

**Maryland Child Support Guidelines Review:
Case-Level Report**

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Abstract

Both the Code of Federal Regulations and the Maryland Family Law article require that, at least every four years, a child support guidelines review is performed to ensure that the application of the guidelines results in the determination of appropriate child support award amounts. This paper describes the sample (n=410 random cases), methodology (on-site record review), and findings (no major problems were identified) from a case-level study done as part of the review for cases that were established or modified in calendar years 1996, 1997, or 1998. This case record review portion of this work was carried out by the Program Review Unit of the Child Support Enforcement Administration (CSEA), Department of Human Resources. Technical assistance, data entry, data analysis and report-writing were provided by the School of Social Work, University of Maryland-Baltimore. A separate report examining the guidelines themselves, in light of more recent economic data such as the cost of child-rearing and changes in income tax rates, is also being prepared. That study is being carried out by the firm (Policy Studies, Inc.) which provided consultation to the Maryland General Assembly during its original guidelines deliberations in the 1980s and will be submitted separately.

INTRODUCTION

Federal law and regulations require that, at least every four years, each state must review its child support guidelines and revise them, if appropriate, to "ensure that their application results in the determination of appropriate child support amounts" [CFR 302.56(e)]. In carrying out the review, states "must consider economic data on the cost of raising children and analyze case data...on the application of, and deviations from, the guidelines" [CFR 302.56(h)]. Maryland law [Family Law Article § 12-202(c)] also requires that the Child Support Enforcement Administration (CSEA) of the Department of Human Resources (DHR) periodically - at least every four years - "review the guidelines to ensure that the application of the guidelines results in the determination of appropriate child support award amounts". The Administration is required to "report its findings and recommendations to the General Assembly".

To carry out its guidelines review for the period 1996-98, the Child Support Enforcement Administration, Maryland Department of Human Resources used a bifurcated approach. It contracted with the School of Social Work (SSW), University of Maryland, its long-standing research and training partner, to assist its staff with the design and collection of data for the federally-mandated case-level portion of the study. The SSW also agreed to arrange for the macro-economic component - the review of the guidelines themselves mandated by federal and state law - to be carried out by Dr. Robert G. Williams of Policy Studies, Inc (PSI) and his associates. PSI has provided technical assistance to more than 40 states in guidelines development and updating, and was the principal author of the original Maryland guidelines adopted in the 1980s.

Pursuant to the federal and state requirements, the purpose of the macroeconomic guidelines review was to determine if the Maryland schedule was still appropriate or needed revision based on new child-rearing cost data, changes in federal, state or local income taxes and the like or, in the language of the Family Law Article [§ 12-202(c)], "to determine if application of the [current] guidelines resulted in...appropriate child support award amounts". The report on the review of the guidelines schedule (Policy Studies, Inc., 2000) will be completed within the next few months and, as required, will be submitted to the General Assembly by the CSEA. Today's report is submitted pursuant to the federal requirement that case-level data also be periodically reviewed. It presents findings obtained from review of a random sample of 410 Maryland child support cases in which support orders were established or modified in 1996, 1997 or 1998.

BACKGROUND

Until the mid-1980s, most child support awards in this country were set on a case-by-case basis, in accordance with broadly enunciated principles of family law and judicial attempts to analyze parental resources and children's needs in each specific situation (Williams, 1994). This practice began to change with passage of the Child Support Enforcement Amendments of 1984 (P.L.98-378), which required each state to develop a set of numerical guidelines to determine support amounts and to make those guidelines available to administrative and judicial authorities who set support awards. Initially, the guidelines could be either binding or advisory only (Dodson, 1994) and about half the states chose the latter. There were also reports that many of these initial guidelines merely codified existing state practices, which had historically resulted in inadequate awards (Smith, 1994).

