluntary retirement payments;
- (D) mandatory union dues; and
- (E) alimony paid to the other party.

(2) In computing a spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's monthly net income all of his or her child support obligations and any amounts of spousal support, alimony pendente lite or alimony being paid to former spouses.

(d) *Reduced or Fluctuating Income.*

(1) *Voluntary Reduction of Income.* When either party voluntarily assumes a lower paying job, quits a job, leaves employment, changes occupations or changes employment status to pursue an education, or is fired for cause, there generally will be no effect on the support obligation.

(2) *Involuntary Reduction of, and Fluctuations in, Income.* No adjustments in support payments will be made for normal fluctuations in earnings. However, appropriate adjustments will be made for substantial continuing involuntary decreases in income, including but not limited to the result of illness, lay-off, termination, job elimination or some other employment situation over which the party has no control unless the trier of fact finds that such a reduction in income was willfully undertaken in an attempt to avoid or reduce the support obligation.

(3) *Seasonal Employees.* Support orders for seasonal employees, such as construction workers, shall ordinarily be based upon a yearly average.

(4) *Earning Capacity.* If the trier of fact determines that a party to a support action has willfully failed to obtain or maintain appropriate employment, the trier of fact may impute to that party an income equal to the party's earning capacity. Age, education, training, health, work experience, earnings history and child care responsibilities are factors which shall be considered in determining earning capacity. In order for an earning capacity to be assessed, the trier of fact must state the reasons for the assessment in writing or on the record. Generally, the trier of fact should not impute an earning capacity that is greater than the amount the party would earn from one full-time position. Determination of what constitutes a reasonable work regimen depends upon all relevant circumstances including the choice of jobs available within a particular occupation, working hours, working conditions and whether a party has exerted substantial good faith efforts to find employment.

(e) *Net Income Affecting Application of the Support Guidelines.*

(1) *Low Income Cases.*

(A) When the obligor's monthly net income and corresponding number of children fall into the shaded area of the schedule set forth in Rule 1910.16-3, the basic child support obligation shall first be calculated using the obligor's income only. For example, where the obligor has monthly net income of \$1,100, the presumptive amount of support for three children is \$156 per month. This amount is determined directly from the schedule in Rule 1910.16-3. Next, calculate the obligor's child support obligation as in any other case, using both parties' monthly net incomes. The lower of the two calculations shall be the obligor's basic child support obligation.

Example: The parties have two children. The obligor has net monthly income of \$1,500, which falls into the shaded area of the schedule for two children. Using only the obligor's income, the amount of support for two children would be \$518. Next, calculate support using both parties' incomes. The obligee has net monthly income of \$2,500 so the combined net monthly income of the parties is \$4,000. The basic child support amount at that income level for two children is \$1,240. As the obligor's income is 38% of the combined net monthly income of the parties, the obligor's share of the basic support amount is \$471. As the amount of support the obligor would pay using the obligor's income alone is more than the amount calculated using both parties' incomes, the lower amount would be awarded. Thus, the obligor's basic child support obligation is \$471.

(B) In computing a basic spousal support or alimony pendente lite obligation, the presumptive amount of support shall not reduce the obligor's net income below the Self-Support Reserve of \$931 per month. For example, if the obligor earns \$1,000 per month and the obligee earns \$300 per month, the formula in Part IV of Rule 1910.16-4 would result in a support obligation of \$280 per month. Since this amount leaves the obligor with only \$720 per month, it must be adjusted so that the obligor retains at least \$931 per month. The presumptive minimum amount of spousal support, therefore, is \$69 per month in this case.

(C) When the obligor's monthly net income is \$931 or less, the court may award support only after consideration of the parties' actual financial resources and living expenses.

(2) *High Income Cases.* When the parties' combined net income exceeds \$30,000 per month, calculation of child support, spousal support and alimony pendente lite shall be pursuant to Rule 1910.16-3.1.

(f) *Dependency Tax Exemption.* In order to maximize the total income available to the parties and children, the court may, as justice and fairness require, award the federal child dependency tax exemption to the non-custodial parent, or to either parent in cases of equally shared custody, and order the other party to execute the waiver required by the Internal Revenue Code, 26 U.S.C.A. § 152(e). The tax consequences resulting from an award of the child dependency exemption must be considered in calculating each party's income available for support.

Explanatory Comment—2010

Subdivision (a) addresses gross income for purposes of calculating the support obligation by reference to the statutory definition at 23 Pa.C.S.A. § 4322. Subdivision (b) provides for the treatment of public assistance, SSI benefits, Social Security derivative benefits and foster care payments.

Subdivision (c) sets forth the exclusive list of the deductions that may be taken from gross income in arriving at a party's net income. When the cost of health insurance premiums is treated as an additional expense subject to allocation between the parties under Rule 1910.16-6, it is not deductible from gross income. However, part or all of the cost of health insurance premiums may be deducted from the obligor's gross income pursuant to Rule 1910.16-6(b) in cases in which the obligor is paying the premiums and the obligee has no income or minimal income. Subdivision (c) relates to awards of spousal support or alimony pendente lite when there are multiple families. In these cases, a party's net income must be reduced to account for his or her child support obligations, as well as any pre-existing spousal support, alimony pendente lite or alimony obligations being paid to former spouses who are not the subject of the support action.

Subdivision (d) has been amended to clarify the distinction between voluntary and involuntary changes in income and the imputing of earning capacity. Statutory provisions at 23 Pa.C.S.A. § 4322, as well as case law, are clear that a support obligation is based upon the ability of a party to pay, and that the concept of an earning capacity is intended to reflect a realistic, rather than a theoretical, ability to pay support. Amendments to subdivision (d) are intended to clarify when imposition of an earning capacity is appropriate.

Subdivision (e) has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve ("SSR"). The schedule now applies to all cases in which the parties' combined net monthly income is \$30,000 or less. The upper income limit of the prior schedule was only \$20,000. The amount of support at each income level of the schedule also has changed, so the examples in Rule 1910.16-2 were revised to be consistent with the new support amounts.

The SSR is intended to assure that obligors with low incomes retain sufficient income to meet their basic needs and to maintain the incentive to continue employment. When the obligor's net monthly income or earning capacity falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in Rule 1910.16-3. There is no need to use the formula in Rule 1910.16-4 to calculate the obligor's support obligation because the SSR keeps the amount of the obligation the same regardless of the obligee's income. The obligee's income may be a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to Rule 1910.16-5 and in considering whether to require the obligor to contribute to any additional expenses under Rule 1910.16-6.

Since the schedule in Rule 1910.16-3 sets forth basic child support only, subdivision (e)(1)(B) is necessary to reflect the operation of the SSR in spousal support and alimony pendente lite cases. It adjusts

the basic guideline obligation, which would otherwise be calculated under the formula in Rule 1910.16-4, so that the obligor's income does not fall below the SSR amount in these cases.

Previously, the SSR required that the obligor retain at least \$748 per month. The SSR now requires that the obligor retain income of at least \$867 per month, an amount equal to the 2008 federal poverty level for one person. When the obligor's monthly net income is less than \$867, subsection (e)(1)(C) provides that the court must consider the parties' actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs. In these cases, therefore, entry of a minimal order may be appropriate. In some cases, it may not be appropriate to order support at all.

The schedule at Rule 1910.16-3 sets forth the presumptive amount of basic child support to be awarded. If the circumstances warrant, the court may deviate from that amount under Rule 1910.16-5 and may also consider a party's contribution to additional expenses, which are typically added to the basic amount of support under Rule 1910.16-6. If, for example, the obligor earns only \$900 per month but is living with his or her parents, or has remarried and is living with a fully-employed spouse, the court may consider an upward deviation under Rule 1910.16-5(b)(3) and/or may order the party to contribute to the additional expenses under Rule 1910.16-6. Consistent with the goals of the SSR, however, the court should ensure that the overall support obligation leaves the obligor with sufficient income to meet basic personal needs and to maintain the incentive to continue working so that support can be paid.

Subdivision (e) also has been amended to eliminate the application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), in high income child support cases. In cases in which the parties' combined net monthly income exceeds \$30,000, child support will be calculated in accordance with the three-step process in new rule 1910.16-3.1(a).

Explanatory Comment—2013

The SSR has been increased to \$931, the 2012 federal poverty level for one person. Subdivision (e) has been amended to require that when the obligor's income falls into the shaded area of the basic child support schedule in Rule 1910.16-3, two calculations must be performed. One calculation uses only the obligor's income and the other is a regular calculation using both parties' incomes, awarding the lower amount to the obligee. The two step process is intended to address those cases in which the obligor has minimal income and the obligee's income is substantially greater.

Explanatory Comment—2015

The rule has been amended to provide that a party's support obligation will be reduced by the amount of a child's Social Security derivative benefit if that party's retirement or disability created the benefit and the benefit is being paid to the household in which the child primarily resides or the obligee in cases of equally shared custody. In most cases, payment of the benefit to the obligee's household will increase the resources available to the child and the parties. The rule is intended to encourage parties to direct that the child's benefits be paid to the obligee.

Source

The provisions of this Rule 1910.16-2 adopted September 29, 1989, effective September 30, 1989, 19 Pa.B. 4151; rescinded and replaced January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended September 27, 2005, effective four months from date of this order, 35 Pa.B. 5643; amended January 5, 2010, effective immediately, 40 Pa.B. 413; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended August 26, 2011, effective September 30, 2011, 41 Pa.B. 4849; amended November 5, 2012, effective December 5, 2012, 42 Pa.B. 7091; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272; amended April 29, 2015,

effective July 1, 2015, 45 Pa.B. 2352. Immediately preceding text appears at serial pages (366485) to (366491).

Rule 1910.16-3. Support Guidelines. Basic Child Support Schedule.

The following schedule sets forth the amounts spent on children in intact families by combined income and number of children. Combined income is on the vertical axis of the schedule and number of children is on the horizontal axis of the schedule. This schedule is used to find the basic child support obligation. Unless otherwise provided in these rules, the obligor’s share of the basic support obligation shall be computed using the formula set forth in Part I of Rule 1910.16-4.

<i>Monthly Basic Child Support Schedule</i>						
<i>Combined Adjusted Net Income</i>	<i>One Child</i>	<i>Two Children</i>	<i>Three Children</i>	<i>Four Children</i>	<i>Five Children</i>	<i>Six Children</i>
950	17	17	18	18	18	18
1000	62	63	64	64	65	66
1050	107	108	110	111	112	113
1100	152	154	156	157	159	161
1150	197	199	202	204	206	208
1200	242	245	248	250	253	256
1250	287	290	294	297	300	303
1300	313	336	340	343	347	351
1350	324	381	386	390	394	398
1400	336	427	432	436	441	446
1450	348	472	478	483	488	493
1500	360	518	524	529	535	541
1550	371	537	570	576	582	588
1600	383	554	616	622	629	636
1650	395	571	662	669	676	683
1700	406	587	690	715	723	731
1750	418	604	708	762	770	778
1800	429	620	727	808	817	826
1850	440	636	746	833	864	873
1900	452	652	765	854	911	921
1950	463	669	784	875	958	968
2000	474	685	803	897	986	1016
2050	486	701	821	918	1009	1063
2100	497	717	840	939	1032	1111
2150	509	733	859	960	1056	1147
2200	520	750	878	981	1079	1173
2250	531	766	897	1002	1102	1198
2300	543	782	916	1023	1125	1223

2350	554	798	934	1044	1148	1248
2400	565	815	953	1065	1171	1273
2450	577	831	973	1086	1195	1299
2500	588	848	992	1108	1219	1325
2550	600	865	1012	1130	1243	1352
2600	612	881	1032	1152	1268	1378
2650	623	898	1051	1174	1292	1404
2700	635	915	1071	1196	1316	1430
2750	646	931	1091	1218	1340	1457
2800	658	948	1110	1240	1364	1483
2850	669	965	1130	1262	1388	1509
2900	681	981	1150	1284	1412	1535
2950	692	998	1169	1306	1437	1562
3000	704	1015	1189	1328	1461	1588
3050	716	1032	1209	1350	1485	1614
3100	727	1048	1228	1372	1509	1640
3150	738	1065	1247	1393	1532	1666
3200	747	1077	1261	1408	1549	1684
3250	756	1089	1274	1423	1565	1701
3300	765	1101	1287	1438	1582	1719
3350	774	1113	1300	1453	1598	1737
3400	783	1125	1314	1468	1614	1755
3450	792	1137	1327	1482	1631	1772
3500	801	1149	1340	1497	1647	1790
3550	809	1161	1354	1512	1663	1808
3600	818	1173	1367	1527	1680	1826
3650	826	1184	1379	1540	1694	1841
3700	831	1192	1388	1551	1706	1854
3750	836	1200	1398	1562	1718	1867
3800	842	1208	1408	1572	1729	1880
3850	847	1216	1417	1583	1741	1893
3900	853	1224	1427	1594	1753	1906
3950	858	1232	1436	1604	1765	1918
4000	863	1240	1446	1615	1777	1931
4050	869	1248	1456	1626	1788	1944
4100	874	1256	1465	1637	1800	1957
4150	880	1264	1474	1647	1812	1969
4200	886	1272	1483	1657	1823	1981
4250	892	1280	1492	1667	1834	1993
4300	898	1288	1502	1677	1845	2005

4350	903	1296	1511	1687	1856	2018
4400	909	1304	1520	1697	1867	2030
4450	915	1312	1529	1708	1878	2042
4500	921	1320	1538	1718	1889	2054
4550	927	1328	1547	1728	1901	2066
4600	933	1336	1555	1737	1911	2078
4650	936	1340	1559	1742	1916	2083
4700	939	1344	1563	1746	1921	2088
4750	943	1348	1567	1750	1925	2093
4800	946	1352	1571	1754	1930	2098
4850	949	1356	1575	1759	1935	2103
4900	953	1360	1578	1763	1939	2108
4950	956	1364	1582	1767	1944	2113
5000	960	1369	1586	1772	1949	2118
5050	963	1373	1590	1776	1953	2123
5100	967	1378	1595	1781	1960	2130
5150	971	1384	1602	1789	1968	2139
5200	976	1390	1608	1797	1976	2148
5250	980	1396	1615	1804	1985	2157
5300	984	1402	1622	1812	1993	2167
5350	989	1408	1629	1820	2002	2176
5400	993	1414	1636	1827	2010	2185
5450	997	1420	1643	1835	2018	2194
5500	1002	1426	1650	1843	2027	2203
5550	1006	1432	1656	1850	2035	2212
5600	1011	1438	1663	1858	2044	2222
5650	1015	1444	1670	1866	2052	2231
5700	1019	1450	1677	1873	2061	2240
5750	1024	1456	1684	1881	2069	2249
5800	1028	1462	1691	1889	2077	2258
5850	1033	1469	1698	1897	2087	2268
5900	1038	1476	1706	1906	2096	2278
5950	1043	1483	1714	1914	2105	2289
6000	1048	1490	1721	1923	2115	2299
6050	1053	1497	1729	1931	2124	2309
6100	1058	1504	1736	1940	2134	2319
6150	1063	1511	1744	1948	2143	2329
6200	1069	1517	1752	1957	2152	2340
6250	1074	1524	1759	1965	2162	2350
6300	1079	1531	1767	1974	2171	2360

6350	1084	1538	1775	1982	2181	2370
6400	1089	1545	1782	1991	2190	2380
6450	1094	1552	1790	1999	2199	2391
6500	1099	1559	1798	2008	2209	2401
6550	1104	1566	1805	2017	2218	2411
6600	1109	1573	1813	2026	2228	2422
6650	1114	1580	1821	2034	2238	2433
6700	1119	1587	1829	2043	2248	2443
6750	1123	1593	1837	2052	2257	2454
6800	1128	1600	1845	2061	2267	2465
6850	1133	1607	1853	2070	2277	2475
6900	1138	1614	1861	2079	2287	2486
6950	1143	1621	1869	2088	2297	2497
7000	1148	1628	1877	2097	2306	2507
7050	1153	1635	1885	2106	2316	2518
7100	1158	1642	1893	2115	2326	2528
7150	1162	1649	1901	2124	2336	2539
7200	1167	1655	1909	2132	2346	2550
7250	1172	1662	1917	2141	2356	2560
7300	1177	1669	1924	2150	2365	2570
7350	1182	1676	1932	2158	2374	2580
7400	1187	1682	1939	2166	2383	2590
7450	1191	1689	1946	2174	2392	2600
7500	1196	1695	1954	2182	2401	2609
7550	1201	1702	1961	2191	2410	2619
7600	1206	1708	1968	2199	2419	2629
7650	1210	1715	1976	2207	2428	2639
7700	1215	1722	1983	2215	2437	2649
7750	1220	1728	1990	2223	2446	2658
7800	1225	1735	1998	2231	2455	2668
7850	1230	1741	2005	2240	2464	2678
7900	1234	1748	2012	2248	2473	2688
7950	1239	1754	2020	2256	2482	2697
8000	1244	1761	2027	2264	2491	2707
8050	1249	1768	2034	2272	2500	2717
8100	1254	1774	2042	2281	2509	2727
8150	1258	1781	2049	2289	2518	2737
8200	1263	1787	2056	2297	2527	2746
8250	1268	1794	2064	2306	2536	2757
8300	1273	1801	2072	2315	2546	2768

8350	1278	1808	2081	2324	2556	2779
8400	1283	1815	2089	2333	2567	2790
8450	1287	1822	2097	2343	2577	2801
8500	1292	1829	2105	2352	2587	2812
8550	1297	1836	2114	2361	2597	2823
8600	1302	1843	2122	2370	2607	2834
8650	1307	1850	2130	2379	2617	2845
8700	1312	1857	2138	2389	2628	2856
8750	1317	1864	2147	2398	2638	2867
8800	1321	1871	2155	2407	2648	2878
8850	1326	1878	2163	2416	2658	2889
8900	1331	1885	2172	2426	2668	2900
8950	1336	1892	2180	2435	2678	2911
9000	1341	1899	2188	2444	2688	2922
9050	1346	1906	2196	2453	2699	2933
9100	1350	1913	2205	2463	2709	2944
9150	1355	1920	2213	2472	2719	2956
9200	1360	1927	2220	2480	2728	2966
9250	1362	1930	2224	2485	2733	2971
9300	1365	1934	2228	2489	2738	2976
9350	1367	1937	2232	2493	2742	2981
9400	1370	1940	2236	2497	2747	2986
9450	1372	1944	2239	2501	2752	2991
9500	1375	1947	2243	2506	2756	2996
9550	1377	1951	2247	2510	2761	3001
9600	1380	1954	2251	2514	2766	3006
9650	1382	1958	2255	2518	2770	3011
9700	1385	1961	2258	2523	2775	3016
9750	1387	1964	2262	2527	2780	3021
9800	1389	1968	2266	2531	2784	3027
9850	1392	1971	2270	2535	2789	3032
9900	1394	1975	2274	2540	2794	3037
9950	1397	1978	2277	2544	2798	3042
10000	1399	1981	2281	2548	2803	3047
10050	1402	1985	2285	2552	2808	3052
10100	1404	1988	2289	2557	2812	3057
10150	1407	1992	2293	2561	2817	3062
10200	1410	1997	2298	2567	2824	3070
10250	1415	2002	2304	2574	2831	3078
10300	1419	2008	2310	2581	2839	3086

