

## Attendance

Jill Mueller (DCF), Mark Schmitt (DCF), Connie Chesnik (DFES), Maggie Renno (DFES), Debra Barnes (BCS), Phyllis Fuller (BCS), Katherine Marek (BCS), Nicole Price (BCS), Patti Reuter (BCS), Jenny Laufer (BCS), Aviva Gellman (BCS), Brian McReavy (BCS), Adrienne Gilbert Ramirez (Wisconsin Women's Network), Marylee Richmond (Walworth County), Katie Murphy (Milwaukee County), Christine Lidbury (Wisconsin Women's Council), Commissioner Mark Fremgen (WIFCCA), Karyn Gimbel Youso (WI State Bar Family Law Section Board), Dan Meyer (IRP), Steve Cook (IRP), Lisa Klein Vogel (IRP), Steve Blake (Dads of Wisconsin), Lia Ocasio (End Domestic Abuse WI), Robert Held (Legal Action of WI), Hon. Thomas Walsh (WI Circuit Court Judge), Tony Bickel (WFCF), Jonathan Koch (WFCF), Tricia Knight (Dads of WI), Ben Kain (Involved Fathers of WI), Leotha Stanley (Urban League of Greater Madison), Margaret Garsow (Vilas County), Heidi Schaible (BCS), Judith Bartfeld (IRP), Cliff Robb (IRP), Chelsea Brocker (Fond du Lac County), Leslie Hodges (IRP), and Lynne Davis (State Bar of WI)

## Welcome & Recap

### **Katherine Marek, Bureau of Child Support, Policy Automation Specialist**

Nicole Price welcomed meeting participants at 1 p.m. Nicole took attendance of Committee Members and asked other meeting attendees to enter their names in chat for attendance purposes.

Katherine Marek reviewed the August 17, 2021 Guidelines Review Committee meeting. First, Secretary Amundson welcomed everyone and noted that Wisconsin has been a leader in child support policy, and it should be a goal to return to this status. Next, Connie Chesnik reviewed the history of DCF 150.

Katherine Marek and Jill Mueller provided an overview of Act 35. There is no change to the way child support is calculated but Act 35 reorders DCF 150 to make the shared placement formula the primary method, rather than a special circumstance. Since shared placement is used in most cases, this will correct the misperception that it is only used under special circumstances. It will also help with the perception that shared income formulas are fairer, and it will preserve many years of case law associated with DCF 150. The preface to DCF 150 is the principle that the guidelines are based on, which is that a child's standard of living should, to the degree possible, not be adversely affected because the parents are not living together. The parties have finite resources; the guidelines try to allocate these resources between the parties.

The Federal Final Rule, titled Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs came out in December 2016. It is important to remember why this Rule was put in place, and what it is trying to get child support to do. The Rule seeks to provide much needed updates to the child support system, which started in the 1970's. Many updates concern technology, such as recognizing communication methods like email, cell phones, and texting.

This Rule also represents new ways of thinking. Child support started as welfare recovery, but today, only five percent of collections pay back welfare programs. The role of the father has also been reexamined. When the program started, it was common to think of the father as someone who only provided financial support, but updates to the rule reflect that this is no longer the prevailing thought.

The updates also seek provide evidence of ability to pay, both for contempt and for setting orders, and to determine support based on the specific circumstances of the individual instead

of subjecting people to blanket assessments of prevailing wage. Low-income payers cannot navigate this system as well as others, and their orders may not accurately reflect their circumstances. The Rule encourages more documentation regarding how and why a child support amount was set and encourages states to collect data. The Wisconsin case management system was not documenting the circumstances of an order, such as whether it was based on presumed income, or if a shared placement formula was used, and BCS depended on Institute for Research on Poverty (IRP) to do case analysis. In February 2021, Wisconsin added fields to the court order entry screen, but there is no data or analysis pool yet. The Rule reflects that there have been a lot of studies of the negative effects of uncollectable orders, namely the father's disengagement in a child's life. It is important to have transparency with the guidelines. This includes making the guidelines available to the public, and properly presenting the information gathered in these quadrennial reviews.

