

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 150

Relating to: Child Support Percentage of Income Standard

Rule Type: Permanent

1. Finding/nature of emergency (for emergency rules only)

Not applicable

2. Detailed description of the objective of the proposed rule.

The proposed rule revisions were developed in response to recommendations from the Child Support Guidelines Advisory Committee established to provide guidance to the Department on revisions to the state policy regarding the guidelines used to determine child support payments and the application of those guidelines in special circumstances. This report is the result of the extensive deliberations of the advisory committee composed of representatives of the courts, the Wisconsin Bar, community-based organizations and county child support agencies, state legislators, citizens and the Department of Children and Families.

The proposed rule revisions focus on five areas: high income formula, low income formula, shared time formula, serial family formula and medical support guidelines. Additionally, proposed rule revisions make some clarifications to the definition of gross income.

3. Detailed explanation of statutory authority for the rule.

Section 46.25 (9)(a), Wis. Stats., as created by 1985 Wisconsin Act 29 requires the department to promulgate rules that provide a standard for courts to use in determining a child support obligation base upon a percentage of the gross income and assets of either or both parents. The department was required to include in those rules all of the following:

- (a) A definition of "income" which considers adjusted gross income under certain circumstances.
- (b) The percentages used to compute payments.
- (c) The method of applying the percentage of income standard when:
 - 1. A payer is self-employed or is unemployed but may be employed in the future.
 - 2. Child support is paid to children in 2 or more families.

Section 46.25 (9) (a) was renumbered 49.22(9) by 1995 Wis. Act 404 and amended to read:

“The department shall promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each

parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent.”

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule.

100 hours.

5. List with description of all entities that may be affected by the proposed rule.

The proposed rule revisions described in this scope statement apply to temporary and final orders for child support or family support of a marital or nonmarital child in any action affecting the family under Chapter 767 of the Wisconsin Statutes, including stipulated child support settlements under Wis. Stat. §767.34.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

Wisconsin’s Percentage of Income Standard was created to comply with federal requirements in 45 CFR 302.56(a) which require that as a condition of approval of its State plan, the State shall establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State.

45 CFR 302.56 (e) also requires states to review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small business):

Minimal impact; no impact on small business.

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