10350	1423	2013	2316	2587	2846	3094
10400	1427	2019	2323	2594	2854	3102
10450	1431	2024	2329	2601	2861	3110
10500	1435	2030	2335	2608	2869	3118
10550	1439	2035	2341	2615	2876	3126
10600	1443	2041	2347	2621	2884	3134
10650	1447	2046	2353	2628	2891	3143
10700	1451	2052	2359	2635	2898	3151
10750	1456	2057	2365	2642	2906	3159
10800	1460	2063	2371	2649	2913	3167
10850	1464	2068	2377	2655	2921	3175
10900	1468	2074	2383	2662	2928	3183
10950	1472	2079	2389	2669	2936	3191
11000	1476	2085	2395	2676	2943	3199
11050	1480	2090	2402	2683	2951	3207
11100	1484	2096	2408	2689	2958	3216
11150	1488	2101	2414	2696	2966	3224
11200	1492	2107	2420	2703	2973	3232
11250	1496	2112	2426	2710	2981	3240
11300	1501	2118	2432	2716	2988	3248
11350	1505	2123	2438	2723	2996	3256
11400	1509	2130	2445	2731	3004	3265
11450	1514	2136	2452	2739	3013	3275
11500	1518	2142	2460	2747	3022	3285
11550	1523	2149	2467	2756	3031	3295
11600	1527	2155	2474	2764	3040	3305
11650	1532	2162	2482	2772	3049	3315
11700	1536	2168	2489	2780	3058	3324
11750	1541	2174	2496	2788	3067	3334
11800	1545	2181	2504	2797	3076	3344
11850	1550	2187	2511	2805	3085	3354
11900	1554	2194	2519	2813	3094	3364
11950	1559	2200	2526	2821	3104	3374
12000	1563	2206	2533	2830	3113	3383
12050	1568	2213	2541	2838	3122	3393
12100	1572	2219	2548	2846	3131	3403
12150	1577	2226	2555	2854	3140	3413
12200	1581	2232	2563	2863	3149	3423
12250	1586	2238	2570	2871	3158	3433
12300	1591	2245	2577	2879	3167	3442

12350	1595	2251	2585	2887	3176	3452
12400	1600	2258	2592	2895	3185	3462
12450	1604	2264	2600	2904	3194	3472
12500	1609	2271	2607	2912	3203	3482
12550	1613	2277	2614	2920	3212	3492
12600	1618	2283	2622	2928	3221	3501
12650	1622	2290	2629	2937	3230	3511
12700	1627	2296	2636	2945	3239	3521
12750	1631	2303	2644	2953	3248	3531
12800	1636	2309	2651	2961	3257	3541
12850	1640	2315	2658	2969	3266	3551
12900	1645	2322	2666	2978	3275	3560
12950	1649	2328	2673	2986	3285	3570
13000	1654	2335	2681	2994	3294	3580
13050	1658	2341	2688	3002	3303	3590
13100	1663	2347	2695	3011	3312	3600
13150	1668	2354	2703	3019	3321	3610
13200	1672	2360	2710	3027	3330	3619
13250	1677	2367	2717	3035	3339	3629
13300	1681	2373	2725	3044	3348	3639
13350	1685	2378	2730	3050	3355	3646
13400	1688	2383	2735	3055	3361	3653
13450	1691	2387	2741	3061	3367	3660
13500	1695	2392	2746	3067	3374	3667
13550	1698	2397	2751	3073	3380	3674
13600	1702	2401	2756	3079	3386	3681
13650	1705	2406	2761	3084	3393	3688
13700	1708	2411	2767	3090	3399	3695
13750	1712	2415	2772	3096	3406	3702
13800	1715	2420	2777	3102	3412	3709
13850	1718	2424	2782	3108	3418	3716
13900	1722	2429	2787	3113	3425	3723
13950	1725	2434	2793	3119	3431	3730
14000	1729	2438	2798	3125	3438	3737
14050	1732	2443	2803	3131	3444	3744
14100	1735	2448	2808	3137	3450	3751
14150	1739	2452	2813	3143	3457	3758
14200	1742	2457	2819	3148	3463	3764
14250	1746	2462	2824	3154	3470	3771
14300	1749	2466	2829	3160	3476	3778

14350	1752	2471	2834	3166	3482	3785
14400	1756	2476	2839	3172	3489	3792
14450	1759	2480	2845	3177	3495	3799
14500	1763	2485	2850	3183	3502	3806
14550	1766	2490	2855	3189	3508	3813
14600	1769	2494	2860	3195	3514	3820
14650	1773	2499	2865	3201	3521	3827
14700	1776	2504	2871	3206	3527	3834
14750	1779	2508	2876	3212	3533	3841
14800	1783	2513	2881	3218	3540	3848
14850	1786	2518	2886	3224	3546	3855
14900	1790	2522	2891	3230	3553	3862
14950	1793	2527	2897	3235	3559	3869
15000	1796	2532	2902	3241	3565	3876
15050	1800	2536	2907	3247	3572	3883
15100	1803	2541	2912	3253	3578	3890
15150	1807	2546	2917	3259	3585	3896
15200	1810	2550	2923	3265	3591	3903
15250	1813	2555	2928	3270	3597	3910
15300	1817	2559	2933	3276	3604	3917
15350	1820	2564	2938	3282	3610	3924
15400	1823	2569	2943	3288	3617	3931
15450	1827	2573	2949	3294	3623	3938
15500	1830	2578	2954	3299	3629	3945
15550	1834	2583	2959	3305	3636	3952
15600	1837	2587	2964	3311	3642	3959
15650	1840	2592	2969	3317	3649	3966
15700	1844	2597	2975	3323	3655	3973
15750	1847	2601	2980	3328	3661	3980
15800	1851	2606	2985	3334	3668	3987
15850	1854	2611	2990	3340	3674	3994
15900	1857	2615	2995	3346	3680	4001
15950	1861	2620	3001	3352	3687	4008
16000	1864	2625	3006	3357	3693	4015
16050	1868	2629	3011	3363	3700	4022
16100	1871	2634	3016	3369	3706	4028
16150	1874	2639	3021	3375	3712	4035
16200	1878	2643	3027	3381	3719	4042
16250	1881	2648	3032	3387	3725	4049
16300	1884	2653	3037	3392	3732	4056

16350	1888	2657	3042	3398	3738	4063
16400	1891	2662	3047	3404	3744	4070
16450	1895	2667	3053	3410	3751	4077
16500	1898	2671	3058	3416	3757	4084
16550	1901	2676	3063	3421	3764	4091
16600	1905	2681	3068	3427	3770	4098
16650	1908	2685	3073	3433	3776	4105
16700	1912	2690	3079	3439	3783	4112
16750	1915	2694	3084	3445	3789	4119
16800	1918	2699	3089	3450	3795	4126
16850	1922	2704	3094	3456	3802	4133
16900	1925	2708	3099	3462	3808	4140
16950	1928	2713	3105	3468	3815	4147
17000	1932	2718	3110	3474	3821	4153
17050	1935	2722	3115	3480	3827	4160
17100	1939	2727	3120	3485	3834	4167
17150	1942	2732	3125	3491	3840	4174
17200	1945	2736	3131	3497	3847	4181
17250	1949	2741	3136	3503	3853	4188
17300	1952	2746	3141	3509	3859	4195
17350	1956	2750	3146	3514	3866	4202
17400	1959	2755	3151	3520	3872	4209
17450	1962	2760	3157	3526	3879	4216
17500	1966	2764	3162	3532	3885	4223
17550	1969	2769	3167	3538	3891	4230
17600	1973	2774	3172	3543	3898	4237
17650	1976	2778	3177	3549	3904	4244
17700	1979	2783	3183	3555	3911	4251
17750	1983	2788	3188	3561	3917	4258
17800	1986	2792	3193	3567	3923	4265
17850	1989	2797	3198	3572	3930	4272
17900	1993	2802	3203	3578	3936	4279
17950	1996	2806	3209	3584	3942	4285
18000	2000	2811	3214	3590	3949	4292
18050	2003	2816	3219	3596	3955	4299
18100	2006	2820	3224	3602	3962	4306
18150	2010	2825	3229	3607	3968	4313
18200	2013	2829	3235	3613	3974	4320
18250	2017	2834	3240	3619	3981	4327
18300	2020	2839	3245	3625	3987	4334

18350	2023	2843	3250	3631	3994	4341
18400	2027	2848	3255	3636	4000	4348
18450	2030	2853	3261	3642	4006	4355
18500	2033	2857	3266	3648	4013	4362
18550	2037	2862	3271	3654	4019	4369
18600	2040	2867	3276	3660	4026	4376
18650	2044	2871	3281	3665	4032	4383
18700	2047	2876	3287	3671	4038	4390
18750	2050	2881	3292	3677	4045	4397
18800	2054	2885	3297	3683	4051	4404
18850	2057	2890	3302	3689	4058	4411
18900	2061	2895	3307	3694	4064	4417
18950	2064	2899	3313	3700	4070	4424
19000	2067	2904	3318	3706	4077	4431
19050	2071	2909	3323	3712	4083	4438
19100	2074	2913	3328	3718	4089	4445
19150	2078	2918	3333	3724	4096	4452
19200	2081	2923	3339	3729	4102	4459
19250	2084	2927	3344	3735	4109	4466
19300	2088	2932	3349	3741	4115	4473
19350	2091	2937	3354	3747	4121	4480
19400	2094	2941	3360	3753	4128	4487
19450	2098	2946	3365	3758	4134	4494
19500	2101	2951	3370	3764	4141	4501
19550	2105	2955	3375	3770	4147	4508
19600	2108	2960	3380	3776	4153	4515
19650	2111	2964	3386	3782	4160	4522
19700	2115	2969	3391	3787	4166	4529
19750	2118	2974	3396	3793	4173	4536
19800	2122	2978	3401	3799	4179	4543
19850	2125	2983	3406	3805	4185	4549
19900	2128	2988	3412	3811	4192	4556
19950	2132	2992	3417	3816	4198	4563
20000	2135	2997	3422	3822	4205	4570
20050	2138	3002	3427	3828	4211	4577
20100	2142	3006	3432	3834	4217	4584
20150	2145	3011	3438	3840	4224	4591
20200	2149	3016	3443	3846	4230	4598
20250	2152	3020	3448	3851	4236	4605
20300	2155	3025	3453	3857	4243	4612

20350	2159	3030	3458	3863	4249	4619
20400	2162	3034	3464	3869	4256	4626
20450	2166	3039	3469	3875	4262	4633
20500	2169	3044	3474	3880	4268	4640
20550	2172	3048	3479	3886	4275	4647
20600	2176	3053	3484	3892	4281	4654
20650	2179	3058	3490	3898	4288	4661
20700	2183	3062	3495	3904	4294	4668
20750	2186	3067	3500	3909	4300	4675
20800	2189	3072	3505	3915	4307	4681
20850	2193	3076	3510	3921	4313	4688
20900	2196	3081	3516	3927	4320	4695
20950	2199	3086	3521	3933	4326	4702
21000	2203	3090	3526	3938	4332	4709
21050	2206	3095	3531	3944	4339	4716
21100	2210	3099	3536	3950	4345	4723
21150	2213	3104	3542	3956	4352	4730
21200	2216	3109	3547	3962	4358	4737
21250	2220	3113	3552	3968	4364	4744
21300	2223	3118	3557	3973	4371	4751
21350	2227	3123	3562	3979	4377	4758
21400	2230	3127	3568	3985	4383	4765
21450	2233	3132	3573	3991	4390	4772
21500	2237	3137	3578	3997	4396	4779
21550	2240	3141	3583	4002	4403	4786
21600	2243	3146	3588	4008	4409	4793
21650	2247	3150	3593	4013	4415	4799
21700	2250	3155	3597	4017	4419	4804
21750	2253	3159	3601	4022	4424	4809
21800	2257	3163	3605	4026	4428	4814
21850	2260	3167	3609	4030	4433	4819
21900	2263	3171	3613	4034	4438	4824
21950	2267	3175	3618	4039	4442	4829
22000	2270	3179	3622	4043	4447	4834
22050	2273	3183	3626	4047	4452	4839
22100	2277	3187	3630	4051	4456	4844
22150	2280	3191	3634	4055	4461	4849
22200	2283	3196	3638	4060	4466	4854
22250	2287	3200	3642	4064	4470	4859
22300	2290	3204	3646	4068	4475	4864

22350	2293	3208	3650	4072	4480	4869
22400	2297	3212	3654	4077	4484	4874
22450	2300	3216	3659	4081	4489	4879
22500	2303	3220	3663	4085	4493	4884
22550	2307	3224	3667	4089	4498	4889
22600	2310	3228	3671	4093	4503	4894
22650	2313	3233	3675	4098	4507	4900
22700	2316	3237	3679	4102	4512	4905
22750	2320	3241	3683	4106	4517	4910
22800	2323	3245	3687	4110	4521	4915
22850	2326	3249	3691	4114	4526	4920
22900	2330	3253	3695	4119	4531	4925
22950	2333	3257	3700	4123	4535	4930
23000	2336	3261	3704	4127	4540	4935
23050	2340	3265	3708	4131	4544	4940
23100	2343	3269	3712	4136	4549	4945
23150	2346	3274	3716	4140	4554	4950
23200	2350	3278	3720	4144	4558	4955
23250	2353	3282	3724	4148	4563	4960
23300	2356	3286	3728	4152	4568	4965
23350	2360	3290	3732	4157	4572	4970
23400	2363	3294	3736	4161	4577	4975
23450	2366	3298	3740	4165	4582	4980
23500	2370	3302	3745	4169	4586	4985
23550	2373	3306	3749	4174	4591	4990
23600	2376	3311	3753	4178	4596	4995
23650	2380	3315	3757	4182	4600	5000
23700	2383	3319	3761	4186	4605	5005
23750	2386	3323	3765	4190	4609	5010
23800	2389	3327	3769	4195	4614	5016
23850	2393	3331	3773	4199	4619	5021
23900	2396	3335	3777	4203	4623	5026
23950	2399	3339	3781	4207	4628	5031
24000	2403	3343	3786	4212	4633	5036
24050	2406	3347	3790	4216	4637	5041
24100	2409	3352	3794	4220	4642	5046
24150	2413	3356	3798	4224	4647	5051
24200	2416	3360	3802	4228	4651	5056
24250	2419	3364	3806	4233	4656	5061
24300	2423	3368	3810	4237	4661	5066

24350	2426	3372	3814	4241	4665	5071
24400	2429	3376	3818	4245	4670	5076
24450	2433	3380	3822	4250	4674	5081
24500	2436	3384	3827	4254	4679	5086
24550	2439	3389	3831	4258	4684	5091
24600	2443	3393	3835	4262	4688	5096
24650	2446	3397	3839	4266	4693	5101
24700	2449	3401	3843	4271	4698	5106
24750	2452	3405	3847	4275	4702	5111
24800	2456	3409	3851	4279	4707	5116
24850	2459	3413	3855	4283	4712	5121
24900	2462	3417	3859	4287	4716	5127
24950	2466	3421	3863	4292	4721	5132
25000	2469	3425	3867	4296	4726	5137
25050	2472	3430	3872	4300	4730	5142
25100	2476	3434	3876	4304	4735	5147
25150	2479	3438	3880	4309	4739	5152
25200	2482	3442	3884	4313	4744	5157
25250	2486	3446	3888	4317	4749	5162
25300	2489	3450	3892	4321	4753	5167
25350	2492	3454	3896	4325	4758	5172
25400	2496	3458	3900	4330	4763	5177
25450	2499	3462	3904	4334	4767	5182
25500	2502	3467	3908	4338	4772	5187
25550	2506	3471	3913	4342	4777	5192
25600	2509	3475	3917	4347	4781	5197
25650	2512	3479	3921	4351	4786	5202
25700	2515	3483	3925	4355	4790	5207
25750	2519	3487	3929	4359	4795	5212
25800	2522	3491	3933	4363	4800	5217
25850	2525	3495	3937	4368	4804	5222
25900	2529	3499	3941	4372	4809	5227
25950	2532	3503	3945	4376	4814	5232
26000	2535	3508	3949	4380	4818	5238
26050	2539	3512	3954	4385	4823	5243
26100	2542	3516	3958	4389	4828	5248
26150	2545	3520	3962	4393	4832	5253
26200	2549	3524	3966	4397	4837	5258
26250	2552	3528	3970	4401	4842	5263
26300	2555	3532	3974	4406	4846	5268

26350	2559	3536	3978	4410	4851	5273
26400	2562	3540	3982	4414	4855	5278
26450	2565	3545	3986	4418	4860	5283
26500	2569	3549	3990	4423	4865	5288
26550	2572	3553	3994	4427	4869	5293
26600	2575	3557	3999	4431	4874	5298
26650	2579	3561	4003	4435	4879	5303
26700	2582	3565	4007	4439	4883	5308
26750	2585	3569	4011	4444	4888	5313
26800	2588	3573	4015	4448	4893	5318
26850	2592	3577	4019	4452	4897	5323
26900	2595	3581	4023	4456	4902	5328
26950	2598	3586	4027	4460	4907	5333
27000	2602	3590	4031	4465	4911	5338
27050	2605	3594	4035	4469	4916	5343
27100	2608	3598	4040	4473	4920	5349
27150	2612	3602	4044	4477	4925	5354
27200	2615	3606	4048	4482	4930	5359
27250	2618	3610	4052	4486	4934	5364
27300	2622	3614	4056	4490	4939	5369
27350	2625	3618	4060	4494	4944	5374
27400	2628	3623	4064	4498	4948	5379
27450	2632	3627	4068	4503	4953	5384
27500	2635	3631	4072	4507	4958	5389
27550	2638	3635	4076	4511	4962	5394
27600	2642	3639	4081	4515	4967	5399
27650	2645	3643	4085	4520	4972	5404
27700	2648	3647	4089	4524	4976	5409
27750	2651	3651	4093	4528	4981	5414
27800	2655	3655	4097	4532	4985	5419
27850	2658	3659	4101	4536	4990	5424
27900	2661	3664	4105	4541	4995	5429
27950	2665	3668	4109	4545	4999	5434
28000	2668	3672	4113	4549	5004	5439
28050	2671	3676	4117	4553	5009	5444
28100	2675	3680	4121	4558	5013	5449
28150	2678	3684	4126	4562	5018	5454
28200	2681	3688	4130	4566	5023	5460
28250	2685	3692	4134	4570	5027	5465
28300	2688	3696	4138	4574	5032	5470

28350	2691	3701	4142	4579	5036	5475
28400	2695	3705	4146	4583	5041	5480
28450	2698	3709	4150	4587	5046	5485
28500	2701	3713	4154	4591	5050	5490
28550	2705	3717	4158	4595	5055	5495
28600	2708	3721	4162	4600	5060	5500
28650	2711	3725	4167	4604	5064	5505
28700	2715	3729	4171	4608	5069	5510
28750	2718	3733	4175	4612	5074	5515
28800	2721	3737	4179	4617	5078	5520
28850	2724	3742	4183	4621	5083	5525
28900	2728	3746	4187	4625	5088	5530
28950	2731	3750	4191	4629	5092	5535
29000	2734	3754	4195	4633	5097	5540
29050	2738	3758	4199	4638	5101	5545
29100	2741	3762	4203	4642	5106	5550
29150	2744	3766	4207	4646	5111	5555
29200	2748	3770	4212	4650	5115	5560
29250	2751	3774	4216	4655	5120	5565
29300	2754	3779	4220	4659	5125	5571
29350	2758	3783	4224	4663	5129	5576
29400	2761	3787	4228	4667	5134	5581
29450	2764	3791	4232	4671	5139	5586
29500	2768	3795	4236	4676	5143	5591
29550	2771	3799	4240	4680	5148	5596
29600	2774	3803	4244	4684	5153	5601
29650	2778	3807	4248	4688	5157	5606
29700	2781	3811	4253	4693	5162	5611
29750	2784	3816	4257	4697	5166	5616
29800	2787	3820	4261	4701	5171	5621
29850	2791	3824	4265	4705	5176	5626
29900	2794	3828	4269	4709	5180	5631
29950	2797	3832	4273	4714	5185	5636
30000	2801	3836	4277	4718	5190	5641

Explanatory Comment—2010

The basic child support schedule has been amended to reflect updated economic data. The schedule has been expanded to include all cases in which the parties' combined net monthly income is \$30,000 or less. It also reflects an increase in the Self-Support Reserve to \$867, the 2008 poverty level for one person. The schedule was further adjusted to incorporate an assumption that the children spend 30% of the time with the obligor.

