

Kansas Child Support Guidelines Advisory Committee  
January 23, 2015  
Minutes - Approved

Present: Hon. Tom Foster, Chair; Hon. Amy Harth; Hon. Constance Alvey; William McClain; Brian Mull; Professor Linda Elrod; Larry Rute; Melissa Johnson; Amy Beardy; Doni Mooberry; Charlie Harris; Carol Park;

Staff: Mark Gleeson

Absent: Lisa Howell, Sherri Loveland

Guest: Dennis Molamphy

Review and Approval of Minutes from November 21, 2014

The minutes of the November 21, 2014, meeting were approved. Motion to approve made by Larry Rute and seconded by Judge Constance Alvey.

Definition of Direct Expenses

The committee reviewed material provided by Charlie Harris and Brian Mull pertaining to Section II.A.1 Definitions and Explanation Direct Expenses. Judge Foster passed around sections from Expenditures on Children by Families to show how this document defines direct expenses. The purpose of the review is to provide a definition of direct expenses that will be helpful to litigants without encouraging unnecessary litigation. The following issues and items were included in the discussion:

1. Cell phones are useful to both families for many reasons but the cost may be too difficult to assign between the parents or to one parent.
2. Vehicle costs include the cost of the vehicle, loan, service, maintenance, insurance, and fuel. There is some question regarding whether this is a discretionary or direct expense.
3. School lunches: Should they be treated as food or as part of the educational expense?

The language in Brian Mull's proposal provided to the committee suggests "Direct expenses shall include but are not limited to" but this does mean that families will not be required to provide some items in the list of Direct Expenses.

There is a difference in how often the shared expense formula is used by families on public assistance and those whose child support is enforced through private attorneys. In general, families on public assistance use this adjustment less frequently.

The consensus of the committee is to craft a definition of direct expense but not attempt to create an exhaustive list of direct expenses.

## Economist's Report

The committee received the first report from Dr. Jodi Messer-Pelkowski. Dr. Pelkowski recommends deleting the \$5,000 to \$10,000 annual income level because it skewed the tables and because there are very few people living on \$5,000 to \$10,000 per year for the one child family. The other assumption is that the child is to remain whole. She recommends keeping the top wage displayed on the child support schedules at \$15,500 combined gross income per month.

All figures are reduced to gross monthly income. The dissolution burden is preserved.

Dr. Pelkowski recommends an increase in the child support schedules of approximately three percent based on the one child family schedule. Dr. Pelkowski noted that real wages have fallen compared to the price of goods which has increased. Although many people continue to be underemployed, expenditures as a percent of income has increased.

According to Dr. Pelkowski, the middle group is holding at about .92. The data is showing that the percentage of spending at the three age groups is remaining constant compared to the data reviewed in 2009; however, Dr. Pelkowski noted that the data does not suggest that the age groups be collapsed into one or two age groups.

The two child family chart shows a range of percentage change from 5.31% to 2.34% with an average change of 3.43%. The real dollar increase at a combined monthly gross income of \$15,500 is \$35 for each child or \$70 a month.

Dr. Pelkowski provided materials including graphs showing the percentage change, the actual change in dollars, and the dollar increase at each of the gross monthly income levels. The chart also shows the percentage increase that reflects the consideration of the difference between the inflation rate and the actual increase in expenditures on children. This accounts for the stagnation in wages and the change/increase in the price of goods. This also takes into consideration that the last change in the schedules was four years ago. For a one child family, the increase would be less than \$100.

The committee asked if the changes were to be adopted, how would Kansas rank compared to other states? Dr. Pelkowski would need more time to look at the data in order to compare the proposed Kansas numbers with guidelines in other states. The Office of Child Support Enforcement would be a good resource or Laura Morgan's book comparing all 50 states.

Mark Leno, United States Department of Agriculture and the primary author of the USDA's annual report, Expenditures on Children by Families, wrote that income brackets have gone up by about eight percent. He has changed both the income brackets and the expenditures on children. There is a federal report showing parody in the cost of living at the state level. The committee discussed if it would be possible to factor in the cost of living changes since the last review. Would it be possible to create an adjustment, or a factor, to prevent Kansas from falling further behind other states?

Dr. Pelkowski discussed the use of Regional Price Parody reports compared to the Interstate Wage Differential. The Kansas Child Support Guidelines currently uses the Interstate Wage Differential in determining the cost of living from one state to another. Dr. Pelkowski

pointed out that wages are not necessarily a good indicator of the hours worked. For example, Florida has a large number of retired individuals who do not want to work full-time; however, their wages are reflected in the Interstate Wage Differential.

Dr. Pelkowski provided information on the direct expenses. In particular she indicated it is dangerous to pull out costs in one area when working with averages. When examining families with comparable incomes and one family has children in private, high-cost schools and another has children in public schools, the money used for the private, high-cost education means that family has less money available to spend elsewhere than the family with children in public education does.

Dr. Pelkowski recommends that if staying with the three age groups, that the current percentages (80% for 0-5, 92% for 6-12, 100% for 13-18) remain the same. Nothing in the data has changed that would indicate the need for a change in the percentages.

