

# 2013 Child Support Guidelines changes Q&A

Updated 6/25/14

## What's new?

The new child support guidelines include innovations in several areas, most notably medical support, the parenting time credit, determining support for a Child Attending School, and use of potential income. Here are some high points:

- Increased flexibility in using actual income, potential income, or both; no more income presumptions.
- Parents share in the cost of health insurance provided by either parent.
- A new parenting time credit formula improves equity and helps prevent small variations in parenting time from having a significant effect on the child support amount.
- Separate support amounts for minor children and Children Attending School.
- Commentary footnoted to the guidelines, revised and updated.

## Questions and answers by category

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### Income ([OAR 137-050-0715](#))

#### I don't know the other parent's income. What should I use?

In a proceeding to determine support, both parents are required to provide income information, but you may want to estimate support before initiating an action. If you know the other parent's occupation, you can get information about average employment levels and wages by region at the Oregon Labor Market Information System at [qualityinfo.org](http://qualityinfo.org) (OLMIS may also be helpful in determining potential income – see the next question).

If you don't know what the other parent makes *or* what their earning potential is, you can use full-time minimum wage for the state where the parent lives.

#### What if a parent chooses not to work or to be underemployed?

When a parent is making less than s/he could be, the parent may be assessed “potential income” – a determination of what the parent could be making. Potential income is based on the individual’s work history, qualifications, education, health, and other relevant factors, considered in light of job opportunities and earnings levels in the community. Under the prior guidelines, potential income was presumed to be at least minimum wage in most cases. This presumption no longer exists, though in many cases it is still appropriate to impute to a parent the ability to earn full-time minimum wage income. The Oregon Labor Market Information System ([qualityinfo.org](http://qualityinfo.org)) may be useful in assessing potential income.

### **Can I use my gross income from last year’s taxes?**

For many people, the wages reported by the employer in box 1 of the IRS W-2 form may be an accurate report of gross income. However, there are several factors to consider. Please refer to [OAR 137-050-0715](http://OAR 137-050-0715) for more information.

- Income for tax purposes excludes certain items that are included for child support purposes, such as gifts and inheritances. You also may have some benefits of employment such as a company car, house, or phone, that could be counted as income if they reduce living expenses. You also should include investment income.
- Taxes look backwards, while child support looks forwards. If last year’s taxable income is an accurate prediction of your present income, it may be helpful in proving your income. In some cases, a person with income that varies from year to year might be able to use an average of several prior years’ tax returns to predict future income. On the other hand, last year’s income will not help predict income for a parent who has changed jobs and is at a different rate of pay.
- Certain voluntary payroll deductions – for example, non-mandatory retirement contributions or tax-free spending on medical and child care expenses – may not be taxed, but are used in determining ability to support one’s children.
- Determining self-employment and business income is fact-specific and more complicated than can be addressed here. The basic computation is: gross income, minus cost of goods sold, minus ordinary and necessary expenses needed for business operation, minus one-half of the self-employment tax. Certain items commonly considered in determining income for tax purposes are excluded: accelerated depreciation (straight-line depreciation may be considered), investment tax credits, or other excessive expenses. Check with your attorney.
- Child support income can include both actual and potential income. For a person earning at their full potential, the gross income from their tax return might be an accurate statement of future income. For a parent who voluntarily leaves a lucrative

position and starts an unprofitable business or a lower-paid job, the parent's taxable income is only one factor in determining child support income.

### **Does a spouse's income count?**

The guideline support amount is based solely on the parent's income. The more complex scenario is when a parent chooses not to work at all or to their full potential because of a spouse's income. There are two ways to address such a situation. First, a parent's income may be based on "potential" income as described above. If this does not resolve the matter, and the guideline support amount is unjust or inappropriate as a result, the fact-finder can rebut the presumption that the guideline support amount is correct, and enter a different amount that is just and appropriate. See [OAR 137-050-0760\(1\)\(i\)](#).

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## **Health insurance and cash medical support ([OAR 137-050-0750](#))**

### **How much do I have to pay for my children's health insurance?**

Normally the parents must provide health insurance at a cost of up to 4% of their combined incomes. Either parent can be required to pay the total cost up front, and the parent not providing coverage will contribute to the cost through an adjustment to the support obligation. If neither parent has health insurance available, the obligor must pay *cash medical support*, or the court can enter a finding specifying why cash medical should not be ordered. This is a return to the method used prior to 2010.

