

WISCONSIN DEPARTMENT OF CHILDREN AND FAMILIES
Division of Family and Economic Security
Bureau of Child Support

CHILD SUPPORT
BULLETIN

No.: 20-18R

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To: Child Support Directors
Child Support Supervisors or Lead Workers
Child Support Attorneys

From: Debra L. Barnes, Director
Bureau of Child Support

Subject: SSDI Payments and Calculating Child Support

This Child Support Bulletin (CSB) obsoletes and replaces CSB 20 -18. This CSB is revised to clarify when it is appropriate to apply credit for retirement or disability insurance benefits attributed to the payer's work history.

Purpose

The purpose of this CSB is to address how Social Security Retirement and Disability Insurance benefits intended for dependent child(ren) should be considered for the purpose of establishing child support. In addition, Social Security survivor's insurance benefits are not considered income for purposes of calculating child support.

Background

Social Security Disability Insurance (SSDI) benefits are paid to a person who is totally disabled and that person's dependents. Social Security retirement benefits are paid to retirees and their dependents. SSDI and retirement payments are considered a substitute for the disabled or retired parent's earnings and may be considered as income for the purpose of setting child support.

Under DCF 150.03(5), as amended, "[t]he court may consider a child's benefit under 42 USC 402(d) based on a parent's entitlement to federal disability or retirement insurance benefits...and adjust a payer's child support obligation by subtracting the amount of the child's benefit received by the payee. In no case may this adjustment require the payee to reimburse the payer for any portion of the child's benefit. If the payer is receiving the child's benefit, the support amount is either the percentage standard applied to the payer's income or the amount of the child's benefit, whichever is greater."

This provision is intended to give a payer credit for the social security benefits their child is receiving that are directly attributable to the payer's work history. **It does not affect the support calculation in primary placement cases when the child is receiving benefits attributable to the Custodial Parent's (CP) work history. In those cases, the child's benefit would not be used to lessen the non-custodial parent's (NCP) obligation.** DCF 150 was recently amended to address how SSDI benefits intended for the child(ren) should be considered for the purpose of establishing support in shared placement cases.

Social Security survivors' benefits are paid to widows, widowers, and dependents of eligible workers. Eligible family members may receive benefits if the deceased person worked long enough to qualify for benefits. A dependent child may receive benefits if they have not reached the age of

emancipation or are disabled. This is considered income of the child and should not be considered in the calculation of support for that child, unless a deviation is granted by the court.

Policy

Primary Placement Cases

In cases where the shared placement guidelines do not apply and the child is receiving benefits attributable to the NCP's work history, the NCP's support should be calculated by applying the percentage standard to the NCP's income without adding the child's benefit to their income. If the custodial parent (CP) is receiving the child(ren)'s benefit, the amount of that benefit should be subtracted from the child support obligation as calculated using the appropriate percentage. If the resulting amount is a negative number, the support should be zero. If the noncustodial parent is receiving the child(ren)'s benefit, the support amount should be either the percentage standard applied to the payer's income or the amount of the child(ren)'s benefit, whichever is greater. Credit should only be applied when the child's benefit is attributed to the NCP's work history.

Example 1: Two children, CP has primary placement. NCP's income \$2,500/month. CP's income \$2,000/month plus receiving \$700/month for children's benefits attributed to the NCP's work history.

Support calculation for NCP: $\$2,500 \times .25 = \$625 - \$700 = \0

Example 2: Two children, CP has primary placement. NCP's income \$2,500/ month plus receiving \$700/month for children's benefits attributed to the NCP's work history. CP's income \$2,000/month.

Support calculation for NCP: $\$2,500 \times .25 = \625 . Support = \$700.

Shared Placement Cases

If the shared placement guidelines under DCF 150.04(2)(a) apply, the child's benefit should be split between the parents in proportion to the amount of time the child spends with each parent. The parent who is receiving the children's benefits should have the proportion of the child's benefit that represents the proportion of time the child spends with the other parent added to their support obligation. Support should be determined as follows:

1. Determine each parent's monthly income available for child support under DCF 150.03(1) (intro). If a parent has one or more previous child support obligations, determine the parent's monthly income available for child support adjusted for the previous obligations as provided in DCF 150.04(1). Include the parent's federal disability or retirement insurance benefits in that parent's income, but do not include the child's benefit under 42 USC 402 in either parent's income.
2. Multiply each parent's monthly income available for child support by the appropriate percentage standard under DCF 150.03(1).
3. Multiply each amount determined under step 2 by 150%.
4. Multiply the amount determined for each parent in step 3 by the proportion of time that the child spends with the other parent.
5. Multiply the amount of the child's benefit by the proportion of the time the child spends with the parent who is not receiving the child's benefit.
6. Add the amount in step 5 to the child support obligation calculated in step 4 for the parent who is receiving the child's benefit.
7. Offset the resulting amounts against each other. The parent with a greater child support obligation is the shared-placement payer. The shared-placement payer shall pay either the lesser* of the amount determined in these steps or the amount determined using the appropriate percentage standard under DCF 150.03(1).

****NOTE:** The below was corrected by Emergency Rule effective November 8, 2018. DCF 150 was published on July 1, 2018 with an error in paragraph 7 above. It should provide that a shared placement payer shall pay either the lesser of the amount determined in these steps, or the amount determined using the appropriate percentage standard.*

Example 1

Assumptions:

Two children

Parent A has placement 146 days or 40%

Parent B has placement 219 days or 60%

Parent A's income \$2,000/month

Parent B's income \$2,500/month plus receiving \$1,000/month for children's benefits

Calculation:

	Parent A	Parent B
Monthly Income Available for Child Support	\$2,000	\$2,500
Monthly income available for child support x percentage standard for two children	$\$2,000 \times 25\% = \500	$\$2,500 \times 25\% = \625
Amount x 150%	$\$500 \times 150\% = \750	$\$625 \times 150\% = \937.50
Amount x proportion of time spent with other parent	$\$750 \times 60\% = \450	$\$937.50 \times 40\% = \375
Benefit x proportion of time spent with parent not the representative payee		$\$1,000 \times 40\% = \400
Add Last Two Amounts		$\$375 + 400 = \775
Offset		$\\$775 - \\$450 = \\$325$ To Be Paid by Parent B

Example 2

Assumptions:

Two children

Parent A has placement 146 days or 40%

Parent B has placement 219 days or 60%

Parent A's income \$2,000/month plus receiving \$1,000/month for children's benefits

Parent B's income \$2,500/month

Calculation:

	Parent A	Parent B
Monthly income available for child support	\$2,000	\$2,500
Monthly income available for child support x percentage standard for two children	$\$2,000 \times 25\% = \500	$\$2,500 \times 25\% = \625
Amount x 150%	$\$500 \times 150\% = \750	$\$625 \times 150\% = \937.50
Amount x proportion of time spent with other parent	$\$750 \times 60\% = \450	$\$937.50 \times 40\% = \375
Benefit x proportion of time spent with parent not the representative payee	$\$1,000 \times 60\% = \600	
Add last two amounts	$\$450 + 600 = \$1,050$	
Offset	$\\$1,050 - \\$375 = \\$675$ To Be Paid by Parent A	

Summary

- In primary placement cases, if the custodial parent is receiving the children's SSDI benefits, and the benefit is attributed to the NCPs work history, the noncustodial parent should receive credit for the amount of the benefit against their child support obligation.
- In primary placement cases, if the noncustodial parent is receiving the children's SSDI benefits, the noncustodial parent's support obligation should be the greater of the amount of the child's benefit or their support obligation calculated using the percentage of income standard.
- In shared placement cases, the obligation of the parent receiving the child's benefit should be calculated by increasing their obligation by the proportion of the child's benefit that represents the amount of time the child spends with the other parent, before the offset occurs.

A benefit for a child that is not derived from one of the child's legal parents but derived from a child's own eligibility, should not be considered income while calculating child support. This includes survivor benefits a child receives from the death of a parent.

Example: A family has three children. Parent A has placement of two children. Parent A (Adoptive mother) and Parent B (Biological father) have equally shared placement of one child. When the child's biological mother passed away, parent A adopted the shared child and the child receives survivor benefits based upon the biological mother passing. The benefit this child receives is not to be considered as income for either parent.

Resources:

DCF 150 Percentage Standard

DCF 150.04(2)(a) Determining Income Modified for Business Expenses

DCF 150.03(1) Determining Child Support Using the Percentage Standard

DCF 150.03(5) Adjustment for Child's Social Security

42 USC 402(d) Child's Insurance Benefits

Questions regarding this bulletin can be directed to BCS via the KIDPOL Request Form using the subject type options of Case Management/Policy, Questions, Establish Support.

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