For these and other reasons, the Family Support Act of 1988 (P.L.100-485) made a number of substantive changes related to support guidelines. First, by October 13, 1989, it was mandated that each state would provide that "there shall be a rebuttable presumption that, in any judicial or administrative proceeding for the award of child support, the amount of the award which would result from application of the guidelines...is the correct amount of child support to be awarded" [CFR 302.56(f)]. A second major strengthening of the guidelines provisions was the federal mandate that each state periodically (at least once every four years) review its guidelines schedule and revise it, if necessary, in accordance with economic and case data [CFR 302.56(h)].

In mandating adoption, use and periodic review of presumptive guidelines, the federal government had three broad objectives:

- 1) To enhance the adequacy of orders for child support by making them more consistent with evidence on the costs of child rearing;
- 2) To improve the equity of orders by assuring more comparable treatment for cases with similar circumstances; and
- 3) To improve the efficiency of adjudicating child support orders by encouraging voluntary settlements and reducing the hearing time required to resolve contested cases (Williams, 1994).

A. Types of Guidelines

Even within the tightened guidelines parameters created by the Family Support Act, states still have a great deal of flexibility. There are no restrictions, for example, on the type of guidelines that states may adopt or the levels of orders that result [CFR 302.56 (g)]. Thus, although all states have presumptive guidelines in place, there is no standard methodology or formula in use in all states at this time (Venohr, Williams, and Price, 2000). There are also no specific federal restrictions on the number or nature of reasons states may adopt as criteria for deviations from the guidelines [CFR 302.56 (g)]. As a result, a large range of permissible reasons which both raise and lower the guideline amount exists across the nation. A review of guidelines indicated that there were almost 50 different criteria being used, although all states' criteria are based on the best interest of the child (Venohr, Williams, and Price, 2000).

With regard to the basic approaches to guidelines, there are three models, each used in multiple states.¹ The three models are generally known as: Percentage of

¹The Personal Responsibility and Work Opportunity Reconciliation Act did not require adoption of a national guidelines standard.

Income, Melson-Delaware, and Income Shares (U.S. General Accounting Office, 1993). Each of these models is briefly described below, but readers are cautioned that these general descriptions do not take into account the many variations on/adjustments to the general form of the models which exist within the states.²

1. Percentage of Income

The percentage of income approach generally bases the support award solely on the income of the non-custodial parent; there is no adjustment for the earnings/income of the custodial parent. The model assumes that, in two parent households, a determinable and fixed percentage of parental income is typically spent on children, varying by number of children (Dodson, 1994). The percentage-of-income approach is used in approximately 16 states and territories[(e.g., Wisconsin and Minnesota (DelBoca and Flinn, 1994))].

2. Melson-Delaware

This model is used in Delaware and a few other states. Initially developed by Judge Elwood Melson for use in his own courtroom, the Melson formula has been in use statewide in Delaware since 1979 and was the first presumptive child support standard to be used on a statewide basis (Williams, 1994). Under Melson-Delaware, a "self-support reserve" is subtracted from each parent's income, the reserve meant to

²Variations exist, for example, with regard to whether a state uses gross or net income, whether child care expenses are considered part of the basic support obligation or are treated as an add-on, the extent to which -if at all -there are formulaic adjustments related to visitation, whether or not the existence of other dependents is included in the formula or as a deviation criterion and so forth.

represent the minimum amount that an adult needs to meet his or her own needs.³

After the reserve is subtracted, the primary support needs of the child(ren) are computed, and this amount is meant to represent the minimum amount necessary to raise the child(ren) at subsistence level (Delaware Family Court Judiciary, 1994).

3. Income Shares

The income shares model was the most common approach initially adopted by states (n=27 in 1989). At present, the income shares method is used in more than 30 states or territories, including Maryland. The bedrock premises of the income shares approach are:

- 1) The child should receive the same proportion of parental income that he or she would have received if the parents lived together.
- 2) In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children.
- 3) A child's portion of such pooled expenditures includes spending for goods used only by the child, such as clothing, and also a share of goods used in common by the family, such as housing, food, household furnishings and recreation (Williams, 1987).