A parent whose income is below minimum wage may not be ordered to pay for or contribute to the cost of health insurance, or to pay cash medical support. There may be other reasons why cash medical should not be ordered, and these must be explained with a finding.

### **I currently provide insurance but the cost is more than 4% of our combined incomes. Now what?**

In order for the court to order the parents to provide coverage, the coverage must be reasonable in cost. In some instances it may be appropriate to order the coverage at an amount over 4% if there are "compelling factors" that show it to be reasonable in cost. Some factors that may be persuasive in considering whether to order health insurance that costs more than 4% of the parents' combined incomes are:

- The child has a chronic health condition or a frequent need for medical care.
- The parents agree to continue coverage despite the cost.
- The cost of the coverage is only slightly over the 4% amount.

If the available coverage is not reasonable in cost, its cost cannot be divided between the parents, and a parent may have to pay an amount as cash medical support.

**Both parents have coverage available for the child. Who decides which coverage to provide? Do both parents have to provide?**

When both parents have appropriate coverage available, the parent with more parenting time decides which coverage will be ordered. Dual coverage is not required, but if the parents' combined coverage is reasonable in cost, dual coverage may be ordered if the parents agree, with parents sharing the cost of both policies.

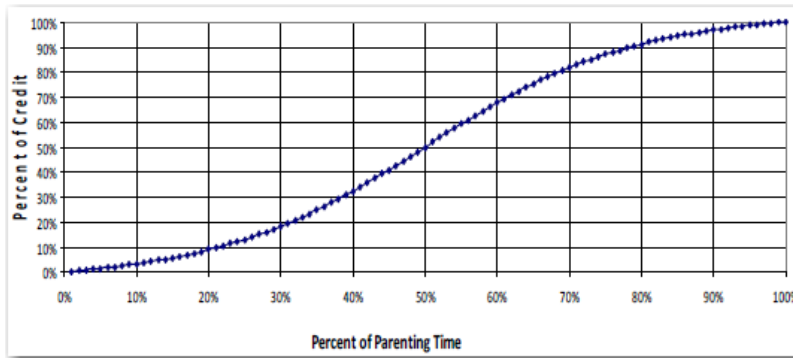
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**Parenting time credit ([OAR 137-050-0730](#))**

**I have 125 overnights, which is 34.24% of the parenting time. Why is my parenting time credit percentage only 23.65%?**

The new parenting time credit recognizes that when one parent has most of the parenting time and the other parent has significantly less, the bulk of the parenting expenses typically falls on the primary parent. As parenting time approaches equal, the parents are more likely to share evenly in the expenses, although some expenses, such as housing, are duplicated in a shared parenting situation. As a result, the parenting time *credit* percentage is higher than the actual parenting time percentage when a parent has most of the parenting time, and is lower than the parenting time percentage when the parent has limited parenting time.

The following chart illustrates the new parenting time credit: lower levels of parenting time result in little credit. Equal parenting time results in equal credit. A parent with most of the parenting time receives the bulk of the credit.



**Why does the calculator say I have to pay when I am the custodial parent, with 200 overnights or 54.79% of the parenting time?**

There are two issues here.

- *Legal custody* is not a factor in the child support calculation and does not determine who owes support.
- The child support obligation is based on income and reduced in light of parenting time overnights. If a parent's percentage share of the combined income is greater than the parent's parenting time credit percentage, the parent will owe support. The obligor/obligee determination is also affected by costs for health insurance and child care.

Because the parenting time credit goes disproportionately to the parent with more parenting time, this situation will occur only when there is a significant income imbalance or when parenting time amounts are very close.

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## **Child Attending School**

### **What is the support obligation for the Child Attending School?**

The Child Attending School's support is an equal share of the support owed for all the children. The 2013 child support formula now produces separate amounts for minor children and Children Attending School.

### **Do I get parenting time credit for a Child Attending School that lives with me?**

Only if the Child Attending School is 18 years old, living with a parent, and attending high school. Otherwise, neither parent receives parenting time credit.

### **Where can I get help?**

Send questions related to the child support guidelines to [GuidelinesQuestions@doj.state.or.us](mailto:GuidelinesQuestions@doj.state.or.us).