Explanatory Comment—2013

The basic child support schedule has been amended to reflect updated economic data. It also reflects an increase in the Self-Support Reserve to \$931, the 2012 poverty level for one person, which has been incorporated into the schedule.

Source

The provisions of this Rule 1910.16-3 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended October 25, 1989, effective October 25, 1989, 19 Pa.B. 4861; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended July 15, 1994, effective September 1, 1994, 24 Pa.B. 3802; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa. B. 5643; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272. Immediately preceding text appears at serial pages (364541) to (364542), (347837) to (347874) and (358519).

Rule 1910.16-3.1. Support Guidelines. High Income Cases.

(a) *Child Support Formula.* When the parties' combined monthly net income is above \$30,000, the following three-step process shall be applied to calculate the parties' respective child support obligations. The amount of support calculated pursuant to this three-step process shall in no event be less than the amount of support that would have been awarded if the parties' combined net monthly income were \$30,000. That amount shall be a presumptive minimum.

(1) First, the following formula shall be applied as a preliminary analysis in calculating the amount of basic child support to be apportioned between the parties according to their respective incomes:

One child:	\$2,801 + 8.5% of combined net income above \$30,000 per month.
Two children:	\$3,836 + 11.6% of combined net income above \$30,000 per month.
Three children:	\$4,277 + 12.6% of combined net income above \$30,000 per month.
Four children:	\$4,718 + 14.3% of combined net income above \$30,000 per month.
Five children:	\$5,190 + 15.8% of combined net income above \$30,000 per month.
Six children:	\$5,641 + 17.1% of combined net income above \$30,000 per month;

(2) And second, the trier of fact shall apply Part II and Part III of the formula at Rule 1910.16-4(a), making any applicable adjustments for substantial or shared custody pursuant to Rule 1910.16-4(c) and allocations of additional expenses pursuant to Rule 1910.16-6;

(3) Then, third, the trier of fact shall consider the factors in Rule 1910.16-5 in making a final child support award and shall make findings of fact on the record or in writing. After considering all of the factors in Rule 1910.16-5, the trier of fact may adjust the amount calculated pursuant to subdivisions (1) and (2) above upward or downward, subject to the presumptive minimum.

(b) *Spousal Support and Alimony Pendente Lite.* In cases in which the parties' combined monthly net income exceeds \$30,000, the trier of fact shall apply the formula in Part IV of Rule 1910.16-4(a) as a preliminary analysis in calculating spousal support or alimony pendente lite. In determining the amount and duration of the final spousal support or alimony pendente lite award, the trier of fact shall consider the factors in Rule 1910.16-5 and shall make findings of fact on the record or in writing.

Explanatory Comment—2010

New Rule 1910.16-3.1 is intended to bring all child support cases under the guidelines and treat similarly situated parties similarly. Thus, high income child support cases no longer will be decided pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). Economic data supports the amounts in the basic child support schedule up to combined net incomes of \$30,000 per month. Above that amount, economic data is not readily available. Thus, for cases in which the parties' combined net monthly income is above \$30,000, the formula first applies a fixed percentage to calculate the amount of support. The formula is an extrapolation of the available economic data to higher income cases. Spousal support and alimony pendente lite awards in high income cases are preliminarily calculated pursuant to the formula in Part IV of Rule 1910.16-4(a). However, in both high income child support and spousal support/alimony pendente lite cases, the trier of fact is required to consider the factors in Rule 1910.16-5 before entering a final order and to make findings of fact on the record or in writing. Pursuant to Rule 1910.11(c)(2), in all high income cases, the parties must submit an Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) to enable the trier of fact to consider the factors in Rule 1910.16-5.

Explanatory Comment—2011

The rule has been amended to clarify that the provisions of Rule 1910.16-4(c), regarding adjustments to support when the obligor has substantial or shared custody, apply in high income cases. Previously, when high income cases were decided pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), case law held that because the time and resources each parent provided to a child were factored into the *Melzer* formula, the reductions for substantial or shared parenting time did not apply to cases decided pursuant to *Melzer*. See, e.g., *Sirio v. Sirio*, 951 A.2d 1188 (Pa. Super. 2008), *Bulgarelli v. Bulgarelli*, 934 A.2d 107 (Pa. Super. 2007). As *Melzer* no longer applies to calculate support in high income cases, the prohibition against reductions for substantial or shared parenting time in such cases is no longer applicable.

Source

The provisions of this Rule 1910.16-3.1 adopted January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended August 26, 2011, effective September 30, 2011, 41 Pa.B. 4851; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272. Immediately preceding text appears at serial pages (358520) to (358521).

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

(a) The following formula shall be used to calculate the obligor's share of basic child support, either from the schedule in Rule 1910.16-3 or the formula in Rule 1910.16-3.1(a), as well as spousal support and alimony pendente lite obligations. In high income cases, Part IV shall be used as a preliminary analysis in the calculation of spousal support or alimony pendente lite obligations:

PART I. BASIC CHILD SUPPORT

	OBLIGOR	OBLIGEE
1. Total Gross Income Per Pay Period	_____	_____
	((
2. Less Deductions	_____	_____
))
3. Net Income	_____	_____
4. Conversion to Monthly Amount (if pay period is other than monthly) Include amount of child's monthly Social Security derivative benefit, if any, in the income of the party receiving it pursuant to Rule 1910.162(b)(2)(A) or (B).	_____	_____
5. Combined Total Monthly Net Income	_____	_____

- 6. BASIC CHILD SUPPORT OBLIGATION (determined from schedule at Rule 1910.16-3 based on number of children and line 5 combined monthly net income) _____
- 7. Net Income Expressed as a Percentage Share of Income (divide line 4 by line 5 and multiply by 100) _____ % _____ %
- 8. Each Party's Preliminary Monthly Share of the Basic Child Support Obligation (multiply line 6 and 7) _____
- 9. Subtract Child's Social Security Derivative Disability or Retirement Benefit from the Monthly Share of Basic Child Support of the Party whose Retirement or Disability Created the Child's Benefits if the Benefits are Paid to the Obligee _____
- 10. Each Party's Adjusted Monthly Share of the Basic Child Support Obligation (Not less than 0) _____

PART II. SUBSTANTIAL OR SHARED PHYSICAL CUSTODY ADJUSTMENT, IF APPLICABLE (See subdivision (c) of this rule)

- 11. a. Percentage of Time Obligor Spends with Children (divide number of overnights with obligor by 365 and multiply by 100) _____ %
- b. Subtract 30% (_____ %)
- c. Obligor's Adjusted Percentage Share of the Basic Monthly Support Obligation (subtract result of calculation in line 11b from line 7) _____ %
- d. Obligor's Preliminary Adjusted Share of the Basic Monthly Support Obligation (multiply line 11c and line 6) _____
- e. Further adjustment, if necessary under subdivision (c)(2) of this rule _____
- f. Obligor's Adjusted Share of the Basic Child Support Amount. _____

PART III. ADDITIONAL EXPENSES (See Rule 1910.16-6)

- 12. a. Obligor's Share of Child Care Expenses _____
- b. Obligor's Share of Health Insurance Premium (if the obligee is paying the premium) _____
- c. Less Obligees' Share of the Health Insurance Premium (if the obligor is paying the premium) (_____)
- d. Obligor's Share of Unreimbursed Medical Expenses _____
- e. Other Additional Expenses _____
- f. Total Additional Expenses _____
- 13. OBLIGOR'S TOTAL MONTHLY SUPPORT OBLIGATION (add line 10 or 11f, if applicable, and line 12f) _____

PART IV. SPOUSAL SUPPORT OR APL With Dependent Children

- 14. Obligor's Monthly Net Income (line 4) _____
- 15. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2)) (_____)
- 16. Less Obligees' Monthly Net Income (line 4) (_____)
- 17. Difference _____

18. Less Obligor's Total Monthly Child Support Obligation Without Part II Substantial or Shared Custody Adjustment (Obligor's line 10 plus line 12f)	(_____
)
19. Difference	_____
	x
20. Multiply by 30%	_____
	.30
21. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____

Without Dependent Children

22. Obligor's Monthly Net Income (line 4)	_____
23. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2))	(_____
)
24. Less Obligees Monthly Net Income (line 4)	(_____
)
25. Difference	_____
	x
26. Multiply by 40%	_____
	.40
27. PRELIMINARY AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____
28. Adjustments for Other Expenses (see Rule 1910.16-6)	_____
29. TOTAL AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL	_____

(b) *Order For More Than Six Children.* When there are more than six children who are the subject of a single order, the child support obligation shall be calculated as follows. First, determine the appropriate amount of support for six children under the guidelines. Using the same income figures, subtract the support amount for five children from the amount for six children. Multiply the difference by the number of children in excess of six and add the resulting amount to the guideline amount for six children.

(c) *Substantial or Shared Physical Custody.*

(1) When the children spend 40% or more of their time during the year with the obligor, a rebuttable presumption arises that the obligor is entitled to a reduction in the basic support obligation to reflect this time. This rebuttable presumption also applies in high income cases decided pursuant to Rule 1910.16-3.1. Except as provided in subsection (2) below, the reduction shall be calculated pursuant to the formula set forth in Part II of subdivision (a) of this rule. For purposes of this provision, the time spent with the children shall be determined by the number of overnights they spend during the year with the obligor.

Example. Where the obligor and the obligee have monthly net incomes of \$5,000 and \$2,300 respectively, their combined child support obligation is \$1,669 for two children. Using the income shares formula in Part I, the obligor's share of this obligation is 68%, or \$1,135. If the children spend 40% of their time with the obligor, the formula in Part II applies to reduce his or her percentage share of the combined support

obligation to 58%, or \$968. If the children spend 45% of their time with the obligor, his or her percentage share of the combined obligation is reduced to 53%, or \$885. If the children spend equal time with both parents, the obligor's percentage share is reduced to 48%, or \$801.

(2) Without regard to which parent initiated the support action, when the children spend equal time with both parents, the Part II formula cannot be applied unless the obligor is the parent with the higher income. In no event shall an order be entered requiring the parent with the lower income to pay basic child support to the parent with the higher income. However, nothing in this subdivision shall prevent the entry of an order requiring the parent with less income to contribute to additional expenses pursuant to Rule 1910.16-6. Pursuant to either party's initiating a support action, the trier of fact may enter an order against either party based upon the evidence presented without regard to which party initiated the action. In all cases in which the parties share custody equally and the support calculation results in the obligee receiving a larger share of the parties' combined income, then the court shall adjust the support obligation so that the combined income is allocated equally between the two households. In those cases, no spousal support or alimony pendente lite shall be awarded.

Example 1. Mother and Father have monthly net incomes of \$3,000 and \$2,700 respectively. Mother has filed for support for the parties' two children with whom they share time equally. Pursuant to the basic child support schedule at Rule 1910.16-3, the support amount for two children at their parents' combined net income level is \$1,450 per month. Mother's share is 53% of that amount, or \$769. Father's share is 47%, or \$682. Application of subdivisions a. and b. of the Part II formula results in a 20% reduction in support when each parent spends 50% of the time with the children. Because the parties share custody equally, Mother cannot be the obligee for purposes of the Part II calculation because she has the higher income of the two parents. In these circumstances, although Mother initiated the support action, she would become the obligor even if Father has not filed for support. Father cannot be an obligor in the Part II calculations nor can the amount of support Mother is obligated to pay to Father be offset by calculating Father's adjusted amount of support under Part II because a support order cannot be entered against the parent with the lesser income. Using Mother as the obligor, her adjusted percentage share of the basic support amount is 33% ($53\% - 20\% = 33\%$). Her adjusted share of the basic support amount is \$479 (33% of \$1,450). However, instead of \$479 per month, Mother's support obligation would be adjusted to \$150 per month to allocate the parties' combined income equally between the two households. This is the presumptive amount of basic support payable to Father under these circumstances.

Example 2. Where the obligor and the obligee have monthly net incomes of \$3,000 and \$2,500 respectively, their combined child support obligation for two children is \$1,426. The obligor's share of this obligation is 55%, or \$784. If the children spend equal time with both parents, the formula in Part II results in a support obligation of \$499 payable to the obligee. Since this amount gives the obligee \$2,999 of the combined income, and leaves the obligor with only \$2,501 of the combined income, the obligor's support obligation must be adjusted to \$250 to equalize the combined income between the parties' households. This is the presumptive amount of basic support payable to the obligee under these circumstances.

(d) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children. Varied Custodial Schedules.*

(1) *Divided or Split Physical Custody. When Each Party Has Primary Custody of One or More of the Children.* When calculating a child support obligation, and one or more of the children reside primarily with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Father and two of whom reside with Mother, and their net monthly incomes are \$2,500 and \$1,250 respectively, Father's child support obligation is calculated as follows. Using the schedule in Rule

1910.16-3 for two children at the parties' combined net monthly income of \$3,750, the amount of basic child support to be apportioned between the parties is \$1,200. As Father's income is 67% of the parties' combined net monthly income, Father's support obligation for the two children living with Mother is \$804. Using the schedule in Rule 1910.16-3 for one child, Mother's support obligation for the child living with Father is \$276. Subtracting \$276 from \$804 produces a net basic support amount of \$528 payable to Mother as child support.

When calculating a combined child support and spousal or alimony pendente lite obligation, and one or more children reside with each party, the court shall offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support. When one or more of the children resides with each party then, in calculating the spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(2) *Varied Custodial Schedules.* When the parties have more than one child and each child spends different amounts of partial or shared custodial time with the obligor, the trier of fact shall add the percentage of time each child spends with the obligor and divide by the number of children to determine the obligor's percentage of custodial time. If the average percentage of time the children spend with the obligor is 40% or more, the provisions of subdivision (c) above apply.

Example 1. The parties have two children and one child spends 50% of the time with the obligor and another spends 20% of the time with the obligor. Add those percentages together and divide by the number of children (50% plus 20% = 70% divided by 2 children = 35% average of the time with the obligor). Pursuant to subdivision (c), the obligor does not receive a reduction in the support order for substantial parenting time.

Example 2. The parties have three children. Two children spend 50% of the time with the obligor and third child spends 30% of the time with the obligor. Add the percentages of custodial time for all three children together and divide by the number of children (50% plus 50% plus 30% = 130% divided by three children = 43.33% average percentage of time with the obligor). Pursuant to subdivision (c), the obligor receives a reduction in the support order for substantial parenting time.

Official Note

In cases with more than one child and varied partial or shared custodial schedules, it is not appropriate to perform a separate calculation for each child and offset support amounts as that method does not consider the incremental increases in support for more than one child built into the schedule of basic child support.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support or alimony pendente lite (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony pendente lite shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony pendente lite, and awarding the net difference either to the non-custodial parent as spousal support/alimony pendente lite or to the custodial parent as child support as the circumstances warrant.

The calculation is a five-step process. First, determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the formula for spousal support without dependent children. Second, recalculate the net income of the parties assuming the payment of the spousal support. Third, determine the child support obligation of the non-custodial parent for the children who are the subjects of the support action. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 from the original support obligation determined in Step 1. Fifth, because the first

step creates additional tax liability for the recipient non-custodial parent and additional tax deductions for the payor custodial parent and the third step involves an offset of the child support owed by the non-custodial parent against the spousal support or alimony pendente lite owed by the custodial parent, only that reduced amount will be taxable. Therefore, upon application of either party, the trier of fact may consider as a deviation factor the ultimate tax effect of the calculation.

(f) *Allocation. Consequences.*

(1) An order awarding both spousal and child support may be unallocated or state the amount of support allocable to the spouse and the amount allocable to each child. Each order shall clearly state whether it is allocated or unallocated even if the amounts calculated for child and spousal support are delineated on the order. However, Part IV of the formula provided by these rules assumes that an order will be unallocated. Therefore, if the order is to be allocated, the formula set forth in this rule shall be utilized to determine the amount of support allocable to the spouse. If allocation of an order utilizing the formula would be inequitable, the court shall make an appropriate adjustment. Also, if an order is to be allocated, an adjustment shall be made to the award giving consideration to the federal income tax consequences of an allocated order as may be appropriate under the circumstances. No consideration of federal income tax consequences shall be applied if the order is unallocated or the order for the spousal support or alimony pendente lite only.

Official Note

The 2005 amendment supersedes *Diament v. Diament*, 816 A.2d 256 (Pa. Super. Ct. 2003), to the extent that it held that the tax savings from payments for the benefit of a spouse alone or from an unallocated order for the benefit of a spouse and child must be considered in determining the obligor's available net income for support purposes. Rule 1910.16-4(f)(1) states that the guidelines formula assumes that the order will be unallocated. The tax consequences of an order for a spouse alone or an unallocated order for the benefit of a spouse and child have already been built into the formula.

(2) When the parties are in higher income brackets, the income tax considerations are likely to be a more significant factor in determining an award of support. A support award for a spouse and children is taxable to the obligee while an award for the children only is not. Consequently, in certain situations an award only for the children will be more favorable to the obligee than an award to the spouse and children. In this situation, the trier of fact should utilize the guidelines which result in the greatest benefit to the obligee.

When the obligee's net income is equal to or greater than the obligor's net income, the guideline amount for spouse and children is identical to the guideline amount for children only. Therefore, in cases involving support for spouse and children, whenever the obligee's net income is equal to or greater than the obligor's net income, the guideline amount indicated shall be attributed to child support only.

(3) Unallocated charging orders for child and spousal support, or child support and alimony pendente lite, shall terminate upon the death of the payee spouse or payee ex-spouse.

(4) In the event that the obligor defaults on an unallocated order, the court shall allocate the order for collection of child support pursuant to the Internal Revenue Service income tax refund intercept program or for registration and enforcement of the order in another jurisdiction under the Uniform Interstate Family Support Act, 23 Pa.C.S.A. § 7101 et seq. The court shall provide notice of allocation to the parties.

Official Note

This provision is necessary to comply with various state and federal laws relating to the enforcement of child support. It is not intended to affect the tax consequences of an unallocated order.

Explanatory Comment—2005

Rule 1910.16-4(a) sets forth the income shares formula used to establish the support obligation. Subdivision (b) provides the method for calculating support for seven or more children as the basic support schedule in Rule 1910.16-3 sets forth the presumptive amount of support for only up to six children.

Subdivision (c) sets forth the method for calculating the presumptive amount of support in cases where the children spend 40% or more of their time during the year with the obligor. When there is equal time sharing, subsection (2) reduces the support obligation further so that the obligor does not pay more than is necessary to equalize the parties' combined income between the two households. Subsection (3) expressly excludes SSR cases from application of this rule. Since the SSR already reduces support to a minimal level, no further reduction should be given for the amount of time spent with the children.