Consistent with these premises, this model takes the income of the custodial as well as the non-custodial parent into account in determining the basic support obligation. This is accomplished, in essence, by summing parents' incomes and considering the number of children involved. To the primary support obligation resulting from this calculation are added any actual child care costs and extraordinary medical

³As an example, in mid-1994 the Delaware Family Court Judiciary recommended a self support reserve or allowance for each parent of \$620 per month, an amount based on the assumption of full-time work at the then minimum wage, \$4.25/hour.

expenses.⁴ In general, the resulting total support obligation is then pro-rated between the parents based on their incomes (Dodson, 1994).

B. Guidelines in Maryland

In response to the federal requirement to develop a uniform, statewide approach to the establishment of child support amounts, Maryland, like the majority of states and territories, adopted the income shares approach. This was the approach developed and recommended for all states by the Child Support Guidelines Project, funded by the federal Office of Child Support Enforcement and administered by the National Center for State Courts. The fundamental principles of the Maryland income shares approach, as articulated by the Child Support Enforcement Administration, sound very much like those of the national guidelines advisory body.

- 1) All children have a right to receive support from their parents.
- 2) Both parents share responsibility to support their children. Although the custodial parent provides valuable resources in the form of physical and emotional care, this does not relieve the parent of the responsibility to contribute to the financial support of his or her children.
- 3) The support due each child is based on the parents' respective financial resources, the needs of the child, and the standard of living the child would have enjoyed if the parents and child were living in an intact household (Child Support Enforcement Administration, 1995).

Within these parameters, the Maryland income shares model has the following important features. First, the model incorporates a self-support reserve. At the time the original guidelines schedule was adopted, the self support reserve was set at essentially the one-person federal poverty level for that year, or about \$480 per month.

⁴A few income shares states handle child care and extraordinary medical expenses differently, but most do approach them as "add ons" to the basic support obligation.

Notably, however, the reserve amount has not been adjusted upward since then to reflect changes in the federal poverty level.⁵ The comparable, one person monthly poverty level amount in 2000, to illustrate, is \$696 per month (FR Doc. 00-3478).

Second, child care, transportation, education and extraordinary medical expenses are not calculated as part of the basic support obligation, but are treated as add-ons when applicable. In addition, the model "recognizes two custody arrangements: 'sole physical custody' and 'shared physical custody' and makes adjustments based on same" (Child Support Enforcement Administration, 1995).

Consistent with federal and state requirements, Maryland must periodically review its guidelines and, if appropriate, revise them based on current economic data on child-rearing costs and other factors. The present review covers calendar years 1996 through 1998 and has been conducted in two parts. As noted, the macro-economic review required by federal and state law is being completed by Policy Studies, Inc. Their report will address the core of the guidelines, the Schedule of Basic Child Support Obligations, and will propose some modifications to that Schedule. The remainder of this report describes the federally-mandated case-level review. This project was carried out by the Child Support Enforcement Administration Program Review Unit with technical assistance from the School of Social Work, University of Maryland, Baltimore.

⁵Adjustment to the reserve has been recommended by Policy Studies, Inc.

STUDY DESIGN & METHODOLOGY

A case record review of a random sample of child support cases was chosen as the method for examining the use of the child support guidelines during the most recent review period (1996-98). The following paragraphs describe how the sample was selected, the data collection instrument, and the case record review procedure.

A. Sample

The study population was defined as all cases in which a support order was established or an existing order was modified to increase or decrease the amount of support during calendar years 1996, 1997 or 1998. Before drawing the study sample it was necessary to determine the number of cases needed for a valid and representative sample. During calendar years 1996-1998, 49,620 child support orders were recorded in CSES as established or modified in Maryland.⁶

To determine appropriate sample size when one's interest is learning the extent to which a certain event (i.e. guidelines are used in establishing or modifying orders) occurs in a population, three questions must always be answered (Arkin and Colton, 1963).