Jacquelyn L. Boggess led a discussion on racial equity. Child support guidelines do not exist outside of the real world. Racial inequity exists. There is a difference between support and care; if a large support order is not paid, the child may not be getting the care they need. When orders are set based on presumed or imputed income, payers often cannot pay them. This practice may be hurting families. The child support system, to these payers, seems adversarial, and this offers insights on why there are not appearing in court. Why should they if they feel that they will be giving information that will ultimately hurt them? Some of these things can be fixed within the guidelines, and some of them must be fixed within the child support program as a whole.

Katherine reviewed the September 2, 2021 meeting. Maggie Reno presented information on our current caseload, and even with the limitations of this data, there is racial disproportionality in the number of cases, the number of cases with arrears, and the effects of enforcement. There were several presentations from IRP. Emerging themes of these meetings include that racial and economic disparities exist, and right sizing orders means setting them based on the actual income and circumstances of the payer. There are consequences for high orders, both for the child support program and the payer and their family. The child support program is moving towards a more family centered approach and offering referrals and support for each of the participants.

## **Imputing Wage Discussion Continued**

**Connie Chesnik, Division of Family and Economic Security, Administrator**  
**Jill Mueller, Department of Children and Families, Attorney**

Connie Chesnik reviewed a handout in the meeting materials with a column containing the existing DCF 150 language, a second column with the language as it was recommended for change to address imputed income at the last Guidelines Review Committee (although changes were not adopted), and a third column with the language in the Federal Final Rule. The Rule specifically says that if income is being imputed, the specific circumstances of the noncustodial parent (NCP) must be considered and lists a number of factors that should be considered. At the September 2 meeting, the recommendation of the 2015 Guidelines Review Committee, that a range of hours should be created so that the court can impute based on the range of hours, was discussed. Rather than imputing based on minimum wage at 36 to 40 hours per week, the court could impute at a range between 10 and 40 hours per week. This language did not provide any guidance as to how the court would make this determination.

Jill presented options to the Committee for consideration. She first reviewed the proposal from the 2015 Committee, which proposed a range of 10 to 35 hours per week. The first option puts

imputation into three categories: imputation based on earning capacity when information is known, imputation when no information is known, and when income should not be imputed. Jill asked for discussion on whether this format (breaking imputation into different options) is acceptable, and the factors listed for the options. In particular, she asked the Committee to consider which of these factors can be realistically ascertained, and will those factors help the court to make orders that reflect an individual's ability to pay.

Commissioner Fremgen stated that in Wis. Stat. §767.41, the factors for placement have the same type of format (a general proposition followed by a, b, c, d, e, etc.), and people who come to court seem to think that these factors are listed by priority (Ex: factor A is more important than factor H). This is one potential problem with a list like this. The current rule has everything in one paragraph.

Katie Murphy is not in favor of the "when income may not be imputed" category. This is already being figured in when the decision is made to impute income. If no information is known, those factors would have already been assessed, and the imputed income would likely be zero. If someone is receiving Supplemental Security Income (SSI) or is incarcerated, this would already be known. The other problem is that there are instances where they may want to impute income in some of these categories, depending on the circumstances.

Robert Held likes the section that offers examples of when the court may choose not to impute income. He has seen instances where parents on SSI or Social Security Disability Insurance (SSDI) have child support orders. There are cases of people who are incarcerated, sometimes for decades, who have open and ongoing child support orders, which is very difficult for them. The language says, "when income MAY not be imputed." There are instances where this would be appropriate, such as if an incarcerated person had a large amount of assets in the bank. But for many cases, it gives the court a chance to consider whether it should enter the order. For example, if someone has been determined to be disabled but they have a lot of assets.

