

Date: 25-Aug, 2011
Brian Mull
Wichita, KS

Dear Kansas Child Support Advisory Committee,

I have reviewed the proposed changes to the Kansas child support guidelines. I believe the two sections that are of most interest to me and which will be of primary interest to most readers are the changes to sections III.B.7 (expense sharing), and section IV.E.4 (special needs and extraordinary expenses). Below each of these sections are discussed as well as a few others to which I have proposed revisions.

Section III.B.7

I have stated before, that I believe the proposed revised formula is a step in the right direction. However, the issue of clothing at both homes is an issue that is obvious. I've not heard of one parent going shopping for the other parent and bringing clothes home. There are simply too many cases where this system doesn't work. I believe both parents should be forced to provide their own clothing since financial disparity has already been accounted for. To adjust for that, 2% should be removed from the respective direct expense percentages of 13%, 15%, and 18%.

Agreement is always the best policy if one can be reached. With regard to clothing, I think at the very least, if parents can agree to share clothing, the guidelines should provide what they are design to provide - guidance. I propose that if both parents simply agree to provide their own clothing, the 2% reduction should be offered as a solution to help eliminate the potential for further litigation. By at least offering the guidance to adjust by 2%, families will be encouraged to at least provide clothing for their child without the hassle of an expense sharing plan.

I would propose the following addition to section III.B.7:

Step 2a: If both parents agree to provide all their child(ren)'s needed clothing at their home, the 13%, 15% and 18% values above are reduced to 11%, 13%, and 16% respectively.

Section IV.E.4

The revisions to Section IV.E.4 seem to go against the stated intentions of the committee and should be deleted. As was noted in the previous meeting minutes, the committee didn't want to revise the special needs section further because the goal of the committee is not to make the guidelines more confusing. This revision does exactly that – makes them more confusing.

Many times the committee has mentioned that there is always a "catch-all" to account for expenditures outside the norm. Another paragraph, which is misleading in this regard simply adds confusion.

Below are some questions that I believe will be asked by parents:

- 1.) What are "usual and ordinary expenses"?

- 2.) Which parent gets to decide to incur such “extraordinary” expenses? The payee because they have all the control, or the payor, because he will be the one paying for it?
- 3.) What if one parent enrolls the child in an expensive activity without consulting the other parent?
- 4.) What are “premier sports”? I have to travel to other YMCA’s to take my son to games, does that mean his team travels and thus this is a “premier sport”?
- 5.) YMCA has now introduced “competitive” football as of last year. But the YMCA is not acknowledged as a competitive league. Is this a "premier sport"?
- 6.) Competitive, basketball that travels costs \$130 to sign up. County Recreation offers basketball for \$100. Does the payor now pay \$130 or \$30 for basketball since sports activities are already included in the basic child support tables and always have been?
- 7.) My child has played competitive sports for the last 10 years. The court has never ordered that I pay additional child support for competitive sports. Does this new provision mean that I will now have to pay for all of them on top of my child support amount which also includes sports?
- 8.) For shared custody, parents have nearly equal parenting time. They will also travel equally to their sports or other events. Why would the payor now be required to pay for the payee’s travel expenses in addition to the first part of the shared formula which offsets for financial disparity.
- 9.) Hunting/fishing and the related travel can get just as costly as “premier” sports when you consider boat rental, fuel, licenses, etc. (\$150 per trip). If sports are going to be considered, other expensive activities should be as well. Its not a premier sport, but its even more expensive, it promotes a healthy lifestyle just like sports, and it is quality parenting time. Now just ask yourself – what if Mom were the one taking the child fishing every weekend at the lake?
- 10.) My child support was increased by \$40/mo so my child could attend swim lessons and go to swim meets. She’s had ear infections for the last 6 months which kept her from swimming and now must not swim for many months. Do I now pay my attorney \$750 to draw up a motion to rehash the child support issue so I can recover my \$240. Or should I just be a good Dad and pay up?
- 11.) What evidence should be used to prove how much an activity is projected to cost?
- 12.) My daughter wanted to play piano, which cost \$15/week. I was ordered to pay an additional \$30/month in child support. However, my daughter had a change of heart after the hearing and now she doesn't like piano. I would rather use the money to save for future orthodontic needs. Can I get my money back?
- 13.) Our combined monthly income is only \$3000. My ex has already signed our son up for two weeks at space camp. This will cost \$2300. We couldn't afford this when we were married, how can I pay for this in addition to my child support and my own home?

I think this section will lead to a mess of expenses being offered as “extraordinary” when they are simply just expenses which are more affordable to higher-income families. This will lead to more problems than it will solve. I believe this entire provision for extraordinary expenses as they pertain to sports and activities should be removed from the proposed revisions because it is too confusing, however, if the committee insists on implementing this confusing provision, I would offer the following changes:

Extraordinary expenses of the child are items which far exceed the usual and ordinary annual expenses normally-reasonably incurred at the child's age and the parents' income level, including but not limited to, the cost of private school, ~~premier sports, instruction or performance related expenses in the arts,~~ which are not considered elsewhere in the support order or in computations of the worksheet. The court shall have discretion to award extraordinary expenses so long as they are reasonable and are in best interest of the child.

The additional amount of the special needs and extraordinary expenses, reduced to a monthly average, should be entered on Line E.4 (Special Needs/Extraordinary Exp.).

Section V.A

A comment from a woman was previously sent to the committee stating that the payor in her case did not disclose his change of employment which resulted in a change of circumstances. As a result, she did not receive as much money as she could have during that time. She requested a provision to place a penalty on Dads who don't disclose a change of job. It appears this new paragraph is the result of her request.

I will immediately point out that this new paragraph is one-sided as it assumes a parent's income must have increased so the parent failed to disclose this change of circumstances. The first paragraph in section V.A states "increase or decrease." As you know, most people don't file child support motions prose, so they must incur sizable legal expenses to modify child support. In my experience, \$500 with retainer is pretty typical, so unless a parent expects to recover \$500 in child support, the motion would not make sense. Why only penalize a payor instead of being fair and giving a credit as well?

Arrearages and overpayments are addressed on income withholding orders every day. I fail to understand why the amount of the under or overpayment is being assessed as a monthly value on line F.3. The most reasonable way to address the discrepancy is to include it on the income withholding order.

Changes are proposed:

In the event of a failure to disclose a material change of circumstances, as a result of such breach of duty, the court may determine the dollar value of a party's failure to disclose over the previous 12 months, and assess the amount in the form of a child support arrearage or overpayment. The resulting value should be added to any existing child support arrearage or overpayment and cause an income withholding order to be immediately ordered which reflects the newly calculated amount. The court may also adopt other sanctions.

Thank you once again for your time and consideration.

Regards,

Brian Mull