

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

The amount of support to be awarded is based in large part 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. §4302, and includes income from any source. The statute lists many types of income including, but not limited to:

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(6) **[s]Social [s]Security** disability benefits, **[s]Social [s]Security** retirement benefits, temporary and permanent disability benefits, workers' compensation and unemployment compensation:

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

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

(2) If a child for whom support is sought is receiving **[s]Social [s]Security [retirement or disability derivative]** benefits as a result of a parent's **[age] retirement, death** or disability, the benefits the child receives shall be added to the combined monthly net incomes of the obligor and obligee to calculate the income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the schedule at the combined income of the obligee, obligor and child's benefits shall then be reduced by the amount of the child's **[social security or derivative]** benefits before apportioning the remaining support obligation between the parties pursuant to Rule 1910.16-4. For purposes of determining the support obligation of a surviving parent when the child is receiving benefits as the 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.

Example 1. If the obligor has net monthly income of \$1200 per month; the obligee has net monthly income of \$800; and the child receives **[s]Social [s]Security derivative** benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined monthly net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is \$539 per month. From that amount, subtract the amount the child is receiving in **[s]Social [s]Security derivative** benefits (\$539

minus \$300 equals \$239). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of \$239 between the obligor and the obligee in proportion to their respective incomes. Obligor's \$1200 net income per month is 60% of the total of obligor's and obligee's combined net monthly income. Thus, obligor's support obligation would be 60% of \$239, or \$143.40, per month.

Example 2. Two children live with grandmother who receives \$400 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 \$500, the amount she receives on behalf of the children from the trust. Therefore, obligee's and obligor's combined net monthly incomes total \$2,000. Add to that the \$400 in Social Security benefits grandmother receives for the children to find the basic child support amount in Rule 1910.16-3. The basic support amount at the \$2,400 income level for two children is \$811. Subtracting from that amount the \$400 in Social Security derivative benefits grandmother receives for the children, results in a basic support amount of \$411 to be apportioned between the parties. As mother's income is 75% of the parties' combined income of \$2000, her support obligation to grandmother is \$308 per month.

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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 the basic guideline child support, spousal support and/or alimony pendente lite obligation:

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)	_____	_____
5. Combined Total Monthly Net Income	_____	

6. Plus Child's Monthly Social Security
[Retirement or Disability] Derivative Benefit, [_____]
 if any. (See Rule 1910.16-2(b)(2)) _____
7. Adjusted Combined Monthly Net Income _____
8. PRELIMINARY BASIC CHILD SUPPORT
 OBLIGATION (determine from Schedule
 at Rule 1910.16-3 based on number of children
 and line 7 adjusted combined monthly
 net income) [_____]

9. Less Child's Monthly Social Security [_____]
[Retirement or Disability] Derivative Benefit _____
10. BASIC CHILD SUPPORT OBLIGATION [_____]

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RULE 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.

(a) Child care expenses. Reasonable child care expenses paid by the custodial parent, if necessary to maintain employment or appropriate education in pursuit of income, are the responsibility of both parents. These expenses shall be allocated between the parties in proportion to their net incomes and obligor's share added to his or her basic support obligation. When the custodial parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the full unsubsidized cost of the child care, not just the amount actually paid by the custodial parent. However, if allocation of the unsubsidized amount would result in a support order that is overly burdensome to the obligor, deviation pursuant to Rule 1910.16-5 may be warranted.

(1) Except as provided in subsection (2), the total child care expenses shall be reduced **[by 25%]** to reflect the amount of the federal child care tax credit available to the custodial parent, whether or not the credit is actually claimed by that parent, up to **[a] the maximum annual cost [of \$2, 400 per year for one child and \$4,800 per year for two or more children] allowable under the Internal Revenue Code.** **[For example, where the custodial parent incurs \$7,000 per year of reasonable child care expenses for two children, the net child care expenses**

subject to allocation between the parties is calculated as follows. Multiply the first \$4,800 of these expenses by .75 - \$3,600. Add the remaining child care expenses of \$2,200 to this amount for a total of \$5,800. Divide this amount by 12 months for a total of \$483 per month of net child care expenses that are subject to allocation between the parties in proportion to their net incomes.]

(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 custodial parent[**'s gross income (before considering any support) falls below \$1,200 per month for one child, \$1,600 per month for two children, \$1,800 per month for three children, \$2,000 per month for four children, \$2,300 per month for five children and \$2,500 per month for six children**] is not qualified to receive the credit .

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Explanatory Comment--2004

Subdivision (a), relating to the federal child care tax credit, has been amended 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.

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