Subdivision (d) relates to the calculation of support in divided or split custody cases. It retains the existing method for offsetting the parties' respective support obligations when one or more of the children resides with each party.

Subdivision (e) governs spousal support obligations when the custodial parent owes spousal support. It has not been amended, other than to update the example to be consistent with the new schedule at Rule 1910.16-3.

In subdivision (f), the guidelines continue to presume that the order will be unallocated for tax purposes. However, new language has been added to subsection (f)(1), and a new Note has been inserted, to clarify that an obligor's tax savings from payment of a spousal support order or an unallocated order for a spouse and child should not be considered in calculating the obligor's available net income for support purposes. Subsection (3) is intended to insure alimony tax treatment of unallocated orders pursuant to § 71 of the Internal Revenue Code. Rule 1910.19(d) provides that all spousal support and alimony pendente lite orders terminate upon the death of the payee. Termination of a charging order does not affect arrears existing at that time. Subsection (4) provides for administrative allocation of the order in two instances: 1) when the obligor defaults on the order and it becomes necessary to collect support by intercepting any income tax refunds that may be due and payable to obligor; and 2) when the obligor defaults and the order must be registered in another state under the Uniform Interstate Family Support Act (UIFSA). As the Note indicates, this administrative allocation is not intended to affect the tax consequences of the unallocated order.

Explanatory Comment—2010

The basic support schedule incorporates an assumption that the children spend 30% of the time with the obligor and that the obligor makes direct expenditures on their behalf during that time. Variable expenditures, such as food and entertainment, that fluctuate based upon parenting time, were adjusted in the schedule to build in the assumption of 30% parenting time. Upward deviation should be considered in cases in which the obligor has little or no contact with the children. However, upward deviation may not be appropriate where an obligor has infrequent overnight contact with the child, but provides meals and entertainment during daytime contact. Fluctuating expenditures should be considered rather than the extent of overnight time. Downward deviation may be appropriate when the obligor incurs substantial fluctuating expenditures during parenting time, but has infrequent overnights with the children.

The calculation in Rule 1910.16-4(c) reduces an obligor's support obligation further if the obligor spends significantly more time with the children. The obligor will receive an additional 10% reduction in the amount of support owed at 40% parenting time, increasing incrementally to a 20% reduction at 50% parenting time. This method still may result in a support obligation even if custody of the children is equally shared. In those cases, the rule provides for a maximum obligation which may reduce the obligation so that the obligee does not receive a larger portion of the parties' combined income than the obligor.

Source

The provisions of this Rule 1910.16-4 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; corrected February 5, 1999, effective April 1, 1999, 29 Pa.B. 645; amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended September 24, 2002, effective immediately, 32 Pa.B. 5044; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended July 8, 2010, effective September 6, 2010, 40 Pa.B. 4140; amended August 3, 2011, effective in 30 days, 41 Pa.B. 4531; amended August 26, 2011, effective September 30, 2011, 41 Pa.B. 4849, 4851; amended August 3, 2011, effective in 30 days, 41 Pa.B. 6766; amended January 31, 2012, effective February 28, 2012, 42 Pa.B. 930; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272; amended July 2, 2014, effective in 30 days on August 1, 2014, 44 Pa.B. 4476; amended September 25, 2014, effective in 30 days on October 25, 2014, 44 Pa.B. 6553; amended April 29, 2015, effective July 1, 2015, 45 Pa.B. 2352. Immediately preceding text appears at serial pages (366530) to (366532), (374081) to (374082), (373029) to (373030), (366537) to (366538) and (374083).

Rule 1910.16-5. Support Guidelines. Deviation.

(a) *Deviation.* If the amount of support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing or on the record, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.

Official Note

The deviation applies to the amount of the support obligation and not to the amount of income.

(b) *Factors.* In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:

- (1) unusual needs and unusual fixed obligations;
- (2) other support obligations of the parties;
- (3) other income in the household;
- (4) ages of the children;
- (5) the relative assets and liabilities of the parties;
- (6) medical expenses not covered by insurance;
- (7) standard of living of the parties and their children;
- (8) in a spousal support or alimony pendente lite case, the duration of the marriage from the date of marriage to the date of final separation; and
- (9) other relevant and appropriate factors, including the best interests of the child or children.

Explanatory Comment—2005

Rule 1910.16-5 sets forth the factors for deviation from the presumptive amount of support. Subdivision (c) and subsection (b)(8) permit the court to consider the length of the marriage in determining the amount and duration of a spousal support or alimony pendente lite award. The primary purpose of these provisions

is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

Explanatory Comment—2010

The provisions of subdivision (c), which provided that the court must consider the duration of the parties' marriage in determining the duration of an award of spousal support or alimony pendente lite, were moved to new Rule 1910.16-1(c)(2). The duration of the marriage, from the date of marriage to the date of final separation, remains a factor to consider in determining whether or not deviation from the amount of the award is warranted.

Source

The provisions of this Rule 1910.16-5 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended November 4, 1993, effective January 1, 1994, 23 Pa.B. 5527; amended July 15, 1994, effective September 1, 1994, 24 Pa.B. 3802; amended August 3, 1995, effective January 1, 1996, 25 Pa.B. 3338; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended September 24, 2003, effective immediately, 33 Pa.B. 5075; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586. Immediately preceding text appears at serial page (314456).

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. Allocation of Additional Expenses.

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

(a) *Child care expenses.* Reasonable child care expenses paid by either parent, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their net incomes and added to his and her basic support obligation. When a parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the amount actually paid by the parent receiving the subsidy.

Example. Mother has primary custody of the parties' two children and Father has partial custody. Mother's monthly net income is \$2,000 and Father's is \$3,500. At their combined income level of \$5,500, the basic monthly child support from the schedule in Rule 1910.16-3 is \$1,426 for two children. As Father's income is 64% of the parties' combined income, his share is \$913. Mother incurs child care expenses of \$400 per month and Father incurs \$100 of such expenses each month. The total amount of child care expenses, \$500, will be apportioned between the parties, with Father paying 64%, or \$320. As he is already paying \$100 for child care while the children are in his partial custody, he would pay the remaining \$220 to Mother for a total child support obligation of \$1,133 ($\$913 + \$220 = \$1,133$).

(1) Except as provided in subsection (2), the total child care expenses shall be reduced to reflect the amount of the federal child care tax credit available to the eligible parent, whether or not the credit is actually claimed by that parent, up to the maximum annual cost allowable under the Internal Revenue Code.

(2) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the eligible parent is not qualified to receive the credit.

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party and/or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, as long as a statutory duty of support is owed to the party who is paying the premium. If there is no statutory duty of support owed to the party who is paying the premium, the portion attributable to that person must be deducted from the premium as set forth in subdivision (2) below. If, prior to the entry of a divorce decree, a party's policy covers that party, a child and a spouse and the spouse has separate additional coverage not needed to cover the child and/or the other party, the cost of the spouse's insurance premium shall not be allocated between the parties. If, prior to the entry of a divorce decree, a party provides coverage for that party and a child, but not the spouse, and the spouse has separate coverage, both parties' premiums shall be allocated between the parties in proportion to their respective incomes. If, prior to the entry of a divorce decree, each spouse has his or her own health insurance that does not cover the other party, and there are no children subject to the order, the cost of both parties' premiums shall be allocated between the parties in proportion to their respective incomes. If health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of either party's household, the cost shall be allocated between the parties in proportion to their net incomes. If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers a party to whom no statutory duty of support is owed, even if that person is paying the premium as set forth in subdivision (1) above, or other persons who are not parties to the support action or children who are not the subjects of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event that evidence as to this portion is not submitted by either party, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not owed a statutory duty of support, or are not parties to, or the subject of the support action. The resulting amount is excluded from allocation.

(2.1) The actual incremental amount of the premium which provides coverage for the subjects of the support order, if submitted by either party, shall be used in determining the amount of the premium to be allocated between the parties. If not submitted by either party, then the amount of the premium shall be divided by the number of persons covered to calculate the portion of the premium that provides coverage to each person.

Example 1. If the parties are separated, but not divorced, and Husband pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total of \$80 to be excluded from allocation. Deduct this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, and spouses have a statutory duty to support one another pursuant to 23 Pa.C.S. § 4321, Wife's percentage share of the \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.

Example 2. If the parties are divorced and Father pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, the parties' child and two additional children from a previous marriage, the portion of the premium attributable to Father and the two additional children will not be allocated between the parties. Thus, using the same calculations in Example 1, the amount of the premium attributable to Father and the two other children is \$150 (\$200 premium divided

among four covered persons equals \$50 per person multiplied by three) and that amount is deducted from the total cost of the premium, leaving \$50 ($\$200 - \$150 = \50) to be allocated between the parties.

Example 3. The parties are divorced and Mother is the obligee of a child support order. Father, the obligor, pays \$200 per month toward the cost of a health insurance policy provided by his employer that covers himself and the parties' child. Mother pays \$400 per month for her employer-sponsored health insurance that covers only herself. The amount of the premium Father pays to cover the parties' child, \$100 ($\200 premium divided between two covered persons, Father and the child), will be allocated between the parties in proportion to their respective incomes. The portion of the premium that covers Father will not be allocated because the parties are no longer married and he is not owed a duty of support by Mother. The premium Mother pays to provide her own coverage will not be allocated because the parties are no longer married and she is not owed a duty of support by Father.

(3) Pursuant to 23 Pa.C.S. § 4326(a), in every support proceeding, the court must ascertain each parent's ability to provide medical support for the parties' children and the support "order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children."

(i) The obligor bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to an obligor shall be defined as an amount that does not exceed 5% of the obligor's net monthly income and, when added to the amount of basic child support plus additional expenses the obligor is ordered to pay, does not exceed 50% of the obligor's net monthly income. If the obligee is providing the coverage, the reasonable amount of the obligor's share shall be defined as an amount that does not exceed 5% of the obligor's net monthly income and, when added to the amount of basic child support plus additional expenses the obligor is ordered to pay, does not exceed 50% of the obligor's net monthly income.

(ii) Unless health care coverage for the parties' children is provided by the obligee or a third party, the court shall issue the National Medical Support Notice required by 23 Pa.C.S. § 4326(d.1) to the obligor's employer in response to notification that the obligor is employed. The notice shall direct the employer to enroll the children of the obligor who are the subject of the support proceeding if the coverage is available at a reasonable cost to the obligor. However, the notice shall direct that enrollment shall not occur earlier than 25 days from the date of the National Medical Support Notice to allow the obligor time to object. Concurrent with the issuance of the National Medical Support Notice, the court shall provide notice to the obligor setting forth the process to object to the enrollment based upon unreasonable cost, mistake of fact or availability of alternative health care coverage for the children. If there is more than one employer-provided health care coverage option, the obligor shall select the plan, subject to the obligee's right to seek a court order designating a different option.

(iii) Absent the availability of health care coverage to the obligor for the parties' children at a reasonable cost, the court shall order the obligee to provide health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to the obligee shall be defined as an amount not to exceed 5% of the obligee's net monthly income.

(iv) If health care coverage is not available to either party at a reasonable cost, the court may order the custodial parent to apply for government-sponsored coverage, such as the Children's Health Insurance Program ("CHIP"), with any co-premium or other cost apportioned between the parties in proportion to their respective net monthly incomes.

(v) Within thirty days after the entry of the support order, the party ordered to provide health care coverage shall provide written proof to the other party that medical insurance has been obtained, including insurance cards and all other materials set forth in the form order in Rule 1910.27(e). There shall be a continuing obligation to provide the other party and the court with proof of any changes in coverage.

(vi) The court shall give preference to health care coverage that is readily accessible to the child, as

defined by geographic coverage area, access to local treatment providers or other relevant factors.

Official Note

The maximum amount of any attachment for child and medical support is set forth by the federal Consumer Credit Protection Act (Public Law 90-321, Section 303(b); 15 U.S.C. § 1601 et seq.).

(4) In cases in which the obligor is paying the cost of health insurance coverage and the obligee has no income or minimal income such that the obligor will bear 90% or more of the proportional share of the cost of the health insurance premiums, the trier of fact may, as fairness requires, deduct part or all of the cost of the premiums actually paid by the obligor to provide coverage for the other party or the children from the obligor's gross income to determine net income for support purposes. If such a deduction is taken from the obligor's gross income, then the allocation of premium costs as set forth in (b)(1) above shall not be applied.

Official Note

Subdivision (b) of this rule does not apply to Medical Assistance. See 23 Pa.C.S. § 4326(l). The 2005 amendments to Rule 1910.16-6(b)(1) and (2) clarify that the portion of the insurance premium covering the party carrying the insurance cannot be allocated between the parties if there is no statutory duty of support owed to that party by the other party. See *Maier v. Maier*, 575 Pa. 181, 835 A.2d 1281 (2003) and 23 Pa.C.S. § 4321.

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. Notwithstanding the prior sentence, there shall be no apportionment of unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party. The court may direct that the obligor's share be added to his or her basic support obligation, or paid directly to the obligee or to the health care provider.

(1) For purposes of this subdivision, medical expenses are annual unreimbursed medical expenses in excess of \$250 per person. Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia. Medical expenses do not include cosmetic, chiropractic, psychiatric, psychological or other services unless specifically directed in the order of court.

Official Note

While cosmetic, chiropractic, psychiatric, psychological or other expenses are not required to be apportioned between the parties, the court may apportion such expenses that it determines to be reasonable and appropriate under the circumstances.

(2) An annual limitation may be imposed when the burden on the obligor would otherwise be excessive.

(3) Annual expenses pursuant to this subdivision (c), shall be calculated on a calendar year basis. In the year in which the initial support order is entered, or in any period in which support is being paid that is less than a full year, the \$250 threshold shall be pro-rated. Documentation of unreimbursed medical expenses that either party seeks to have allocated between the parties shall be provided to the other party not later than March 31 of the year following the calendar year in which the final bill was received by the party seeking allocation. For purposes of subsequent enforcement, unreimbursed medical bills need not be submitted to the domestic relations section prior to March 31. Allocation of unreimbursed medical expenses for which documentation is not timely provided to the other party shall be within the discretion of the court.

(4) If the trier of fact determines that out-of-network medical expenses were not obtained due to medical emergency or other compelling factors, the court may decline to assess any of such expenses against the

other party.

(5) In cases involving only spousal support or alimony pendente lite, the parties' respective net incomes for purposes of allocating unreimbursed medical expenses shall be calculated after the amount of spousal support or alimony pendente lite is deducted from the obligor's income and added to the obligee's income.

Official Note

If the trier of fact determines that the obligee acted reasonably in obtaining services which were not specifically set forth in the order of support, payment for such services may be ordered retroactively.

(d) *Private School Tuition. Summer Camp. Other Needs.* The support schedule does not take into consideration expenditures for private school tuition or other needs of a child which are not specifically addressed by the guidelines. If the court determines that one or more such needs are reasonable, the expense thereof shall be allocated between the parties in proportion to their net incomes. The obligor's share may be added to his or her basic support obligation.

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation. This rule shall not be applied after a final resolution of all outstanding economic claims. For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

Explanatory Comment—2005

Rule 1910.16-6 governs the treatment of additional expenses that warrant an adjustment to the basic support obligation.

Subdivision (a) relates to child care expenses. Subdivision (a) has been amended to require that child care expenses incurred by either party are to be allocated between the parties in proportion to their respective net incomes. Subsection (a)(1), relating to the federal child care tax credit, was amended in 2004 to reflect recent amendments to the Internal Revenue Code. 26 U.S.C.A. § 21. By referring to the tax code in general, rather than incorporating current code provisions in the rule, any further amendments will be incorporated into the support calculation. Since the tax credit may be taken only against taxes owed, it cannot be used when the eligible parent does not incur sufficient tax liability to fully realize the credit. For this reason, subsection (2) provides that no adjustment to the total child care expenses may be made if the eligible parent does not qualify to receive the credit.

Subdivision (b) addresses health insurance premiums. The cost of the premiums is generally treated as an additional expense to be allocated between the parties in proportion to their net incomes. Subsection (1) of the rule permits allocation of the entire premium, including the portion of the premium covering the party carrying the insurance, when the insurance benefits the other party and/or the children. Subsection (2) clarifies that, in calculating the amount of the health care premium to be allocated between the parties, subdivision (b)(1) requires the inclusion of that portion of the health insurance premium covering the party who is paying the premium, so long as there is a statutory duty of support owed to that party, but not the portion of the premium attributable to non-parties and children who are not the subjects of the support

order. Subsection (2) provides for proration of the premium when the health insurance covers other persons who are not subject to the support action or owed a statutory duty of support. Subdivision (b) also permits an alternative method for dealing with the cost of health insurance premiums in certain circumstances. While, in general, the cost of the premiums will be treated as an additional expense to be allocated between the parties in proportion to their net incomes, in cases in which the obligee has no income or minimal income, subsection (4) authorizes the trier of fact to reduce the obligor's gross income for support purposes by some or all of the amount of the health insurance premiums. This is to avoid the result under a prior rule in which the entire cost of health insurance would have been borne by the obligor, with no resulting reduction in the amount of support he or she would otherwise be required to pay under the support guidelines. The goal of this provision is to encourage and facilitate the maintenance of health insurance coverage for dependents by giving the obligor a financial incentive to maintain health insurance coverage.

Subdivision (c) deals with unreimbursed medical expenses. Since the first \$250 of medical expenses per year per child is built into the basic guideline amount in the child support schedule, only medical expenses in excess of \$250 per year per child are subject to allocation under this rule as an additional expense to be added to the basic support obligation. The same is true with respect to spousal support so that the obligee-spouse is expected to assume the first \$250 per year of these expenses and may seek contribution under this rule only for unreimbursed expenses which exceed \$250 per year. The definition of "medical expenses" includes insurance co-payments, deductibles and orthodontia and excludes chiropractic services.

Subdivision (d) governs apportionment of private school tuition, summer camp and other unusual needs not reflected in the basic guideline amounts of support. The rule presumes allocation in proportion to the parties' net incomes consistent with the treatment of the other additional expenses.

Subdivision (e) provides for the apportionment of mortgage expenses. It defines "mortgage" to include the real estate taxes and homeowners' insurance. While real estate taxes and homeowners' insurance must be included if the trier of fact applies the provisions of this subdivision, the inclusion of second mortgages, home equity loans and other obligations secured by the marital residence is within the discretion of the trier of fact based upon the circumstances of the case.

Explanatory Comment—2006

A new introductory sentence in Rule 1910.16-6 clarifies that additional expenses contemplated in the rule may be allocated between the parties even if the parties' respective incomes do not warrant an award of basic support. Thus, even if application of the formula at Rule 1910.16-4 results in a basic support obligation of zero, the court may enter a support order allocating between the parties any or all of the additional expenses addressed in this rule.

The amendment to subdivision (e) recognizes that the obligor may be occupying the marital residence and that, in particular circumstances, justice and fairness may warrant an adjustment in his or her support obligation.

Explanatory Comment—2008

Federal and state statutes require clarification to subdivision (b) to ensure that all court orders for support address the children's ongoing need for medical care. In those instances where the children's health care needs are paid by the state's medical assistance program, and eligibility for the Children's Health Insurance Program ("CHIP") is denied due to the minimal income of the custodial parent, the obligor remains required to enroll the parties' children in health insurance that is, or may become, available that is reasonable in cost.