Hon. Thomas Walsh would not object if the language was, "when the court may choose not to impute income." It seems to be a directive, but then the first sentence says that "the court may decline," which indicates that the court can choose whether to impute. He would change the wording of "examples of cases in which it is inappropriate to impute income" to something like "examples of cases where it may be appropriate for the court to decline imputing of income." The court's ability to decide that income imputation is appropriate under one of the circumstances under this option should not be ruled out. Jill asked whether it would be acceptable if it gave the court some discretion. He said that it would be acceptable; more discretion is preferred.

Leotha Stanley presented a hypothetical situation of a newly incarcerated father. He asked how the court would choose not to impute at this point. Jill confirmed that he meant that a child support order is running prior to incarceration. Leotha asked whether the father would have to file a motion, or if there is a form that he would complete during incarceration, that would stop the child support order from being taken out of his check. Jill answered that practices differ statewide. At that point, the father would have to motion the court to modify the support order. A number of factors would be taken into consideration, including duration of incarceration.

Marylee Richmond supported Katie's statement that the section titled "when income may be imputed" should be removed entirely because she is concerned that it would cause the burden for imputed income to switch. If the burden of proof switched, CSAs would be required to

provide proof of earning ability, rather than impute income, because there would be no information about earning ability.

Jill moved the conversation along to a discussion of the factors listed under each of the imputation options. There were no comments on “parent age” (factor A) or “parent education” (factor B).

Commissioner Fremgen stated that anything that cannot be broadly applied to persons who come before the court should be eliminated, or the factor should be described differently. He noted that employment barriers are very difficult to determine, and there is some question as to who has the burden of proof. Factors like work history and skills, age, education, and physical and mental health are good.

Jill solicited opinions on the “history of childcare responsibilities as the parent with primary physical placement” (factor G). Hon. Thomas Walsh could not think of a situation in which income is being imputed for someone who has primary physical placement and has daycare responsibilities. Usually, if there is a shared placement arrangement, there are shared daycare responsibilities. If someone has primary placement and they have all daycare responsibilities, income is probably not as relevant to calculating support. This factor would probably be used very rarely, and it may not be worth including. Katie Murphy agreed with Judge Walsh. If this factor talks about the history of the primary care placement, this is already being addressed with training and recent work experience. It is felt this factor just adds confusion.

Jill solicited opinions on the “availability of work in or near the parent’s community” (factor H). Katie Murphy said that Milwaukee County uses this frequently. It is less a specific category and more working with the knowledge that jobs may not be as readily available in Milwaukee as in other places. There is no evidence presented; it is just taken into consideration. Commissioner Fremgen expressed concern that this factor potentially creates witnesses out of the advocate. A participant could say there are no jobs, but the IV-D attorney might know that job opportunities exist because they drove by them on their way to court. Commissioner Fremgen might know that job opportunities exist for the same reason, although he cannot take judicial notice. He is concerned that he would implicitly use this knowledge in his ruling. There is a problem with proof, and burden of proof. Robert Held said that this factor would be useful in cases where a parent does not live in the community. This would give them the opportunity to provide evidence about what the job market is like in their community. There should be a way to acknowledge that not every community where a parent may be living has the same work availability, and seasonable work is a consideration. Commissioner Fremgen returned to his earlier concern about who would be presenting this evidence. There would be a question about the extent of the individual’s expertise in the job market in a given community. The NCP is unlikely to call a witness to testify to the availability of jobs in a given community. The difference between job availability rural and urban communities should be taken into consideration, but practically, how will this be done.

Jill stated that “prevailing wages in the parent’s community” (factor I) is similar to “work availability” (factor H), and the same concerns also exist. Lia Ocasio stated that the conversation is focused on low-income individuals, but the pandemic has caused many jobs to go remote. Training and work experience are already discussed in Factor C and Factor D and there are some cases where there are individuals who have a certain degree and are not using it. Someone could come in and say that there are not jobs in their area, but then there is a question about how “community” is being defined, if it is a job that could be remote. Or, would

they be required to get a job at Menards, even though they have a degree in a different field? This factor could be helpful, but this also may be covered by discussing training and work experience, as well as a discussion of specific employment they have had, or could have had, instead of narrowing it to only where they live. Christine Lidbury agrees with Lia Ocasio. She also worries that it comes “under the shell” for the same reason, as opposed to something where things can be taken into consideration. It becomes an issue of presenting evidence, trying to determine expertise, and then it is difficult to determine the discretion of the judge or commissioner. Commissioner Fremgen does not find this helpful in determining support. In support or IV-D hearings, he hears from unemployed NCPs who say that they can care for the child while the CP is working to avoid the need for public assistance for child care.

