
Child Support Percentage of Income Standards

Authority and Purpose

Wis. Stats. Sec. 49.22(9) requires the Department to adopt and publish a standard, based upon a percentage of the gross income and assets of either or both parents, to be used by courts in determining child support obligations. Chapter DWD 40 of the Wisconsin Administrative Code establishes Wisconsin's percentage of income standard for child support. It is based upon the principle that the child's standard of living should, to the degree possible, be the same as if the child's parents were living together.

Chapter DWD 40 defines the income upon which the support obligation is based, and sets the percentages of income for computing the support obligation based upon a number of children. It also explains optional procedures for adjusting the obligation when the parents share placement, when the payer has an obligation to support another family, or when the payer has particularly high or low income.

Applicability

The percentage standard applies to any temporary and final order for child support, including child support stipulations agreed to by both parents and modifications of existing child support orders. When used to calculate family support, the amount determined under the standard should be increased by the amount necessary to provide a net family support payment, after state and federal income taxes are paid, of at least the amount of a child support payment under the standard.

Definition Of Income And Assets

Chapter DWD 40 defines gross income as income from any source, whether or not it is reported or taxed under federal law. The income can be in the form of money, property, or services. Public assistance or child support received from previous marriages or business expenses, which the court determines are reasonably necessary for the production of income or operation of a business are subtracted, and wages paid to dependent household member are added to determine "gross income available for child support."

The court may also determine that income may be "imputed" (assumed at a given level) based on earning capacity and/or assets, and that imputed income is added to the gross income for the calculation of the support obligation.

Basic Support Costs

Basic support costs means food, shelter, clothing, transportation, personal care, and incidental recreational costs.

Variable Support Costs

Variable costs means the reasonable costs above basic support costs incurred by or on behalf of a child, including but not limited to, the cost of child care, tuition, a child's special needs, and other activities that involve substantial cost.

Gross Income Available for Child Support

The court shall determine a parent's monthly income available for child support by adding together the parent's annual gross income or, if applicable, the parent's annual income modified for business expenses; the parent's annual income imputed based on earning capacity; and the parent's annual income imputed from assets, and dividing that total by 12.

Determine Child Support Using the Income Standard

Except as provided in s. DWD 40.04 (4) and (5), the percentage of the parent's monthly income available for child support or adjusted monthly income available for child support that constitutes the child support obligation shall be:

17% for 1 child	31% for 4 children
25% for 2 children	34% for 5 or more children
29% for 3 children	

Percentage amount must be expressed as a fixed sum in most cases as stated in s. 767.08, Stats.

Special Circumstances

There are instances when child support may be determined under special circumstances as follows and other specific formulas apply:

Serial-Family Payer	A payer with an existing legal obligation for child support who incurs an additional legal obligation for child support in a subsequent family as a result of a court order. See DWD 40.04 (1).
Shared-Placement Payer	A parent who has a court-ordered period of placement of at least 25%, is ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child, and is determined to owe a greater support amount than the other parent under the calculation in s. DWD 40.04 (2)(b). See DWD 40.04 (2).
Split Placement Payer	A payer who has 2 or more children and who has physical placement of one or more but not all of the children. See DWD 40.04 (3).
Low Income Payer	A payer for whom the court uses the monthly support amount provided in the schedule in Appendix C based on the court's determination that the payer's total economic circumstances limit his or her ability to pay support at the level provided under s. DWD 40.03 (1) and the payer's income available for child support is at level set forth in the schedule in Appendix C. See DWD 40.04 (4).
High Income Payer	A payer who makes an annual gross income greater than or equal to \$84,000. See DWD 40.04 (5).

For further details, refer to Chapter DWD 40 of the Wisconsin Administrative Code and Wisconsin Statute 767 Actions Affecting the Family. (Choose "Wisconsin Law" on <<http://www.legis.state.wi.us>>).

Wisconsin Statute 767.25 Child Support.

(1) Whenever the court approves a stipulation for child support under s. 767.10, enters a judgment of annulment, divorce or legal separation, or enters an order or a judgment in an action under s. 767.02(1)(f) or (j) or 767.08, the court shall do all of the following:

- (a) Order either or both parents to pay an amount reasonable or necessary to fulfill a duty to support a child. This amount must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to 3. are satisfied.
- (1g) In determining child support payments, the court may consider all relevant financial information or other information relevant to the parent's earning capacity, including information reported to the department, or the county child and spousal support agency, under s.49.22(2m).
- (1j) Except as provided in sub. (1m), the court shall determine child support payments by using the percentage standard established by the department under s. 49.22(9).
- (1m) Upon request by a party, the court may modify the amount of child support payments determined under sub. (1j) if, after considering the following factors, the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties:
 - (a) The financial resources of the child.
 - (b) The financial resources of both parents as determined under s. 767.255.
 - (bj) Maintenance received by either party.
 - (bp) The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902(2).
 - (bz) The needs of any person, other than the child, whom either party is legally obligated to support.
 - (c) The standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.
 - (d) The desirability that the custodian remain in the home as a full-time parent.
 - (e) The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.
 - (ej) The award of substantial periods of physical placement to both parents.
 - (em) Extraordinary travel expenses incurred in exercising the right to periods of physical placement under s. 767.24.
 - (f) The physical, mental and emotional health needs of the child, including any costs for health insurance as provided for under sub. (4m).
 - (g) The child's educational needs.
 - (h) The tax consequences to each party.
 - (hm) The best interests of the child.
 - (hs) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.
 - (i) Any other factors which the court in each case determines are relevant.
- (1n) If the court finds under sub. (1m) that use of the percentage standard is unfair to the child or the requesting party, the court shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.