Government-sponsored health care plans represent a viable alternative to the often prohibitive cost of health insurance obtainable by a parent. Except for very low income children, every child is eligible for CHIP, for which the parent with primary physical custody must apply and which is based on that parent's income. A custodial parent may apply for CHIP by telephone or on the Internet. While co-premiums or co-

pays increase as the custodial parent's income increases, such costs are generally modest and should be apportioned between the parties. Moreover, health care coverage obtained by the custodial parent generally yields more practical results, as the custodial parent resides in the geographic coverage area, enrollment cards are issued directly to the custodial parent, and claims may be submitted directly by the custodial parent.

Explanatory Comment—2010

Subdivision (e), relating to mortgages on the marital residence, has been amended to clarify that the rule cannot be applied after a final order of equitable distribution has been entered. To the extent that *Isralsky v. Isralsky*, 824 A.2d 1178 (Pa. Super. 2003), holds otherwise, it is superseded. At the time of resolution of the parties' economic claims, the former marital residence will either have been awarded to one of the parties or otherwise addressed.

Source

The provisions of this Rule 1910.16-6 adopted December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended July 30, 2003, effective immediately, 33 Pa.B. 4073; amended September 24, 2003, effective immediately, 33 Pa.B. 5075; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended October 17, 2006, effective immediately, 36 Pa.B. 6632; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736; amended December 8, 2009, effective immediately, 39 Pa.B. 7097; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended July 8, 2010, effective September 6, 2010, 40 Pa.B. 4140; amended August 26, 2011, effective September 30, 2011, 41 Pa.B. 4851; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272; amended May 14, 2014, effective in 30 days on June 13, 2014, 44 Pa.B. 3233; amended March 12, 2015, effective in 30 days on April 11, 2015, 45 Pa.B. 1842. Immediately preceding text appears at serial pages (374083) to (374084), (366541) to (366542), (372073) to (372076) and (374085).

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There are Multiple Families.

(a) When the total of the obligor's basic child support obligations equals fifty percent or less of his or her monthly net income, there will generally be no deviation from the guideline amount of support on the ground of the existence of a new family. For example, where the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse and \$1,300 for the current spouse, the request for a reduction will be denied because the total support obligation of \$1,140 (\$584 for the first child and \$556 for the second child) is less than half of the obligor's monthly net income.

(b) When the total of the obligor's basic support obligations exceeds fifty percent of his or her monthly net income, the court may consider a proportional reduction of these obligations. Since, however, the goal of the guidelines is to treat each child equitably, in no event should either a first or later family receive preference. Nor shall the court divide the guideline amount for all of the obligor's children among the households in which those children live.

Example 1. The obligor is sued for support of an out of wedlock child. The obligor is already paying support for two children of the first marriage, and has an intact second marriage with one child. The relevant monthly net incomes are \$3,800 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse and \$1,500 for the parent of the new child. The obligor's basic support obligations to each family are \$1,061 for the two children of the first marriage, \$842 for the one child of the second marriage, and

\$708 for the one child out of wedlock for a total support obligation of \$2,611. Since the total of these obligations exceeds fifty percent of the obligor's net monthly income of \$3,800 per month, the court may consider a proportional reduction of all of the orders.

Example 2. The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are \$1,600 for the obligor, \$0 for the first spouse and \$500 for the second spouse. The obligor's basic support obligations to each family are \$554 for the two children of the first marriage and \$638 for the three children of the second marriage for a total support obligation of \$1,192. Since this total obligation leaves the obligor with only \$408 on which to live, the order for the three children of the second family is too high. The obligor also must be left with a Self-Support Reserve of \$931. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders must be reduced proportionally.

Example 3. The obligor is sued to establish orders for three children born out of wedlock. The net monthly incomes for the obligor and for each obligee is \$1,500. The court would determine that the obligor's basic support obligation for each child is \$352 for a total obligation of \$1,056 for three children. It would be incorrect to determine the guideline amount for three children, in this case \$1,189, and then divide that amount among the three children.

(c) For purposes of this rule, the presumptive amount of the obligor's basic support obligation is calculated using only the basic guideline amounts of support, as determined from the formula in Rule 1910.16-4, and does not include any additional expenses that may be added to these amounts pursuant to Rule 1910.16-6. In calculating the presumptive amount of the obligor's basic support obligation, the court should ensure that the obligor retains at least \$931 per month consistent with Rule 1910.16-2(e).

Example 1. Assume that the obligor is paying \$565 per month support for one child of the first marriage, plus an additional \$200 per month for child care expenses. The obligor requests a reduction in this support obligation on the basis that there is one new child of the second intact marriage. The relevant incomes are \$2,400 for the obligor and \$0 for both the former and current spouses. The obligor's request for a reduction should be denied because the total of the basic guideline obligations for both children is only \$1,130 (\$565 for each child) and this amount does not exceed 50% of the obligor's net monthly income. No reduction should be given on the basis that the obligor's contribution to child care expenses for the first child results in an overall support obligation of \$1,330 which exceeds 50% of the obligor's net monthly income. Thus, the presumptive amount of basic support for the two children is still \$1,130 (\$565 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

Example 2. Assume that the obligor is paying \$360 per month support for one child of the first marriage. The obligor has one new child of the second intact marriage. The relevant incomes are \$1,500 for the obligor and \$0 for both the former and current spouses. No reduction should be given on the basis of the obligor's new child because the total of the basic guideline obligations for both children is only \$720 (\$360 for each child) and this amount does not exceed 50% of the obligor's net monthly income. Since, however, this amount leaves the obligor with only \$780 per month, the court should proportionally reduce the support obligations so that the obligor retains \$931 per month. Thus, the presumptive amount of basic support for the two children is \$569 (\$284.50 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

Explanatory Comment—2010

Rule 1910.16-7 has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in

the Self-Support Reserve to \$867 per month, the 2008 federal poverty level for one person. The distribution priorities formerly in subdivision (d) have been moved to Rule 1910.17(d) to clarify that these priorities apply to all support orders, not just those involving multiple families.

Explanatory Comment—2013

Rule 1910.16-7 has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve to \$931 per month, the 2012 federal poverty level for one person.

Source

The provisions of this Rule 1910.16-7 adopted December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended April 9, 2013, effective August 9, 2013, 43 Pa.B. 2272; amended September 25, 2014, effective in 30 days on October 25, 2014, 44 Pa.B. 6553. Immediately preceding text appears at serial pages (372077) to (372078) and (366549).

Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order. Priority of Distribution of Payments.

(a) An order of support shall be effective from the date of the filing of the complaint or petition for modification unless the order specifies otherwise. In a child support case, if a change in custody occurs after the date of filing, but before a domestic relations conference is held, the trier of fact shall enter a charging order going forward in favor of the primary custodian that shall be effective from the date of the change in custody. The trier of fact also may enter a retroactive arrears order in favor of the party who was the primary custodian at the time of filing. Such an order may address the period from the date of filing to the date of the change in custody. However, a modification of an existing support order may be retroactive to a date preceding the date of filing if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition.

Example: Mother has primary custody of the children and files for child support. Two months later, Father becomes the primary custodian. One month after the change in custody, a support conference is held. Father will be the obligee on a charging order that is retroactive to the date he became the primary custodian. However, an order also may be entered with Mother as the obligee for the two-month period from the date of filing to the date of the change in custody.

Official Note

The order must direct payment to be made payable to or payment to be made to the State Collection and Disbursement Unit for transmission to the obligee. See 23 Pa.C.S. § 4325.

Subdivision (a) was amended in 2005 to include the statutory provision at 23 Pa.C.S. § 4352(e) that authorizes the court to enter a modified order that is effective to a date prior to the date on which the petition for modification was filed in certain circumstances. To the effect that the holding in *Kelleher v. Bush*, 832 A.2d 483 (Pa. Super. Ct. 2003), is inconsistent, it is superseded. See 23 Pa.C.S. § 4352(e) for additional provisions.

Every order of support must contain an immediate or conditional order for the attachment of income. See Rule 1910.21.

(b) The order shall notify the obligee and the obligor that each is under a continuing obligation to inform

the domestic relations section in writing or by personal appearance and all other parties in writing within seven days of any material change in circumstances relevant to the level of support or the administration of the support order, including, but not limited to, loss or change of income or employment and change of personal address or change of address of any child receiving support. The order shall also notify the parties that if a party willfully fails to inform the domestic relations section of the required information, the court may adjudge the party to be in contempt of court pursuant to Rules 1910.25 through 1910.25-6 and may order the party to be punished by one or more of the following: jail, fine or probation.

(c) A copy of the support order shall be provided to each party to the action and to the party's attorney, if any, pursuant to Rule 440.

(d) The priorities for distribution of payments and/or collections from the obligor, without regard to the source of the funds or method of collection, are as follows:

- (1) monthly current child support.
- (2) medical, child care or other court-ordered child support-related expenses.
- (3) monthly ordered amount toward child support arrears.
- (4) monthly current spousal support or alimony pendente lite.
- (5) remaining child support arrears.
- (6) monthly ordered amount toward spousal support or alimony pendente lite arrears.
- (7) remaining spousal support or alimony pendente lite arrears.
- (8) court costs and fees.

Explanatory Comment—2010

Subdivision (d) has been moved from Rule 1910.16-7 and expanded for clarification. It addresses the priority of the distribution of payments and collections in all cases, not just those involving multiple families. However, collections realized through the interception of federal tax returns by the Internal Revenue Service are subject to federal distribution priorities. See 45 CFR 303.72(h). An unallocated order for child and spousal support has the same priority as a child support order.

Source

The provisions of this Rule 1910.17 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended November 22, 1994, effective January 1, 1995, 24 Pa.B. 6137; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended September 25, 2014, effective in 30 days on October 25, 2014, 44 Pa.B. 6553. Immediately preceding text appears at serial pages (366549) to (366551).

Rule 1910.18. Support Order. Subsequent Proceedings.

(a) Subsequent proceedings to modify or terminate a support order pursuant to Rule 1910.19 shall be brought in the court which entered the order. If the action has been transferred pursuant to Rule 1910.2 following the entry of a support order, subsequent proceedings shall be brought in the court to which the action was transferred.

(b) Subsequent proceedings to enforce an order pursuant to Rule 1910.20 may be brought in the court

which entered the support order or the court of a county to which the order has been transferred.

(c) Subdivision (a) shall not limit the right of the plaintiff to institute additional proceedings for support in any county of proper venue.

Source

The provisions of this Rule 1910.18 amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16. Immediately preceding text appears at serial page (200342).

Rule 1910.19. Support. Modification. Termination. Guidelines as Substantial Change in Circumstances. Overpayments.

(a) A petition for modification or termination of an existing support order shall specifically aver the material and substantial change in circumstances upon which the petition is based. A new guideline amount resulting from new or revised support guidelines may constitute a material and substantial change in circumstances. The existence of additional income, income sources or assets identified through automated methods or otherwise may also constitute a material and substantial change in circumstances.

(b) The procedure upon the petition shall be in accordance with Rule 1910.10 et seq. After a party has filed a petition for modification of a child support order, the petition may not be withdrawn unless both parties consent or with leave of court. A petition for modification of spousal support or alimony pendente lite may be withdrawn without the consent of the other party or leave of court.

(c) Pursuant to a petition for modification, the trier of fact may modify or terminate the existing support order in any appropriate manner based upon the evidence presented without regard to which party filed the petition for modification. If the trier of fact finds that there has been a material and substantial change in circumstances, the order may be increased or decreased depending upon the respective incomes of the parties, consistent with the support guidelines and existing law, and each party's custodial time with the child at the time the modification petition is heard.

(d) All charging orders for spousal support and alimony pendente lite shall terminate upon the death of the payee spouse.

(e) Within six months prior to the date a child who is the subject of a child support order reaches eighteen (18) years of age, the domestic relations section shall issue an emancipation inquiry and notice to the obligee, with a copy to the obligor, seeking the following information:

- (1) confirmation of the child's date of birth, date of graduation or withdrawal from high school;
- (2) whether the child has left the obligee's household and, if so, the date of departure;
- (3) the existence of any agreement between the parties requiring payments for the benefit of the child after the child has reached age eighteen (18) or graduated from high school; and
- (4) any special needs of the child which may be a basis for continuing support for that child beyond the child's eighteenth birthday or graduation from high school, whichever is last to occur.

The notice shall advise the obligee that if the inquiry is not returned within thirty (30) days of mailing or if there is no agreement or the child does not have any special needs, the charging order may be modified or terminated by the court. In order to avoid overpayment, when no other children are subjects of the child support order and the obligee either does not return the emancipation inquiry within thirty (30) days of its mailing or does not assert grounds for continuing support for the child, then the domestic relations section shall administratively terminate the child support charging order without further proceedings on the last to

occur of the date the last child reaches age eighteen (18) or graduates from high school. Termination of the charging order shall not affect any arrears accrued through the date of termination. The court shall have the authority to enter an order requiring the obligor to pay on arrears in an amount equal to the amount of the charging order until all arrears are paid.

If the order applies to another child or children and/or the obligee asserts that there is an agreement between the parties or that a child has special needs requiring continued support, then the domestic relations section may schedule a conference prior to the child's attaining age 18 or graduating from high school to determine if the charging order should be modified.

(f) Upon notice to the obligee, with a copy to the obligor, explaining the basis for the proposed modification or termination, the court may modify or terminate a charging order for support and remit any arrears, all without prejudice, when it appears to the court that:

(1) the order is no longer able to be enforced under state law; or

(2) the obligor is unable to pay, has no known income or assets and there is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

The notice shall advise the obligee to contact the domestic relations section within 60 days of the date of the mailing of the notice if the obligee wishes to contest the proposed modification or termination. If the obligee objects, the domestic relations section shall schedule a conference to provide the obligee the opportunity to contest the proposed action. If the obligee does not respond to the notice or object to the proposed action, the court shall have the authority to modify or terminate the order and remit any arrears, without prejudice.

(g) *Overpayments.*

(1) *Order in Effect.* If there is an overpayment in an amount in excess of two months of the monthly support obligation and a charging order remains in effect, after notice to the parties as set forth below, the domestic relations section shall reduce the charging order by 20% or an amount sufficient to retire the overpayment by the time the charging order is terminated. The notice shall advise the parties to contact the domestic relations section within 30 days of the date of the mailing of the notice if either or both of them wishes to contest the proposed reduction of the charging order. If either party objects, the domestic relations section shall schedule a conference to provide the objecting party the opportunity to contest the proposed action. If neither party responds to the notice or objects to the proposed action, the domestic relations section shall have the authority to reduce the charging order.

(2) *Order Terminated.* If there is an overpayment in any amount and there is no charging order in effect, within one year of the termination of the charging order, the former obligor may file a petition with the domestic relations section seeking recovery of the overpayment. A copy shall be served upon the former obligee as original process. The domestic relations section shall schedule a conference on the petition, which shall be conducted consistent with the rules governing support actions. The domestic relations section shall have the authority to enter an order against the former obligee for the amount of the overpayment in a monthly amount to be determined by the trier of fact after consideration of the former obligee's ability to pay.

Explanatory Comment—1993

Existence of Guidelines as Substantial Change in Circumstances. In its opinion in *Newman v. Newman*, 409 Pa. Super. Ct. 108, 597 A.2d 684 (Pa. Super. 1991), the Superior Court held that enactment of the guidelines does not constitute a substantial change in circumstance which could serve as the basis for modification of a support order. The amended rule allows the trier of fact to consider new or revised rules as a change in circumstances where the change in the guidelines, either by itself or in combination with other factors, is material and substantial.

Explanatory Comment—2000

The Pennsylvania Child Support Enforcement System (“PACSES”) is electronically linked to a variety of governmental and private agencies and institutions. This linkage enables PACSES to immediately locate and identify an obligor’s income, income sources and assets. Rule 1910.19 is amended to provide that their identification through these automated methods provides a basis for modifying both the current support obligation and the rate of repayment on either past due or overdue support. Identification through means other than PACSES continues to provide the same basis for modification.

While identification of income sources or assets provides a basis for modification, this rule is not intended to prevent a court from ordering that the income or assets be frozen and seized under Rule 1910.26 pending the hearing on the petition for modification. Such relief remains available under Rule 1910.26 governing appropriate interim or special relief. See Rule 1910.1 Explanatory Comment. Nor is this rule intended to affect the court’s ability to seize income or assets under Rule 1910.20 to secure an overdue support obligation.

Explanatory Comment—2002

Although support orders do not terminate automatically, many obligors are unaware of the necessity of filing a petition to terminate a child support order when the child becomes emancipated. As a result, old orders have continued to charge long after the subject child has become an adult. New subdivision (e) is intended to address this problem by giving the obligee notice of a proposed modification or termination of the order and the opportunity to object. If no objection is made, or if the obligee fails to respond with a reason to continue the order, the rule gives the court the authority to terminate or modify the charging order, depending upon whether or not other children are covered under the order.

Explanatory Comment—2006

New subdivision (f) addresses an increasing multiplicity of circumstances in which the continued existence of a court-ordered obligation of support is inconsistent with rules or law. An obligor with no known assets whose sole source of income is Supplemental Security Income or cash assistance cannot be ordered to pay support under Rule 1910.16-2. Likewise, an obligor with no verifiable income or assets whose institutionalization, incarceration or long-term disability precludes the payment of support renders the support order unenforceable and uncollectible, diminishing the perception of the court as a source of redress and relief. Often, the obligor is unable or unaware of the need to file for a modification or termination, or the parties abandon the action. In those circumstances, the courts are charged with managing dockets with no viable outcomes. Both the rules and the federal guidelines for child support under Title IV-D of the Social Security Act provide for circumstances under which a support order shall not be entered or under which a child support case may be closed. Subdivision (f) expands the authority of the courts to respond to case management issues brought about by changes in circumstances of the parties of which the courts become aware through the expansion of automated interfaces and data exchanges.

Source

The provisions of this Rule 1910.19 amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 11, 2002, effective immediately, 32 Pa.B. 5263; amended May 19, 2006, effective immediately, 36 Pa.B. 2629; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended September 19, 2011, effective October 31, 2011, 41 Pa.B. 5153; amended November 5, 2012, effective December 5, 2012, 42 Pa.B. 7091. Immediately preceding text appears at serial pages (358869) to (358872).

Rule 1910.20. Support Order. Enforcement. General.

(a) A support order shall be enforced by income withholding as required by law in the manner provided by Rule 1910.21.

(b) Upon the obligor's failure to comply with a support order, the order may also be enforced by any one or all of the following remedies:

(1) pursuant to Rule 1910.21, and without further hearing or prior notice to the obligor, increasing the amount of monthly support payments for payment of the overdue support at a rate to be determined by the court; withholding or seizing periodic or lump sum payments of income from a government agency, including unemployment compensation, social security, retirement or disability benefits and any other benefits; withholding or seizing periodic or lump sum payments of income from insurance carriers or privately-insured employers, including workers' compensation benefits; withholding or seizing judgments or settlements; and withholding or seizing public and private retirement funds in pay status;

(2) pursuant to Rule 1910.22, imposing liens on real property;

(3) pursuant to Rule 1910.23, attaching and seizing assets of the obligor held in financial institutions;

(4) pursuant to Rule 1910.24, reducing and executing a judgment against the obligor;

(5) pursuant to Rules 1910.25 through 1910.25-6, initiating contempt proceedings;

(6) reporting the amount of overdue support to consumer reporting agencies in the manner prescribed by 23 Pa.C.S. § 4303;

(7) when the obligor owes overdue support in an amount of three months or more, suspending occupational, commercial/driver's and recreational licenses in the manner prescribed by 23 Pa.C.S. § 4355.