Jill offered discussion on “parent’s history of incarceration and criminal history” (factor J), but there were no comments.

Jill continued to “employment barriers” (factor K). If this is included, should examples (homelessness, alcohol or other drug dependent, etc.) be provided? Commissioner Fremgen noted that not having a driver’s license is a huge employment barrier, especially in rural communities where there is no public transportation, and this is a barrier that he takes into consideration. He thinks there should be examples because employment barriers could mean different things to different people, and this can contribute to perception of fairness. He restated that these factors should be broadly applicable. Lia Ocasio stated that as an attorney that often works with the undocumented population, she worries how this would be factored in. In abusive situations, the person with legal status will try to use this in a hearing as a reason for why they should get more placement or full custody. But this is still an important factor to consider when the concern is actually obtaining employment. A work permit should be considered as an employment barrier, but she is concerned about how it would be factored in without affecting other decisions in the case. She did not have a solution to suggest.

Jill asked for comments on “record of seeking work” (factor L). Katie Murphy is concerned about these factors as a whole. If the language said, “the court may” instead of “the court shall,” these become factors that anyone could bring up for the court’s consideration. The record of seeking work is an example of this. If Milwaukee County has a father who has been working with Children First for a year and cannot find a job, they would ask for a low order.

Jill asked for comments on “employers willing to hire NCP” (factor M). The consensus was that this is impractical.

Jill asked for comments on “parent’s assets” (factor N) and “parent’s residence” (factor O). Lia Ocasio asked why residence is separate from assets. Jill responded that this is what is included in the federal language and does not know the rationale. Katie Murphy suggested that this is for cases where the parent does not have to pay for where they live. Katherine Marek said that it grounds the parent to where they actually live in their community. Commissioner Fremgen agrees that there is a difference between assets and residence as it was described by Katie Murphy. He had assessed it as a discussion about property, but if residence is about who they are living with, maybe the language should be “cost of housing” rather than “residence.” Tony Bickel noted that assets could be liquidated to satisfy or provide for a child support obligation, whereas residence might be looked at as something that cannot be liquidated because the NCP would have no place to live and this is why they are separate factors.

Jill asked for comments on “vocational evaluation” (factor P). She added that this is not in the Final Rule and that this is not always an available option. Lia Ocasio asked if there was any concern that this could be required, even though the language says, “if available.” These evaluations often involve experts and additional cost, and some people do not have an evaluation ready to bring to court. It is more often an issue of contention, when someone wants the other person to be evaluated for not using a license or degree, or something they have that could impute them at a higher income. Does listing it as a factor make it more of a standard than it currently is? Commissioner Fremgen sees vocational evaluations more often in Non IV-D cases than IV-D cases. He thinks that out of all the factors, this is probably the closest to empirical evidence of income. Everything else is essentially anecdotal, testimonial, and potentially fraught with credibility issues. If the data in a vocational evaluation is accurate, this is a more objective evaluation to use, if it is available. It should be a recent evaluation.

Jill asked for comments on “if the parent is unemployed, whether the unemployment is due to the parent’s own voluntary conduct or misconduct on the job” (factor Q). Jill also added it is not in the Final Rule. Commissioner Fremgen would like to include “underemployed” in the language. Christine Lidbury agrees.

## **Evidence of Income Discussion**

**Connie Chesnik, Division of Family and Economic Security Administrator**  
**Jill Mueller, Department of Children and Families Attorney**

Jill noted that the factors under (4) are the same as those under (3). She added the sliding scale that was proposed at the last guidelines review (10 to 35 hours per week). If somebody is not coming to court and no information is known, “earnings during previous periods of employment” (factor E) would have no information. Age and education information would be available, but maybe not “parent assets” (factor N) and “parent residence” (factor O). There probably would not be a vocational evaluation. “Employers willing to hire NCP” (factor M) can be eliminated. Employment barriers might be hard to assess.