Dr. Pelkowski was asked if the clothing allowance is too small for the Shared Expense formula. There is justification in the data to increase the clothing allowance from two percent to about three percent. However, the USDA report that Dr. Pelkowski has used to determine the allowance combines child care and education expenses. The committee expressed interest in determining what costs are associated with child care and which costs are associated with education. Dr. Pelkowski would need to have the committee go through all of the expenses to determine which expenses are education and which are child care.

The committee explored the possibility of finding a way to separate education expenses from the combined child care/education expense that Dr. Pelkowski uses and whether it would be best to make this available for low income families. In most cases, only one parent is in the low income category.

Dr. Pelkowski stressed that it is important to know that no type of expense has been removed from the child support schedules other than those expenses that are suitable only for adults: smoking materials, alcohol, second homes.

#### Miscellaneous Issues Discussed and Questions

The discussion of the dissolution burden is now often referred to as the “self-support reserve.”

Overall percentages in the Kansas tables are the overall percentage for Epenshade and Rothbarth.

What is the percentage for health care and child care? The problem is that the health care number includes unreimbursed health care costs for the child – health insurance premiums, co-pays, and over-the-counter medications. Dr. Pelkowski is not able to obtain valid health care costs for the child, however, she will provide the expenditures on child care. Charlie Harris made a motion to adopt the child support schedules and retain the current age categories and the factors. The motion was approved.

Dr. Pelkowski will provide child support schedules for the four, five, and six child family size. Those will be available for the February meeting.

### Interstate Pay Differential

There is a new data source in the Regional Price Parody which provides an index of expenses in different parts of the country. This source is not yet published and is expected to be very different from the Average Weekly Pay Differential. Dr. Pelkowski distributed a handout using the same data source but with updated data. The new resource will be provided at the February meeting.

### Equal Parenting Time Subcommittee

Brian Mull presented a PowerPoint presentation to the committee on January 22, 2015. He discussed his concerns for the large change in child support from 49 percent to 50 percent parenting time, and the potential problems created by the use of three separate parenting time formulas. His proposed parenting time adjustment, which combines the current parenting time adjustment, the EPT formula, and the shared expense formula, uses a single "PTA Worksheet" and considers all parenting times. By using a single formula which creates a smooth transition from parenting time adjustment to shared residency, Brian believes financially motivated litigation could be reduced. The PTA worksheet would replace the current EPT worksheet. A draft version of his PTA Worksheet was provided to the committee. He also proposed changing the 35 percent starting point for the parenting time adjustment to 30 percent and defining "nearly equal" parenting time to be 45 percent.

The committee discussed the rationale for picking 35 percent as the starting point for the Parenting Time Adjustment and what constitutes equal or nearly equal parenting time. The rationale for starting at 35 percent is that 30 percent is the "traditional" parenting time split between parents. In discussing how low to go before considering a parenting time adjustment, the committee did not want to go lower than 30 percent. Brian's proposal would create a smooth line from 30 percent to 50 percent, or whatever threshold the committee chooses, rather than the sharp distinctions between 39 percent and 40 percent of parenting time and between 44 percent and 45 percent of parenting time. Dr. Pelkowski indicated that other states use this model in the belief that it avoids litigation. There was debate among the committee whether this would help avoid litigation or promote a greater incentive to argue over small amounts of parenting time. The committee did agree that the big drop at 50 percent is problematic. Judge Alvey indicated that in Wyandotte County the default visitation begins at 29 percent and she prefers starting at 35 percent. If 29 percent is default and goes to 30 percent, will that encourage litigation. Wyandotte County ignores birthdays, school time, and sleep time because those are presumed to be equal for both parents.

### Direct Expenses

Charlie will update the Definition under II.A.1 per the discussion today for the February meeting. The committee may consider moving this definition to a different section of the guidelines. The committee also considered creating a list of expenses that could be shared by the parents as a resource outside of the guidelines or as an appendix.

It was suggested that if there is going to be a definition of Direct Expenses, it needs to be applied to individuals using the Shared Expense formula and that it not apply generally to all child support. Some committee members expressed a preference that a definition of direct expenses be included in the section on Shared Expense and that the definition allow the judge some flexibility to make a decision that fits best for that family. Other committee members preferred a definition that applies to all parents regardless of parenting time.

#### Health Insurance

The committee considered whether to include adult child(ren) in the prorated amount of health care insurance if the adult child(ren) is covered under the parent's health insurance. Charlie Harris made a motion not to include any emancipated children on the prorated amount of health insurance premium. Motion was seconded by Judge Alvey. The motion was approved.

#### Worksheet

The committee reviewed the current child support worksheet. This will be reconsidered at a later meeting. The proposed line for "date submitted" was rejected and will be removed. References to Mother and Father will be changed to Parent A and Parent B.

#### Tax Update

Dennis Molamphy, attorney in Sedgwick County, raised questions regarding the child support guidelines tax considerations. 2015 tax considerations will be decided at future meetings. Mr. Molamphy will present additional information at the February meeting.

#### Next Meeting

Friday, February 27, 2015  
Room 269 at the Kansas Judicial Center