These remedies are cumulative and not alternative.

(c) For purposes of this Rule, overdue support remains subject to the remedies set forth in subdivision (b) of this Rule until paid in full. Except as provided in 23 Pa.C.S. § 4355 for suspension of licenses, neither a repayment schedule subsequently agreed to by the parties nor an order of court establishing such a schedule precludes the use of these remedies for collecting overdue support more quickly, whenever feasible.

Source

The provisions of this Rule 1910.20 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended May 31, 2000, effective July 1, 2000, 20 Pa.B. 3155. Immediately preceding text appears at serial page (256281).

Rule 1910.21. Support Order. Enforcement. Withholding of Income.

(a) *Immediate Income Withholding.* Every order of court shall contain an immediate order for the withholding of income unless (1) there is no overdue support owing under the order and (2) either the court finds there is good cause not to require immediate income withholding or the parties agree in writing to an alternative arrangement.

(b) *Initiated Income Withholding.* If there is no immediate income withholding pursuant to subdivision (a), and nonpayment of the support order causes overdue support to accrue, the court shall enter an order for the immediate withholding of income.

(c) *Order for Withholding.* An order for income withholding must include a provision directing that no commutation or compromise and release of worker's compensation benefits, severance pay or any payment in lieu thereof shall be paid to the defendant until the order for withholding is dissolved by further order of court.

(d) *Service on Employer.*

(1) The order for income withholding shall be served upon the obligor's employer. The employer shall pay to the State Collection and Disbursement Unit the full amount set forth in the order and may deduct from the balance due the obligor an amount authorized by law for clerical work and expense involved in complying with the order. Upon termination of the obligor's employment, the employer shall notify the domestic relations section of the termination, the obligor's last known address, and the name and address of the obligor's new employer, if known.

(2) Upon willful failure to obey an order for income withholding, the employer, or an officer or employee of the employer, may be held in contempt and subject to other remedies provided by law.

Official Note

23 Pa.C.S. § 4348(k)(1) provides that contempt is punishable by jail or fine. 23 Pa.C.S. § 4348(k)(2) provides that the employer is liable for any amount which the employer willfully fails to withhold or for any amount withheld but not forwarded to the domestic relations section. 23 Pa.C.S. § 4348(k)(3) provides that the court may attach funds or property of an employer.

(e) *Notice to Obligor. Objections.* A notice of entry of an order for income withholding shall be served on the obligor. The obligor may object to the order in writing or by personal appearance before the county domestic relations section within ten days after issuance of the notice. The grounds for an objection are limited to the following mistakes of fact: (i) no overdue support exists under the order or there is a mistake in the amount of overdue support; (ii) there is a mistake in the identity of the obligor; or (iii) the amount being withheld exceeds the maximum amount which may be withheld under the federal Consumer Credit Protection Act, 15 U.S.C. § 1673. If a mistake of fact has occurred, the order shall be modified accordingly.

(f) *Income Withholding When the Obligor Defaults on Support Order.*

(1) When an obligor is subject to an order for income withholding and payment is received from the employer within 15 days from the date upon which the obligor's obligation would be considered overdue (i.e. the date upon which delinquent support is equal to one month's support obligation), the payment shall be considered timely and any past due support shall not be converted to overdue support or subject to automated enforcement mechanisms.

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. The court may also direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

(g) *Priority of Income Withholding.* If there are multiple support obligations in effect against the income of the obligor, the court shall allocate among the obligees the amount of income available for withholding, giving priority to current child support, child support-related expenses and child support arrears to the limit provided by law and stating the priority of payment to the obligee.

(h) *Termination of Order for Income Withholding.* An order for income withholding shall continue until dissolved by the court as provided by law.

Official Note

Pursuant to 23 Pa.C.S. § 4348(h), an order for income withholding may be terminated when (1) the support obligation has terminated and the total arrears are paid; (2) the payee cannot be located and it becomes impossible to forward payments; or (3) the result would be unconscionable. The order may also be terminated administratively by the domestic relations section.

Explanatory Comment—2008

New subdivision 1910.21(f)(1) is intended to address circumstances in which an employer timely withholds income from an obligor pursuant to an income withholding order, but a delay occurs in receipt of the funds by the State Collection and Disbursement Unit. In those cases, it would be inappropriate to consider the obligor's payment as untimely and convert past due support to overdue support because an obligor subject to an income withholding order has no control over the timing of the transmission of the funds from the employer. This new rule addresses solely timing issues by providing a 15-day grace period. It does not apply to obligors who are not subject to an order for income withholding.

Source

The provisions of this Rule 1910.21 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 13, 2008, effective immediately, 38 Pa.B. 4735; amended August 13, 2008, effective October 12, 2008, 35 Pa.B. 4736. Immediately preceding text appears at serial pages (319383) to (319384) and (267747).

Rule 1910.21-1. [Renumbered].

Source

The provisions of this Rule 1910.21-1 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256281) to (256283).

Rule 1910.21-2. [Renumbered].

Source

The provisions of this Rule 1910.21-2 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (200345).

Rule 1910.21-3. [Renumbered].

Source

The provisions of this Rule 1910.21-3 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (200345).

Rule 1910.21-4. [Renumbered].

Source

The provisions of this Rule 1910.21-4 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200345) to (200346).

Rule 1910.21-5. [Renumbered].

Source

The provisions of this Rule 1910.21-5 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200346) and (256973).

Rule 1910.21-6. [Renumbered].

Source

The provisions of this Rule 1910.21-6 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (256973).

Rule 1910.21-7. [Renumbered].

Source

The provisions of this Rule 1910.21-7 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (256974).

Rule 1910.22. Support Order. Enforcement. Liens Against Real Property.

(a) An overdue support obligation of this or any other state which is on record at the domestic relations section shall constitute a lien of record by operation of law against the obligor's real property located in Pennsylvania. When the overdue obligation arises in another state, it shall be transmitted to the Department of Public Welfare Central Registry. Upon receipt and verification of the amount owed, the Central Registry shall notify the appropriate domestic relations section which shall enter the amount owed in its records.

(b) A person seeking certification of a lien of record arising from overdue support owed by an obligor shall submit a written request for certification to the domestic relations section. The request must include the obligor's full name, date of birth and social security number, if known. Within two business days, the domestic relations section shall provide written certification of the amount of overdue support owed as of

the date of certification and shall enter the amount and date of certification on the docket.

Official Note

Rule 76 defines “person” as including a corporation, partnership and association as well as a natural person.

(c) The domestic relations section shall provide a copy of the written certification to the parties. Either party may object to the certification in writing or by personal appearance before the domestic relations section. The grounds for an objection are limited to the following: (1) no overdue support exists under the support order or there is a mistake in the certified amount of overdue support; (2) there is a mistake in the identity of the obligor; or (3) the lien cannot attach to the property as a matter of law. Pending a court’s disposition of the objection, the certification shall remain in full force and effect unless stayed by the court for good cause shown.

(d) Payment of the certified amount of overdue support shall constitute a satisfaction thereof and the domestic relations section shall record the amount of payment on the docket.

Source

The provisions of this Rule 1910.22 amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 26, 1990, effective immediately, 20 Pa.B. 5197; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256974) and (260381) to (260382).

Rule 1910.23. Support Order. Enforcement. Attachment of Assets Held by Financial Institutions.

(a) Upon identification of an obligor’s assets held by a financial institution, the court shall, upon certification of the overdue support owed by the obligor, enter an immediate order prohibiting the release of those assets until further order of court. The order shall be served on the financial institution in the manner prescribed by Rules 400 through 406 governing service of original process or by registered mail, return receipt requested, or by electronic service upon the request of the financial institution. Service by mail is complete upon the return of the registered mail receipt personally signed by the financial institution or other evidence of service satisfactory to the court. Service of the order on the financial institution shall attach the asset up to the amount of the overdue support until further order of court.

(b) The domestic relations section shall provide written notification of the attachment to the obligor. The obligor and any joint owner of the account who has been notified by the financial institution may object to the attachment in writing or by personal appearance before the domestic relations section within 30 days after issuance of the notice. The grounds for an objection are limited to the following: (1) no overdue support exists under the support order or there is a mistake in the certified amount of overdue support; (2) there is a mistake in the identity of the obligor; or (3) the account is not subject to attachment as a matter of law.

(c) If no objection is made within 30 days after notice was issued, the court shall, upon proof that obligor was properly served with notice of the attachment, enter an order seizing the assets up to the amount of overdue support owed. The order shall be served on the financial institution and a copy of the order provided to both parties.

Source

The provisions of this Rule 1910.23 rescinded April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended January 25, 2013, effective February 24, 2013, 43 Pa.B. 801. Immediately preceding text appears at serial pages (267749) to (267750).

Rule 1910.23-1. [Rescinded].

Source

The provisions of this Rule 1910.23-1 adopted April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (260382).

Rule 1910.23-2. [Rescinded].

Source

The provisions of this Rule 1910.23-2 adopted April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (260382) and (228795).

Rule 1910.24. Support Order. Enforcement. Judgment for Arrearages. Petition to Correct Judgment. Execution.

(a) On and after the date it is due, overdue support shall constitute a judgment against the obligor as provided by law. The prothonotary shall enter the judgment of record upon the proper docket and in the judgment index either at the direction of the court or upon praecipe of a party or the domestic relations section. The judgment must be accompanied by a written certification showing that obligor owes overdue support pursuant to an order of court.

(b) A petition to correct the judgment shall be limited to the following grounds: (1) no overdue support exists under the support order or (2) there is a mistake in the amount of overdue support. The petition initially shall be determined before a conference officer or hearing officer in the same manner as an original proceeding for support. Except as provided by order of court, the filing of a petition to correct a judgment shall not stay the proceedings.

Official Note

It is important to note that the petition to strike or open a judgment used in civil practice is not adopted here.

(c) The judgment may be enforced against the obligor's real or personal property as provided by Rules 3001 through 3011, governing transfer of judgments, and Rules 3101 through 3149, governing enforcement of judgments for the payment of money.

Official Note

See Section 8104 of the Judicial Code, 42 Pa.C.S., § 8104, which imposes a duty upon a judgment creditor who has received satisfaction of a judgment, upon written request and tender of the fee, to enter satisfaction in the office of the clerk of court (the prothonotary) in which the judgment is outstanding.

Source

The provisions of this Rule 1910.24 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (228795).

Rule 1910.25. Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required.

(a) Upon failure to comply with an order of support, a petition for civil contempt

(1) may be filed by the obligee at any time, or

(2) shall be filed by the domestic relations section

(i) immediately upon the accrual of arrearages in any amount for fifteen days where it is known at the outset that income cannot be attached; or

(ii) immediately upon learning that an order for income withholding pursuant to Rule 1910.21 has been ineffective, or within twenty days of failure to comply with the order of support, whichever is earlier.

Official Note

Except as provided in 23 Pa.C.S. § 4355 relating to suspension of licenses, an order entered pursuant to a contempt proceeding which establishes a rate of repayment on overdue support does not preclude the use of other remedies under Title 23 or these Rules for collecting overdue support more quickly, whenever feasible.

(b) The petition shall begin with an order of court in substantially the following form:

[CAPTION]

ORDER OF COURT

Legal proceedings have been brought against you alleging that you have disobeyed an order of court for support.

(1) A critical issue in the contempt proceeding is your ability to pay and comply with the terms of the support order. If you wish to defend against the claim set forth in the following pages, you may, but are not required to, file in writing with the court your defenses or objections.

(2) You,

, Respondent, must appear in person
in court on

(day and date) at

(a.m./p.m.) in (court) room

,

(address).

IF YOU DO NOT APPEAR IN PERSON,
THE COURT MAY
ISSUE A WARRANT FOR YOUR ARREST
AND YOU MAY BE COMMITTED TO JAIL.

(3) If the court finds that you have willfully failed to comply with its order for support, you may be found to be in contempt of court and committed to jail, fined or both.

You will have the opportunity to disclose income, other financial information and any relevant personal information at the conference/hearing so that the court can determine if you have the ability to pay. You may also tell the court about any unusual expenses that may affect your ability to pay. You may fill out the enclosed Income Statement and Expense Statement forms and submit them to the court.

At the conference/hearing, the contempt petition may be dismissed, new and/or modified purge conditions may be imposed, or the judge may order you to jail. If the obligee fails to appear, the court will proceed with the case and enter an appropriate order.

YOU ARE REQUIRED TO BRING:

Your most recent pay stub for any and all employers

Payroll address, phone number, fax number and contact person

Proof of medical coverage

Any other documentation relevant to your case and the issue of contempt as stated in the petition, including the completed Income Statement and Expense Statement forms. For example, other documentation that may be relevant includes documents related to claims for unemployment compensation, workers' compensation and Social Security benefits.

BY THE COURT:

DATE OF ORDER:

Judge

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Official Note

Neither Rule 1018.1 (Notice to Defend) nor Rule 1361 (Notice to Plead) apply to a petition for enforcement of support.

(c) The petition shall aver the facts alleged to constitute the failure to comply with the support order. The petition shall set forth the amount of support arrearages, if any, as provided by the domestic relations section. Unless specially ordered by the court, no answer to the petition is required.

(d) The petition shall be served upon the respondent

- (1) by ordinary mail with the return address of the domestic relations section appearing thereon; or
- (2) by any form of mail which requires the respondent to sign a receipt; or
- (3) by a competent adult; or

Official Note

See Rule 76 for the definition of “competent adult.”

(4) pursuant to special order of court. A respondent who attends the conference and/or hearing in person shall be deemed to have been served.

(e) The court may issue a bench warrant as provided by Rule 1910.13-1 for failure of the respondent to appear.

(f) The respondent shall be advised in the Order/Notice to Appear that his or her present ability to pay is a critical issue in the contempt proceeding. The respondent shall be provided with Income and Expense Statements to demonstrate financial ability to pay. At the hearing, the respondent shall be provided the opportunity to respond to any questions about his or her financial status. The trier of fact shall issue an express finding that the respondent does or does not have the present ability to pay.

Explanatory Comment—2012

The amendments to the form in subdivision (b) and new subdivision (f) are intended to assure compliance with the U.S. Supreme Court’s decision in *Turner v. Rogers*, 131 S. Ct. 2507 (2011). In that case, the Court held that counsel need not automatically be appointed for indigent support obligors facing incarceration in civil contempt proceedings. The Court held that the due process clause of the Fourteenth Amendment to the U.S. Constitution does not require that counsel be provided where the obligee is not represented by counsel and the state provides alternative procedural safeguards including adequate notice of the

importance of the ability to pay, a fair opportunity to present, and to dispute, relevant information, and express court findings as to the obligor's ability to pay.

Source

The provisions of this Rule 1910.25 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754; amended November 30, 2012, effective December 30, 2012, 42 Pa.B. 7521. Immediately preceding text appears at serial pages (303570) and (328351).

Rule 1910.25-1. Civil Contempt. Hearing by Court. Conference by Officer.

(a) After service of the petition and order of court upon the respondent, there shall be (1) an office conference conducted by a conference officer, as provided by Rule 1910.25-2, or (2) an immediate hearing by the court, if permitted by the court.

(b) If, at any time during a contempt proceeding, including proceedings under Rules 1910.25-2, 1910.25-3 and 1910.25-4, the hearing officer or conference officer determines that the failure to comply with the support order is willful and there is present ability to comply, the petition for contempt shall be heard by the court for consideration of incarceration and other appropriate sanctions.

Official Note

The determination required by subdivision (b) shall be made by a conference officer in counties adopting the procedure of Rule 1910.25-3 (conference and hearing de novo) or by a hearing officer in counties adopting the alternative procedure of Rule 1910.25-4 (record hearing and exceptions).

Courts should strive to hear these cases promptly, on the same day if possible.

Source

The provisions of this Rule 1910.25-1 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-2. Civil Contempt. Office Conference. Agreement. Alternative Procedures Upon Failure to Agree.

(a) The office conference shall be conducted by a conference officer.

(b) The conference officer may make a recommendation to the parties as to the disposition of the proceedings.

(c) If an agreement is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court. The court may enter the order in accordance with the agreement without hearing the parties.

(d) If an agreement is not reached, the procedure shall be as prescribed by Rule 1910.25-3 unless the court by local rule adopts the alternative procedure of Rule 1910.25-4.

Source

The provisions of this Rule 1910.25-2 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-3. Civil Contempt. Conference Summary. Order. Hearing De Novo.

(a) If an agreement is not reached, the conference officer shall, at the conclusion of the conference or shortly thereafter, prepare a conference summary and furnish copies to the court and to all parties. The conference summary shall state:

- (1) the facts upon which the parties agree,
- (2) the contentions of the parties with respect to facts upon which they disagree, and
- (3) the conference officer's recommendation whether
 - (i) the respondent has willfully failed to comply with the order for support,
 - (ii) the respondent should be held in contempt, and
 - (iii) sanctions or purge conditions should be imposed against the respondent.

Official Note

The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(b) The court, without hearing the parties, may enter an appropriate order after consideration of the conference summary. Each party shall be provided with a copy of the order and written notice that any party may, within twenty days after the date of receipt or the date of the mailing of the order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

(c) A demand for a hearing before the court shall stay the contempt order.

(d) If the court does not enter an order under Rule 1910.25-2(c) or subdivision (b) of this rule within five days of the conference, or if an order is entered and a demand for a hearing before the court is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The hearing de novo shall be held no later than seventy-five days after the date the petition for contempt was filed.

(e) The court shall not be precluded from conducting a hearing on the petition for contempt on the same day as the office conference.

Official Note

Every effort should be made to ensure that these cases are heard promptly, on the same day if possible.

Source

The provisions of this Rule 1910.25-3 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800. Immediately preceding text appears at serial pages (303572) and (267753).

Rule 1910.25-4. Civil Contempt. Alternative Procedure. Record Hearing. Report. Exceptions. Order.

(a) At the conclusion of the conference if an agreement has not been reached, the parties shall be given notice of the date, time, and place of a hearing if the conference and hearing have not been scheduled for the same date. The hearing on the record shall be conducted by a hearing officer who must be a lawyer.

Official Note

Every effort should be made to ensure that cases are heard promptly, on the same day if possible.

(b) The hearing officer shall receive evidence, hear argument and file with the court a report containing a proposed order. A copy of the report shall be furnished to all parties at the conclusion of the hearing. The report may be in narrative form and shall include the officer's recommendation with respect to the following matters, together with the reasons therefor:

- (1) whether the respondent has willfully failed to comply with the order for support,
- (2) whether the respondent should be held in contempt, and
- (3) whether sanctions or purge conditions should be imposed against the respondent.

Official Note

The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(c) Within twenty days after the conclusion of the hearing, any party may file exceptions to the report or any part thereof, to rulings on objections, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the order, leave is granted to file exceptions raising those matters.

(d) If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter an order.

(e) If exceptions are filed, the court shall, no later than seventy-five days after the date the petition for contempt was filed, hear argument on the exceptions or hold a hearing de novo. The court shall enter an appropriate order.

Source

The provisions of this Rule 1910.25-4 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800. Immediately preceding text appears at serial pages (267753) to (267754).

Rule 1910.25-5. Civil Contempt. Contempt Order. Incarceration.

(a) No respondent may be incarcerated as a sanction for contempt without an evidentiary hearing before a judge.

(b) The court shall make a finding, on the record, as to whether the respondent, based upon the evidence presented at hearing, does or does not have the present ability to pay the court-ordered amount of support.

(c) An order committing a respondent to jail for civil contempt of a support order shall specify the conditions the fulfillment of which will result in the release of the respondent.