Commissioner Fremgen wondered why any factors should be listed under (4). For the most part, age, history of incarceration, and criminal history in Consolidated Court Automation Programs (CCAP) will be the only available information. Every other factor would rely on having this information, which would make this subsection moot. Even the last sentence of (4) can be deleted. Commissioner Fremgen would just use the federal minimum hourly wage, or the hourly wage for the community, based on a range of 10 to 35 hours per week. The factors are important when parties appear in court.

Connie stated that sometimes, when payers do not appear in court, it is because they are afraid that they will be arrested or may have substance abuse issues that make it difficult for them to get to court. If there is no history of income on DILHR, can you, in good conscience, impute income at full time minimum wage?

Commissioner Fremgen’s response is that this comes back to the burden issue. Why should the burden shift to the Child Support Agency (CSA) or the custodial parent (CP) to refute any of the factors because the respondent has not appeared in court? If an NCP receives an order and they respond by providing more information (example: they applied for SSI) and/or they want a reconsideration, that is always available. Judge Walsh presented a hypothetical situation in which the CP is present and says that their ex had a job working at a paper mill for 10 years, then quit last year, but he has the ability to earn \$20 per hour. Judge Walsh still would lack information about the NCP’s actual income, but now he has information about an income that is

higher than minimum wage. Commissioner Fremgen asked if this would be flipping back to (3) because under (3), the language says, “in situations where the income of the party is less than the earning capacity, or in the absence of credible evidence to the contrary.” This assumes that the CP’s testimony is credible evidence, which means that there is no need to impute using minimum wage, and one of the factors under (3) can be used. Robert Held agreed with Commissioner Fremgen. Jill stated that her intent for (4) was for it to be used when income information is not known, but other information might be known that could help with decision making; the WI Department of Children and Families (DCF) will further review.

Jill asked for a hypothetical discussion of (5). What are circumstances in which the court might decline to impute income? Commissioner Fremgen stated that for incarcerated parents, it would be okay to decline to impute, but if they are incarcerated because they did something to the child, it is rewarding them. Katie Murphy thinks these are factors that should be considered when imputing income. Milwaukee County does not do child support orders for incarcerated parents unless there is a circumstance like felony nonsupport. Robert Held thinks that the third sentence needs to be clarified; the language should say, “examples of cases in which it may be inappropriate” and include examples offering courts flexibility. Christine Lidbury agreed with Robert Held as she is concerned that the “may” and “shall” language could create a bar that makes it hard to get a fair outcome for the CP. Tricia Knight noted that a lot of the factors are focused on the payer, but in shared placement scenarios, she frequently sees cases where the recipient has a history of full-time employment prior to the children being born. After they are born, there is a decrease in income, then the divorce action happens, and they return to full-time employment. The best evidence for a court to consider regarding where to impute a parent’s income is the history prior to assuming primary care responsibilities for the children, and how long it will reasonably take that parent to get back to prior earning capacity.

## **Cost of Raising Children and Expenditures on Children**

**Cliff Robb, Institute for Research on Poverty**

Additional information not displayed on slides:

Slide 4:

- Wisconsin is joining the vast majority of states by putting income shares as a baseline assumption.
- Application of percentage of income standards would be under unique circumstances.

Slide 5:

- It is common to have a difference of opinion about whether a needs estimate approach or an observed behavior approach is taken. This presentation presents an observed behavior approach. This provides insight into consumer tastes and allows resource constraints and the limitations of consumer budgeting to be considered.

Slide 6:

- Engel approach differentiates households based on number of children, or no children.
- Rothbarth approach looks at an angle on the sensitivity percentage estimate.
- These methods are used to compare households from a cross sectional model, which can be misleading. An improved approach would track a given household over time and note how consumption changes as a result of children coming into the household over time.