Official Note

The time periods set forth in Rules 1910.25 through 1910.25-6 are for the benefit of the plaintiff, and not for the defendant. The goal is the prompt initiation of contempt proceedings because of the importance of ongoing support payments. The time periods in no way limit the right of either the domestic relations section or the plaintiff to proceed with a contempt action.

Source

The provisions of this Rule 1910.25-5 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800; amended November 30, 2012, effective December 30, 2012, 42 Pa.B. 7521. Immediately preceding text appears at serial page (328354).

Rule 1910.25-6. Civil Contempt. No Post Trial Relief.

No motions for post trial relief shall be filed to any orders entered pursuant to Rules 1910.25 through 1910.25-6.

Source

The provisions of this Rule 1910.25-6 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-7. Indirect Criminal Contempt. Incarceration.

In addition to any other remedy available to the court, the court may order the respondent to obtain employment with income that can be verified and is subject to income attachment. If the respondent willfully fails to comply with an order to obtain such employment, the court may commit the respondent to jail upon adjudication for indirect criminal contempt, provided the respondent is afforded all of the procedural safeguards available to criminal defendants.

Explanatory Comment—2007

Parental support of children is a fundamental requirement of law and public policy. Absent an inability to maintain employment or acquire other income or assets, sanction in the form of incarceration may be imposed by the court to compel compliance and provide an incentive to obey the law. The contempt process, which should be used as a last resort, is necessary to impose coercive sanctions upon those obligors whose circumstances provide no recourse to the court to compel payment or a good faith effort to comply. Appellate opinions have made it clear that an obligor who is in civil contempt cannot be incarcerated without the present ability to fulfill the conditions the court imposes for release. However, the courts also have noted that recalcitrant obligors may be imprisoned for indirect criminal contempt if afforded the proper procedural safeguards. See *Godfrey v. Godfrey*, 894 A.2d 776 (Pa. Super. 2006); *Hyle v. Hyle*, 868 A.2d 601 (Pa. Super. 2005).

Source

The provisions of this Rule 1910.25-7 adopted June 11, 2007, effective immediately, 37 Pa.B. 2800.

Rule 1910.26. Support Order. Enforcement. Stay of Proceedings. Special Relief.

(a) An action for support or a support order may be stayed only by a special order of court upon a showing of compelling circumstances following notice and hearing or upon agreement of the parties in writing.

(b) At any time after the filing of the complaint, the court may on application issue a preliminary or special injunction, appoint a temporary receiver, order the seizure of property, dispose of seized property or grant other appropriate interim or special relief.

Source

The provisions of this Rule 1910.26 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (228795) to (228806).

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.

(a) The complaint in an action for support shall be substantially in the following form:

(Caption)

COMPLAINT FOR SUPPORT

1. Plaintiff resides at

,
(Street) (City) (Zip Code)

County. Plaintiff's Social Security Number is

, and date of birth is

.

2. Defendant resides at

,
(Street) (City) (Zip Code)

County. Defendant's Social Security Number is

, and date of birth is

.

3. (a) Plaintiff and Defendant were married on

, (Date)

at

,
(City and State)

(b) Plaintiff and Defendant were separated on

,
(Date)

(c) Plaintiff and Defendant were divorced on

, at (Date)

,
(City and State)

4. Plaintiff and Defendant are the parents of the following children:

(a) Born of the Marriage:

Name Birth Date Age Residence

(b) Born out of Wedlock:

Name Birth Date Age Residence

5. Plaintiff seeks to pay support or receive support for the following persons:

.

6. (a) Plaintiff is (not) receiving public assistance in the amount of \$

per

for the support of

(Name(s))

(b) Plaintiff is receiving additional income in the amount of \$

from

.

7. A previous support order was entered against the plaintiff
 defendant on

in an action at

in
(Court, term and docket number)
the amount of \$

for the support of

(Name)

There are (no) arrearages in the amount of \$

The order has (not) been terminated.

8. Plaintiff Defendant last received support from the other party in the amount of \$

on

(Date)

WHEREFORE, Plaintiff requests that an order be entered on behalf of the aforementioned child(ren) and/or spouse for reasonable support and medical coverage.

Date Plaintiff or Attorney for Plaintiff

I verify that the statements made in this Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date Plaintiff

NOTICE

Guidelines for child and spousal support, and for alimony pendente lite have been prepared by the Court of Common Pleas and are available for inspection in the office of Domestic Relations Section,

(Address)

(b) The order to be attached at the front of the complaint set forth in subdivision (a) shall be in substantially the following form:

(Caption)

ORDER OF COURT

Plaintiff,

and

, defendant, are ordered to appear at

before

, a conference officer of the Domestic Relations Section, on the

_____ day of

_____, 20

_____, at

_____.M., for a conference, after which the officer may recommend that an order for support be entered against you.

NOTICE

Guidelines for child and spousal support, and for alimony pendente lite have been prepared by the Court of Common Pleas and are available for inspection in the office of Domestic Relations Section,

(Address)

(b) The order to be attached at the front of the complaint set forth in subdivision (a) shall be in substantially the following form:

(Caption)

ORDER OF COURT

Plaintiff,

_____ and

_____, defendant, are ordered to appear at

_____ before

_____, a conference officer of the Domestic Relations Section, on the

_____ day of

_____, 20

_____, at

_____.M., for a conference, after which the officer may recommend that an order for support be entered against you.

You are further ordered to bring to the conference

- (1) a true copy of your most recent Federal Income Tax Return, including W-2s, as filed,
- (2) your pay stubs for the preceding six months,
- (3) the Income Statement and the appropriate Expense Statement, if required, attached to this order, completed as required by Rule 1910.11(c),
- (4) verification of child care expenses, and
- (5) proof of medical coverage which you may have, or may have available to you.

If you fail to appear for the conference or to bring the required documents, the court may issue a warrant for your arrest and/or enter an interim support order. If paternity is an issue, the court shall enter an order establishing paternity.

(6) If a physician has determined that a medical condition affects your ability to earn income you must obtain a Physician Verification Form from the domestic relations section, sign it, have it completed by your doctor, and bring it with you to the conference.

THE TRIER OF FACT SHALL ENTER AN APPROPRIATE CHILD SUPPORT ORDER BASED UPON THE EVIDENCE

PRESENTED, WITHOUT REGARD TO WHICH PARTY INITIATED THE SUPPORT ACTION. THE DETERMINATION OF WHICH PARTY WILL BE THE OBLIGEE AND WHICH WILL BE THE OBLIGOR WILL BE MADE BY THE TRIER OF FACT BASED UPON THE RESPECTIVE INCOMES OF THE PARTIES, CONSISTENT WITH THE SUPPORT GUIDELINES AND EXISTING LAW, AND THE CUSTODIAL ARRANGEMENTS AT THE TIME OF THE INITIAL OR SUBSEQUENT CONFERENCE, HEARING, OR TRIAL. IF SUPPORTED BY THE EVIDENCE, THE PARTY NAMED AS THE DEFENDANT IN THE INITIAL PLEADING MAY BE DEEMED TO BE THE OBLIGEE, EVEN IF THAT PARTY DID NOT FILE A COMPLAINT FOR SUPPORT.

Date of Order:

J.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of

County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

(c) The Income and Expense Statements to be attached to the order shall be in substantially the following form:

(1) *Income Statement*. This form must be filled out in all cases.

v.

No.

THIS FORM MUST BE FILLED OUT

(If you are self-employed or if you are salaried by a business of which you are owner in whole or in part, you must also fill out the Supplemental Income Statement which appears below.)

INCOME STATEMENT OF

(Name)

(PACASES Number)

I verify that the statements made in this Income Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date:

Plaintiff or Defendant

INCOME

Employer: _____

Address: _____

Type of Work: _____

Payroll Number: _____

Pay Period (weekly, biweekly, etc); _____

Gross Pay per Pay Period: \$ _____

Itemized Payroll Deductions:

Federal Withholding \$ _____

FICA _____

Local Wage Tax _____

State Income Tax _____

Mandatory Retirement _____

Union Dues _____

Health Insurance _____

Other (specify) _____

Net Pay per Pay Period: \$ _____

Other Income:

	Week	Month	Year
	(Fill in Appropriate Column)		
	\$	\$	\$
Interest	_____	_____	_____
Dividends	_____	_____	_____
Pension Distributions	_____	_____	_____
Annuity	_____	_____	_____
Social Security	_____	_____	_____
Rents	_____	_____	_____
Royalties	_____	_____	_____
Unemployment Comp.	_____	_____	_____
Workers Comp.	_____	_____	_____

Employer Fringe Benefits	_____	_____	_____
Other	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Total	\$ _____	\$ _____	\$ _____
TOTAL INCOME		\$ _____	

PROPERTY OWNED

	Description	Value	Ownership*		
			H	W	J
Checking accounts	_____	\$ _____	_____	_____	_____
Savings accounts	_____	_____	_____	_____	_____
Credit Union	_____	_____	_____	_____	_____
Stocks/bonds	_____	_____	_____	_____	_____
Real estate	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____
		_____	_____	_____	_____
Total		\$ _____			

INSURANCE

	Company	Policy No.	Coverage*		
			H	W	C
Hospital					
Blue Cross	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____
Medical					
Blue Shield	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____
Health/Accident	_____	_____	_____	_____	_____
Disability Income	_____	_____	_____	_____	_____
Dental	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____

*H=Husband; W=Wife; J=Joint; C=Child

SUPPLEMENTAL INCOME STATEMENT

(a) This form is to be filled out by a person (check one):

(1) who operates a business or practices a profession, or

(2) who is a member of a partnership or joint venture, or

(3) who is a shareholder in and is salaried by a closed corporation or similar entity.

(b) Attach to this statement a copy of the following documents relating to the partnership, joint venture, business, profession, corporation or similar entity:

(1) the most recent Federal Income Tax Return, and

(2) the most recent Profit and Loss Statement.

(c) Name of business:

Address and
Telephone Number:

(d) Nature of business (check one)

(1) partnership

(2) joint venture

(3) profession

(4) closed corporation

(5) other

(e) Name of accountant, controller or other person in charge of financial records:

(f) Annual income from business:

(1) How often is income received?

(2) Gross income per pay period:

(3) Net income per pay period:

(4) Specified deductions, if any:

(2) *Expense Statements.* An Expense Statement is not required in cases which can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. (See Rule 1910.11(c)(1)). Child support is calculated under the guidelines based upon the net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) below shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In child support, spousal support and alimony pendente lite cases calculated pursuant to Rule 1910.16-3.1 and in divorce cases involving claims for alimony or counsel fees, costs and expenses pursuant to Rule 1920.31(a), the parties must complete the Expense Statement in subparagraph (B) below.

(A) *Guidelines Expense Statement.* If the combined monthly net income of the parties is \$30,000 or less,

it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. At the conference, each party must provide receipts or other verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

EXPENSE STATEMENT OF

(Name) (PACSES Number)

I verify that the statements made in this Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date:

Plaintiff or Defendant

	Weekly	Monthly	Yearly
	(Fill in Appropriate Column)		
	\$	\$	\$
Mortgage (including real estate taxes and homeowner's insurance) or Rent	_____	_____	_____
Health Insurance Premiums	_____	_____	_____
Unreimbursed Medical Expenses:			
Doctor	_____	_____	_____
Dentist	_____	_____	_____
Orthodontist	_____	_____	_____
Hospital	_____	_____	_____
Medicine	_____	_____	_____
Special Needs (glasses, braces, orthopedic devices, therapy)	_____	_____	_____
Child Care	_____	_____	_____
Private school	_____	_____	_____

Parochial school	_____	_____	_____
Loans/Debts	_____	_____	_____
Support of Other Dependents:			
Other child support	_____	_____	_____
Alimony payments	_____	_____	_____
Other: (Specify)	_____	_____	_____
_____	_____	_____	_____
Total	\$ _____	\$ _____	\$ _____

(B) *Expense Statement for Cases Pursuant to Rule 1910.16-3.1 and Rule 1920.31.* No later than five business days prior to the conference, the parties shall exchange this form, along with receipts or other verification of the expenses set forth on this form. Failure to comply with this provision may result in an appropriate order for sanctions and/or the entry of an interim order based upon the information provided.

EXPENSE STATEMENT OF

(Name) (PACSES Number)

I verify that the statements made in this Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date:

Plaintiff or Defendant

EXPENSES	MONTHLY TOTAL	MONTHLY CHILDREN	MONTHLY PARENT
HOME			
Mortgage or Rent	_____	_____	_____
Maintenance	_____	_____	_____
Lawn Care	_____	_____	_____
2nd Mortgage	_____	_____	_____
UTILITIES			
Electric	_____	_____	_____

Gas	_____	_____	_____
Oil	_____	_____	_____
Telephone	_____	_____	_____
Cell Phone	_____	_____	_____
Water	_____	_____	_____
Sewer	_____	_____	_____
Cable TV	_____	_____	_____
Internet	_____	_____	_____
Trash/ Recycling	_____	_____	_____
TAXES			
Real Estate	_____	_____	_____
Personal Property	_____	_____	_____
INSURANCE			
Homeowners/ Renters	_____	_____	_____
Automobile	_____	_____	_____
Life	_____	_____	_____
Accident/Disability	_____	_____	_____
Excess Coverage	_____	_____	_____
Long-Term Care	_____	_____	_____
AUTOMOBILE			
Lease or Loan Payments	_____	_____	_____
Fuel	_____	_____	_____
Repairs	_____	_____	_____
Memberships	_____	_____	_____
MEDICAL			
Medical Insurance	_____	_____	_____
Doctor	_____	_____	_____
Dentist	_____	_____	_____
Hospital	_____	_____	_____
Medication	_____	_____	_____
Counseling/Therapy	_____	_____	_____
Orthodontist	_____	_____	_____
Special Needs (glasses, etc.)	_____	_____	_____
EDUCATION			
Tuition	_____	_____	_____
Tutoring	_____	_____	_____
Lessons	_____	_____	_____
Other	_____	_____	_____
PERSONAL			
Debt Service	_____	_____	_____
	_____	_____	_____

Clothing	_____	_____	_____
Groceries	_____	_____	_____
Haircare	_____	_____	_____
Memberships	_____	_____	_____
MISCELLANEOUS			
Child Care	_____	_____	_____
Household Help	_____	_____	_____
Summer Camp	_____	_____	_____
Papers/Books/Magazines	_____	_____	_____
Entertainment	_____	_____	_____
Pet Expenses	_____	_____	_____
Vacations	_____	_____	_____
Gifts	_____	_____	_____
Legal Fees/Prof. Fees	_____	_____	_____
Charitable Contributions	_____	_____	_____
Children's Parties	_____	_____	_____
Children's Allowances	_____	_____	_____
Other Child Support	_____	_____	_____
Alimony Payments	_____	_____	_____
TOTAL MONTHLY EXPENSES	_____	_____	_____

(d) The form used to obtain information relating to health insurance coverage from a party shall be in substantially the following form:

(Caption)
**HEALTH INSURANCE COVERAGE
INFORMATION
REQUIRED BY THE COURT**

**This form must be completed and returned to the
domestic relations section.**

**IF YOU FAIL TO PROVIDE THE
INFORMATION REQUESTED, THE COURT**

MAY FIND THAT YOU ARE IN CONTEMPT OF COURT.

Do you provide insurance coverage for the dependents named below? (Check each type of insurance which you provide).

Type of Coverage

Full Name	SS #	Hospital- zation	Medical	Dental	Eye	Prescrip- tion	Other
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: Before forwarding the form to the party, the domestic relations section should fill in the names and Social Security numbers of the dependents about whom the information is sought.

Provide the following information for all types of insurance you maintain, whether or not any of the above-named dependents is covered at this time:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Employee cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Employee cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Employee cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Employee cost of coverage for dependents:

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided.

(e) The form of a support order shall be substantially as follows:

(Caption)
(FINAL) (TEMPORARY) (MODIFIED)
ORDER OF COURT

AND NOW,

, based upon the Court's determination that Payee's monthly net income is \$

, and Payor's monthly net income is \$

, it is hereby ordered that the Payor pay to the Domestic Relations Section, Court of Common Pleas,

Dollars (\$

.

) a month payable (WEEKLY/BI-WEEKLY/SEMI-MONTHLY/MONTHLY) as follows:

. Arrears set at \$

as of

are due in full IMMEDIATELY. Contempt proceedings, credit bureau reporting and tax refund offset certification will not be initiated, and judgment will not be entered, as long as payor pays \$

on arrears on each payment date. Failure to make each payment on time and in full will cause all arrears to become subject to immediate collection by all of the means listed above.

For the support of:

Said money to be turned over by the domestic relations section to:

Payments must be made (STATE ACCEPTABLE FORMS OF PAYMENT). All checks and money orders must be made payable to (NAME OF ENTITY TO WHOM CHECKS SHOULD BE MADE PAYABLE) and mailed to (NAME OF OFFICE) at (MAILING ADDRESS). Each payment must bear your (FILE/CASE/FOLIO/DOMESTIC RELATIONS) number in order to be processed. Do not send cash by mail.

Unreimbursed medical expenses are to be paid

% by defendant and

% by plaintiff. (PLAINTIFF/DEFENDANT/NEITHER) to provide medical insurance coverage. Within 30 days after the entry of this order, the party ordered to provide medical insurance shall submit to the other party written proof that medical insurance coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist, at a minimum, of: 1) the name of the health care coverage

provider(s); 2) any applicable identification numbers; 3) any cards evidencing coverage; 4) the address to which claims should be made; 5) a description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval; 6) a copy of the benefit booklet or coverage contract; 7) a description of all deductibles and co-payments; and 8) five copies of any claim forms.

IMPORTANT LEGAL NOTICE

PARTIES MUST WITHIN SEVEN DAYS INFORM THE DOMESTIC RELATIONS SECTION AND THE OTHER PARTIES, IN WRITING, OF ANY MATERIAL CHANGE IN CIRCUMSTANCES RELEVANT TO THE LEVEL OF SUPPORT OR THE ADMINISTRATION OF THE SUPPORT ORDER, INCLUDING, BUT NOT LIMITED TO, LOSS OR CHANGE OF INCOME OR EMPLOYMENT AND CHANGE OF PERSONAL ADDRESS OR CHANGE OF ADDRESS OF ANY CHILD RECEIVING SUPPORT. A PARTY WHO WILLFULLY FAILS TO REPORT A MATERIAL CHANGE IN CIRCUMSTANCE MAY BE ADJUDGED IN CONTEMPT OF COURT, AND MAY BE FINED OR IMPRISONED.

PENNSYLVANIA LAW PROVIDES THAT ALL SUPPORT ORDERS SHALL BE REVIEWED AT LEAST ONCE EVERY THREE (3) YEARS IF SUCH A REVIEW IS REQUESTED BY ONE OF THE PARTIES. IF YOU WISH TO REQUEST A REVIEW AND ADJUSTMENT OF YOUR ORDER, YOU MUST DO THE FOLLOWING: AN UNREPRESENTED PERSON WHO WANTS TO MODIFY (ADJUST) A SUPPORT ORDER SHOULD (insert instructions for local domestic relations section).

ALL CHARGING ORDERS FOR SPOUSAL SUPPORT AND ALIMONY PENDENTE LITE, INCLUDING UNALLOCATED ORDERS FOR CHILD AND SPOUSAL SUPPORT OR CHILD SUPPORT AND ALIMONY PENDENTE LITE, SHALL TERMINATE UPON THE DEATH OF THE PAYEE.