Slide 7:

- Consumer Expenditure data is the most comprehensive source of information on household expenditures at the national level.
- Age of children is important to look at because they do not cost the same over time; they become more expensive as they age.

Slide 8:

- Limitation of household-level measures: must estimate what proportion of these expenditures are attributed to children in household.

Slide 9:

- For the vast majority of households, WI guidelines are a good reflection of actual expenditures.
- Need is probably being underestimated for large households.

Connie clarified that the studies are based on intact families. Cliff confirmed that they looked at a two-parent family model. There should be no difference between spending on children regardless of this. The guidelines may be under supporting a large family with separated parents.

## **Recent Changes to Guidelines for Low Income Noncustodial Parents**

**Leslie Hodges, Institute for Research on Poverty**

Additional information not displayed on slides:

Slide 1:

- Research suggests that child support orders that do not correctly align with the paying parent's economic circumstances are likely to go unpaid and result in substantial debt, as well as substantial cost to child support agencies associated with enforcing on paid orders. Recent federal legislation requires states to consider NCP ability to pay when setting child support orders.

Slide 3:

- There is substantial cross-state variation in child support order amounts even when NCPs have nearly identical economic and family situations.

Slide 4:

- 90% of states make some sort of adjustment for NCPs.
- Minimum order amounts ensure that child gets something from the NCP. WI does not stipulate a minimum order amount.
- WI low-income deviation focuses on fathers with incomes 75%-150% of the Federal Poverty Line (FPL).

Slide 5:

- Even with deviations, orders can remain outsized.

Slide 8:

- IRP used a mixed methods analysis to complete this study.



- Research found that states that had recently made guidelines changes varied in the types of guidelines formulas they use.
- Particular focus was on making modifications to self-support reserves, minimum order amounts, and imputation practices.

Slide 9:

- Scenarios assume that mother has primary placement, the child stays with father every other weekend, and that parents do not have children with other partners.
- Income in Scenario 2 approximates Organization for Economic Cooperation and Development (OECD) definition of low pay. Fathers who are low income by OECD definition are unlikely to qualify for low-income adjustments because income is above FPL.
- Income in Scenario 4 is used to approximate earnings of economically disadvantaged fathers in the IV-D case load. These fathers are least likely to make any child support payments.

Slide 10:

- Median amounts for full-time and part-time minimum wage scenarios fall below the estimated amount of income needed to support an additional household member (\$360, according to federal poverty guidelines).

Slide 11:

- Burden levels: how order amounts correspond with monthly income
- Estimate that a single child family spends approximately 17% of income on child rearing

Slide 12:

- States grouped by type of low-income adjustment was used. Data shown is fathers earning full-time at minimum wage and fathers earning part-time at minimum wage.

Slide 13:

- Differences across states, grouped by type of low-income deviation used, and whether a minimum support order is applied
- Minimum order amounts result in higher amounts being owed.

Slide 15:

- Minimum order amounts were not required by Final Rule.
- Minimum orders amounts ensure that there is some payment, but fathers earning part-time minimum wage owe a much larger percentage of their income than those who earn full-time minimum wage.

Connie asked for clarification about whether it is the case in Wisconsin that self-support reserves often result in lower orders for fathers around the poverty line. Leslie noted that Wisconsin does not use self-support reserve. Connie asked if there was a way of comparing the support orders for fathers on the poverty line in Wisconsin to states that use self-support reserves. Leslie answered that in Wisconsin, the amount owed under the current approach typically results in an order amount that is below the median across states. Half of states are setting orders with self-support reserves. Half of those states are setting order amounts around \$260 for fathers earning full-time minimum wage, and in Wisconsin, that amount (with a graduated scale) is \$190. Leslie noted that a lot of states are very concerned about the cliff

effect that a self-support reserve can have, but that a low-income adjustment does not have. There is the potential for a huge gap between what someone just above the poverty line owes and what the someone at the poverty line owes, resulting in disproportionate orders for fathers with similar incomes. Wisconsin's guideline alleviates this cliff effect.