A MANDATORY INCOME ATTACHMENT WILL ISSUE UNLESS THE DEFENDANT IS NOT IN ARREARS IN PAYMENT IN AN AMOUNT EQUAL TO OR GREATER THAN ONE MONTH'S SUPPORT OBLIGATION AND (1) THE COURT FINDS THAT THERE IS GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME WITHHOLDING; OR (2) A WRITTEN AGREEMENT IS REACHED BETWEEN THE PARTIES WHICH PROVIDES FOR AN ALTERNATE ARRANGEMENT.

DELINQUENT ARREARAGE BALANCES MAY BE REPORTED TO CREDIT AGENCIES. ON AND AFTER THE DATE IT IS DUE, EACH UNPAID SUPPORT PAYMENT SHALL CONSTITUTE A JUDGMENT AGAINST YOU.

IT IS FURTHER ORDERED that, upon payor's failure to comply with this order, payor may be arrested and brought before the Court for a Contempt hearing; payor's wages, salary, commissions, and/or income may be attached in accordance with law; this Order will be increased without further hearing to \$

_____ a month until all arrearages are paid in full. Payor is responsible for court costs and fees.

Copies delivered to parties

(INDICATE DATE DELIVERED).

Consented:

Plaintiff Plaintiff's Attorney

Defendant Defendant's Attorney

BY THE COURT:

J.

(f) A petition for modification of support shall be in substantially the following form:

(Caption)

PETITION FOR MODIFICATION
OF AN EXISTING SUPPORT ORDER

1. The petition of

respectfully represents that on

, 19

, an Order of Court was entered for the support of

. A true and correct copy of the order is attached to this petition.

2. Petitioner is entitled to

* of this Order because of the following material and substantial change(s) in circumstance:

*Fill in the relief sought, i.e. increase, decrease, modification, termination, suspension, vacation

WHEREFORE, Petitioner requests that the Court modify the existing order for support.

(Attorney for Petitioner)(Petitioner)

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

...

Date...Petitioner

(g) The order to be attached at the front of the petition for modification set forth in subdivision (f) shall be in substantially the following form:

(Caption)

ORDER OF COURT

You,

, Respondent, have been sued in Court to modify an existing support order. You are ordered to appear in person at

on

at

.M., for a conference/ hearing and to remain until dismissed by the Court. If you fail to appear as provided in this Order, an Order for Modification may be entered against you.

You are further ordered to bring to the conference

- (1) a true copy of your most recent Federal Income Tax Return, including W-2s, as filed,
- (2) your pay stubs for the preceding six months,
- (3) the Income Statement and appropriate Expense Statement, if required, attached to this order, completed as required by Rule 1910.11(c),
- (4) verification of child care expenses, and
- (5) proof of medical coverage which you may have, or may have available to you.
- (6) If a physician has determined that a medical condition affects your ability to earn income, you must obtain a Physician Verification Form from the domestic relations section, sign it, have it completed by your doctor, and bring it with you to the conference.

THE TRIER OF FACT MAY INCREASE, DECREASE OR TERMINATE THE EXISTING ORDER BASED UPON THE EVIDENCE PRESENTED. AN ORDER MAY BE ENTERED AGAINST EITHER PARTY WITHOUT REGARD TO WHICH PARTY FILED THE MODIFICATION PETITION.

Date of Order:

J.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of

County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

(h) A petition for recovery of a support overpayment when a support order remains in effect shall be in substantially the following form:

(Caption)

Petition for Recovery of Support Overpayment in Active Case.

1. Obligor and Obligee are parties in a support action at the docket number captioned above.
2. There is an overpayment owing to Obligor in an amount in excess of two months of the monthly support obligation.

Wherefore, Obligor requests that, pursuant to Pa.R.C.P. No. 1910.19(g)(1), the charging order be reduced by 20% or an amount sufficient to retire the overpayment by the time the charging order is terminated.

Date Petitioner or Attorney for Petitioner

I verify that the statements in this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(date) (Petitioner signature)

(i) A petition for recovery of a support overpayment when a support order has been terminated shall be in substantially the following form:

(Caption)

Petition for Recovery of Support Overpayment in Closed Case.

1. Plaintiff is an adult individual residing at:

2. Defendant is an adult individual residing at:

3. Plaintiff and defendant were parties in a prior support action that was terminated by order dated

at docket number

4. There is an overpayment owing to the instant plaintiff.

Wherefore, the plaintiff requests that, pursuant to Pa.R.C.P. No. 1910.19(g)(2), an order be entered against the defendant and in favor of the plaintiff in the amount of the overpayment.

Date Petitioner or Attorney for Petitioner

I verify that the statements in this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(date) (Petitioner signature)

(j) The order to be attached at the front of the petition for recovery of support overpayment in closed case set forth in subdivision (i) shall be in substantially the following form:

(Caption)
ORDER OF COURT

You,

, defendant, are ordered to appear at

before

, a conference officer of the Domestic Relations Section, on the

day of

, 20

, at

.M., for a conference, after which the officer may recommend that an order for the recovery of a support
order be entered against you.

You are further ordered to bring to the conference

(1) a true copy of your most recent federal income tax return, including W-2s, as filed,

(2) your pay stubs for the preceding six months, and

(3) the Income Statement and the appropriate Expense Statement, if you are claiming that you have
unusual needs or unusual fixed obligations.

Date of Order:

J.

**YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND
REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE
SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING
A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE
YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO
ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of

County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Explanatory Comment—1994

The support complaint and Income and Expense Statements contain a verification which states that the documents are subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

Explanatory Comment—2006

Rule 1910.27(c) is amended to separate income and expense information and to elicit the expense information relevant in cases that fall within the guidelines, as well as those that do not. In cases which can be determined under the guidelines, no expense information need be provided unless a party is claiming unusual needs and expenses that may warrant a deviation pursuant to Rule 1910.16-5 or an apportionment of expenses pursuant to Rule 1910.16-6. If a party is claiming such expenses, the form at subsection (c)(2)(A) should be submitted. A separate expense form for cases in which the parties' combined monthly net income exceeds \$20,000 is set forth at subsection (c)(2)(B).

Rule 1910.11(c) was amended, effective in March 1995, to provide that only income and extraordinary expenses need be shown on the Income and Expense Statement in cases which can be determined pursuant to the guidelines. The Explanatory Comment—1994 explained the rationale for the amendment.

Nevertheless, because space for both income and expense information was provided on the same form Income and Expense Statement, parties often needlessly expended time and effort to provide expense information that was not relevant at the conference. The amendments are intended to clarify and simplify the submission of expense information.

Explanatory Comment—2010

When the combined net monthly income of the parties exceeds \$30,000, the case will be decided pursuant to Rule 1910.16-3.1 and the Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) must be submitted.

Explanatory Comment—2012

The form complaint for support in subdivision (a) has been amended to accommodate cases initiated pursuant to Rule 1910.3(a)(6). Because a support order may be entered against either party without regard to which party initiated the support action pursuant to Rule 1910.3(b), a party who believes that he or she may owe a duty of support may use the complaint form to initiate the action even if he or she ultimately is determined to be the obligor. In active charging support cases in which there is an overpayment in an amount in excess of two months of the monthly support obligation and the domestic relations section fails to reduce the charging order automatically to recoup the overpayment pursuant to Rule 1910.19(g)(1), the obligor may file a petition for recovery as set forth in subdivision (h) above. A separate form petition has been added in subdivision (i) by which a former support obligor may seek recovery of an overpayment in any amount in terminated cases pursuant to Rule 1910.19(g)(2).

Source

The provisions of this Rule 1910.27 amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended December 2, 1994, effective March 1, 1995, 25 Pa.B. 6263;

amended March 24, 1997, effective July 1, 1997, 27 Pa.B. 1549; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended June 24, 2002, effective immediately, 32 Pa.B. 3389; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7113; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736; amended January 12, 2010, effective May 12, 2010, 40 Pa.B. 586; amended August 26, 2011, effective November 1, 2011, 41 Pa.B. 4847; amended November 5, 2012, effective December 5, 2012, 42 Pa.B. 7091; amended November 30, 2012, effective December 30, 2012, 42 Pa.B. 7522; amended September 25, 2014, effective in 30 days on October 25, 2014, 44 Pa.B. 6553. Immediately preceding text appears at serial pages (373785) to (373786), (365301) to (365312) and (373787) to (373789).

**Rule 1910.28. Order for Earnings and Health Insurance Information.
Form of Earnings Report. Form of Health Insurance
Coverage Information.**

(a) The order for earnings and health insurance information shall be in substantially the following form:

(Caption)

ORDER FOR EARNINGS REPORT, HEALTH
INSURANCE INFORMATION AND SUBPOENA

TO:

TO:

TO:

AND NOW, this

day of

, 20

, since it appears that

is employed by you, and it is necessary Name of employee
that the Court obtain earnings and health insurance information relating to the above-named individual in order to adjudicate a matter of support, IT IS HEREBY ORDERED AND DECREED that you supply the Court with the information required by the enclosed Earnings Report and Health Insurance Coverage Report and file them with the Court within fifteen (15) days of the date of this order.

If you fail to supply the information required by this Order, a subpoena will issue requiring you to attend Court and bring the material with you, or other appropriate sanctions will be imposed by the Court.

BY THE COURT:

J.

(b) The employer shall file an Earnings Report substantially in the following form:

Employer: _____ Re: Name _____

_____ Social Security No.

_____ Support Action No.

EARNINGS REPORT

To the Employer:

Furnish earnings information for the above-named employee for each pay period during the last six months. It is preferred that you attach a photocopy of your records containing the earnings information requested. Attach a copy of the employee's most recent W-2 Form.

Payroll Number:

Nature of Employment:

Payroll Period	_____	_____	_____	_____	_____	_____	_____	_____	_____
Ending	_____	_____	_____	_____	_____	_____	_____	_____	_____
Date of Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____
Deductions	_____	_____	_____	_____	_____	_____	_____	_____	_____
Fed. Withholding	_____	_____	_____	_____	_____	_____	_____	_____	_____
Social Security	_____	_____	_____	_____	_____	_____	_____	_____	_____
Local Wage Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____
State Income Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____
Payroll Period	_____	_____	_____	_____	_____	_____	_____	_____	_____
Ending	_____	_____	_____	_____	_____	_____	_____	_____	_____
Date of Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____
Deductions	_____	_____	_____	_____	_____	_____	_____	_____	_____
Fed. Withholding	_____	_____	_____	_____	_____	_____	_____	_____	_____
Social Security	_____	_____	_____	_____	_____	_____	_____	_____	_____
Local Wage Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____
State Income Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____
Retirement	_____	_____	_____	_____	_____	_____	_____	_____	_____
Savings Bonds	_____	_____	_____	_____	_____	_____	_____	_____	_____
Credit Union	_____	_____	_____	_____	_____	_____	_____	_____	_____
Life Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____
Health Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____
Other (Specify)	_____	_____	_____	_____	_____	_____	_____	_____	_____

_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Net Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____
Hours Worked	_____	_____	_____	_____	_____	_____	_____	_____	_____

I verify that the statements made in this Earning Report are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date:

 ...Signed

by: _____

Position: _____

(c) The form which the employer uses to report health insurance coverage information shall be substantially as follows:

Official Note

the information requested in the following report may be provided by an employer on its own form, for example, as a computer print out.

(Caption)
HEALTH INSURANCE COVERAGE REPORT

This information must be completed and returned within 15 days. Failure to comply may result in issuance of a subpoena or other appropriate sanctions.

Employee's Name:

 Employee's Social Security #:

Does the employer make medical, dental, eye care, prescription or other insurance coverage available to the employee? Yes No

Name the dependents covered under the employee's insurance, and indicate which types of coverage they have through your company.

Full Name	SS #	Type of Coverage					Other
		Hospital-ization	Medical	Dental	Eye	Prescription	
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Provide the information indicated for each type of insurance which is available to the employee, whether or not any of the above-

named dependents are covered at this time:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Cost of coverage for dependents:

Insurance company (provider):

Group #:

Plan #:

Policy #:

Effective coverage date:

Type of coverage:

Cost of coverage for dependents:

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided.

PLEASE PROVIDE FORMS NECESSARY TO
ADD DEPENDENTS, AS THE EMPLOYEE MAY
BE ORDERED TO PROVIDE COVERAGE FOR THEM.

I verify that the statements made in this Health Insurance Coverage information form are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date:

Signature:

Title:

Source

The provisions of this § 1910.28 amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended December 2, 1994, effective March 1, 1995, 25 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended September 24, 2002, effective immediately, 32 Pa.B. 5044. Immediately preceding text appears at serial pages (290225) to (290226) and (267769).

Rule 1910.29. Evidence in Support Matters.

(a) *Record Hearing.* Except as provided in this rule, the Pennsylvania Rules of Evidence shall be followed in all record hearings conducted in an action for support. A verified petition, affidavit or document, and any document incorporated by reference therein which would not be excluded under the hearsay rule if given in person shall be admitted into evidence if (1) at least 20 days' written notice of the intention to offer them into evidence was given to the adverse party accompanied by a copy of each document to be offered; (2) the other party does not object to their admission into evidence; and (3) the evidence is offered under oath by the party or witness. An objection must be in writing and served on the proponent of the document within 10 days of the date of service of the notice of intention to offer the evidence. When an objection is properly made, the Pennsylvania Rules of Evidence shall apply to determine the admissibility of the document into evidence.

(b) *Medical Evidence.*

(1) *Non-Record Proceeding.* In a non-record hearing, if a physician has determined that a medical condition affects a party's ability to earn income and that party obtains a Physician Verification Form from the domestic relations section, has it completed by the party's physician and submits it at the conference, it may be considered by the conference officer. If a party is receiving Social Security disability or workers' compensation benefits, the party shall submit copies of the disability or workers' compensation determination in lieu of the Physician Verification Form.

(2) *Record Proceeding.* If the matter proceeds to a record hearing and the party wishes to introduce the completed Physician Verification Form into evidence, he or she must serve the form on the other party not later than 20 days after the conference. The other party may file and serve an objection to the introduction of the form within 10 days of the date of service. If an objection is made and the physician testifies, the trier of fact shall have the discretion to allocate the costs of the physician's testimony between the parties. If there is no objection, the form may be admitted into evidence without the testimony of the physician. In

the event that the record hearing is held sooner than 30 days after the conference, the trier of fact may provide appropriate relief, such as granting a continuance to the objecting party.

(3) The Physician Verification Form shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS
OF

COUNTY

Member Name:

Docket Number:

PACSES Case Number:

Other State ID Number:

PHYSICIAN VERIFICATION FORM

TO BE COMPLETED BY THE TREATING PHYSICIAN

Physician's name:

Physician's license number:

Nature of patient's sickness or injury:

Date of first treatment:

Date of most recent treatment:

Frequency of treatments:

Medication:

The patient has had a medical condition that affects his or her ability to earn income from:

through

If the patient is unable to work, when should the patient be able to return to work? Will there be limitations?

Remarks:

Date:

Signature of Treating Physician:

Physician's address:

Physician's telephone number:

I authorize my physician to release the above information to the

County Domestic Relations Section.

Patient's signature:

Date:

Explanatory Comment—2000

23 Pa.C.S. § 4342(f) creates a hearsay exception in support actions to permit a verified petition, affidavit or document and a document incorporated by reference in any of them to be admitted into evidence if it would not otherwise be excluded as hearsay if given in person and it is admitted under oath by a party or witness to the support action. Rule 1910.29 requires that notice of the documents to be admitted be given to the other party prior to the hearing. It also sets forth the procedures for raising an objection to the admission of those documents.

If the requisite 20-day notice is given and there is no objection, the document must be admitted into evidence under this rule and 23 Pa.C.S. § 4342(f). In the event an objection is timely made, the rules of evidence apply to determine the document's ultimate admissibility.

Rule 1910.29 is not intended to affect 23 Pa.C.S. § 4342(g) and (h) relating to admissibility of payment records, billing statements and bills for genetic testing and prenatal and postnatal health care of the mother and child. Those documents are admissible into evidence without advance notice for the limited purposes which are expressly set forth in those statutory provisions.

Source

The provisions of this Rule 1910.29 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended November 30, 2012, effective December 30, 2012, 42 Pa.B. 7522. Immediately preceding text appears at serial page (324707).

Rule 1910.30. [Rescinded].

Source

The provisions of this Rule 1910.30 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200369) to (200370).

Rule 1910.31. [Rescinded].

Source

The provisions of this Rule 1910.31 amended April 23, 1985, effective July 1, 1985, 15 Pa.B. 1726; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200370) and (252117).

Rule 1910.49. Acts of Assembly Not Suspended.

The rules governing an action for support shall not be deemed to suspend or affect the following Acts or

parts of Acts of Assembly:

- (1) Chapter 43 of Title 23 of the *Consolidated Statutes*, 23 Pa.C.S. § 4301 et seq., relating to support matters generally;
- (2) Chapter 45 of Title 23 of the *Consolidated Statutes*, 23 Pa.C.S. § 4501 et seq., except § 4533, known as the Revised Uniform Reciprocal Enforcement of Support Act (1968);
- (3) Section 1 of the Act of June 11, 1913, P. L. 468, 48 P. S. § 133, relating to execution of a support order against real property owned by the entireties;
- (4) Sections 1 to 5 of the Act of May 24, 1923, P. L. 446, 48 P. S. § § 137—141, only insofar as the Act authorizes execution against real estate held by the entireties;
- (5) The Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 3507, insofar as it provides for tenancy in common of property held by the entireties after divorce; and

Official Note

See the Divorce Code as to equitable distribution of property in divorce actions.

- (6) The Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 6101, known as the Protection from Abuse Act.

Official Note

The Protection from Abuse Act provides a procedure to obtain a temporary order of support in addition to other relief.

Source

The provisions of this Rule 1910.49 adopted November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943. Immediately preceding text appears at serial pages (142514) to (142515).

Rule 1910.50. Suspension of Acts of Assembly.

The following Acts or parts of Acts of Assembly are suspended insofar as they apply to the practice and procedure in an action for support:

- (1) Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973, insofar as it provides a procedure to enforce the liability of relatives for the support of an indigent person; and
- (2) Section 4 of Act 1996-20, 23 Pa.C.S. § 4342, insofar as it provides that long arm jurisdiction shall be used in preference to proceedings under Part VIII-A relating to intrastate family support actions;
- (3) Act Nos. 1997-58 and 1998-127 insofar as they are inconsistent with Rule 1910.20 relating to the availability of remedies for collection of past due and overdue support;
- (4) Section 4 of Act 1997-58, 23 Pa.C.S. § 4342(f), insofar as it is inconsistent with Rule 1910.29 as it relates to record hearings in support actions;
- (5) Section 4 of Act 1998-127, 23 Pa.C.S. § 4352(d), insofar as it is inconsistent with Rule 1910.22 providing that overdue support on public record at the domestic relations section constitutes a lien of record against all real property within the state of Pennsylvania which is owned by the obligor;

(6) Section 4 of Act 1998-127, 23 Pa.C.S. § 4352(d.1), only insofar as subsection (1) of that provision provided that the underlying support action shall either be pending at the county domestic relations section or shall be forced by the county domestic relations section in order for a lien to arise against real property located in that county; and

(7) All Acts or parts of Acts of Assembly inconsistent with these rules to the extent of such inconsistency.

Source

The provisions of this Rule 1910.50 adopted November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended November 30, 2012, effective December 30, 2012, 42 Pa.B. 7522. Immediately preceding text appears at serial pages (324708) to (324709).

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