## **Equivalent Care Discussion**

**Connie Chesnik, Division of Family and Economic Security, Administrator**

**Jill Mueller, Department of Children and Families, Attorney**

Jill stated the equivalent care was added to the Rule initially as an opportunity to provide some additional time to parents who do not necessarily have overnights. This is being applied in situations where application was not intended. For example, a parent has their child every other weekend, from after school Friday, until Sunday evening. They get the overnight on Friday and Saturday. Equivalent care is applied so that they get an extra six hours for Sunday because they had the child during the day. The other parent would get the overnight on Sunday but would also get equivalent care on Friday before the child transitioned to the other parent. Jill shared the current equivalent care definition [DCF 150.02 (10)], which explains that a block of time with the child that is at least six hours may be considered equivalent to a half day if a meal is provided.

She also shared a visual of an example placement schedule and text explaining the schedule, and how the Rule was intended to be applied. The father has 10 overnights and mother has four overnights over a two-week period, and an overnight every other weekend. Both mother and father would receive additional half days, and which is an inappropriate application of the Rule.

It is essentially double dipping, which is creating extra days in the calendar year (442 days instead of 365 days), and the mother's placement increases from 20% to 32%.

There are three possible solutions. One, the Rule could be left as it is. Two, language could be added to the end of DCF 150.02 (10) that says that equivalent care is not granted when overnight credit has already been awarded. Possible language is "equivalent care time is not to be granted to a parent who received credit for an overnight within 24 hours." Three, an example could be added that demonstrates the appropriate application of equivalent care.

Commissioner Fremgen noted that when equivalent care first came out, it was very confusing, and commissioners did not want to use it. He thinks it is good to add an example. Lia Ocasio agreed that this has been a source of confusion. Defining what equivalent care looks like would be helpful.

Is the time children spend in school equivalent to an overnight that the other parent would have? Connie said in a situation where the children are in school, but the mother has primary placement, so they are with her overnight, there would not be situation where the father has placement during the day. If the father picks them up after school and keeps them until the evening, that would count for equivalent care. Marylee Richmond agrees that this clarifies the situation.

## **Low – Income/Serial Family Application Discussion**

**Connie Chesnik, Division of Family and Economic Security, Administrator**  
**Jill Mueller, Department of Children and Families, Attorney**

Jill noted that there is a question about including an example in the Rule for a low-income serial payer. She presented a draft example. Katie Murphy noted that more complex example would be helpful. Extra care needs to be taken to make sure the calculation is done correctly. If the first child is calculated using the low-income chart and then the second child is calculated, it will result in a higher order on the new case than if 17% was used on the first child, and the low-income chart was used on the second child. Connie agreed with Jill, start with the low-income formula, and combine it with the serial family formula based on the remaining income. Katie said she will submit an example that demonstrates her concerns.

Jill noted that DCF 150.04 (1)(b)(3)(a) states that for the serial family parent, if the parent is subject to an existing support order for that legal obligation, except for a shared-placement order under DCF 150.035 (1), the support for that obligation is the monthly order. The current language under 150.04 (1)(b)(3)(a), until December 1, 2021, is "... except a shared-placement order under DCF 150.04(2), the support for that obligation is the monthly amount of that order." Katie Murphy stated that is their policy that if there is an order, but it is lower than it could be, the higher value is used. Jill asked if, based on these comments, the language could be changed to say, "based upon the percentage guidelines." Marylee Richmond said that counties do not want to have to go into court constantly to modify orders. Katie Murphy added that if it is a shared placement, the obligation to the prior child is considered based on the percentages, and regardless of the order amount. Jill pointed out that instead of using a flat number, there is just one extra calculation.

## **Adjournment**

**Katherine Marek, Bureau of Child Support, Policy Automation Specialist**

Katherine asked if there were any further comments, and hearing none, the meeting was adjourned at 3:51 p.m.

*Minutes prepared by Aviva Gellman with contributing edits from other BCS staff.*