1. How much confidence does one want to have in the results?
2. How much sampling error is acceptable?
3. What is the estimated proportion of cases of the event in the population?

⁶This number is less than the total number of cases established or modified. Data on some cases were not available due to some jurisdictions not using CSES during the early part of the study period. However, the sample used in this study and the estimates reported herein are still valid based on a universe of at least 49,620.

The first question refers to the "confidence level." In most scientific research a confidence level of 95% is considered standard. This means that if random sampling is used there is a 95% chance that the sample selected will be representative of the population from which it was drawn. The second question refers to how much, on average, sample results will vary from the population. For the current study a sampling error of 5%, also the traditional level in research, was chosen meaning that all results are expected to lie within $\pm 5\%$ of the true population values. For the present study the final question, incidence of the event in the population (i.e., use of the guidelines), was one of the research questions. To determine the correct sample size, an estimate that the guidelines are used in 50% of the cases was used. This is the most statistically conservative estimate and results in a larger, rather than smaller, sample size.

With these figures it was determined that a sample size of 410 cases would be more than adequate to answer the research question within the statistical parameters chosen. To ensure that the sample was representative of the entire state and that it included some cases from each jurisdiction, it was stratified by county. The number of cases to be drawn from each county was calculated by multiplying the total sample size (410 cases) by the proportion of child support orders established or modified within that county between 1996 and 1998. For example, St. Mary's county accounted for 1.5% of the support orders established in Maryland during the study period. Multiplying 1.5% by the total sample size of 410 resulted in a sample size of six cases for St. Mary's.

Following similar calculations for each county, a sample list was created by the SSW for each local agency. See Table 1, below, for the exact number of cases drawn from each jurisdiction.

Table 1

Sample Size by Jurisdiction

Jurisdiction	Sample Cases
1 Allegany	10
2 Anne Arundel	18
3 Baltimore County	28
4 Calvert	6
5 Caroline	4
6 Carroll	8
7 Cecil	10
8 Charles	16
9 Dorchester	5
10 Frederick	14
11 Garrett	3
12 Harford	10
13 Howard	8
14 Kent	2
15 Montgomery	23
16 Prince George's	78
17 Queen Anne's	2
18 St. Mary's	6
19 Somerset	4
20 Talbot	3
21 Washington	18
22 Wicomico	11
23 Worcester	4
30 Baltimore City	119

Total	410
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Cases were included on the universe lists and eligible for random selection into the sample if they met the following criteria as specified by the CSEA policy chief:

- 1a) A final order for current support was established in 1996, 1997, or 1998; **OR**
- 1b) A modification to either increase or decrease the support ordered amount (SOA) was done in 1996, 1997, or 1998; **AND**
- 2a) The case was either AFDC/TANF or non-AFDC/non-TANF, state or federal foster care, a responding URESA case, or a responding non-URESAs interstate case using Maryland guidelines; **AND**
- 2b) The case had a criminal, civil, equity, non-support, or paternity and support order.

For each jurisdiction, sample cases were drawn randomly by SSW researchers from a database created from CSES which contained the universe of cases meeting the selection criteria. In addition, a list of oversample cases was also drawn randomly for each jurisdiction; these cases were to be used for the case record review in the event that a sample case could not be found or was not available on the day of the site visit.

A case was defined as deviating from the guidelines recommended amount if the support amount awarded differed (up or down) from the guidelines recommended amount by \$10 or more. Award amounts differing by less than \$10 were thought most likely to represent rounding of dollar amounts, rather than explicit attempts to deviate from the spirit of the guidelines.

B. Data Collection Instrumentation & Procedure

Data were abstracted from case records using a data collection form developed collaboratively by SSW and CSEA staff. All data were collected on-site in the local Child Support Office, Court House or State's Attorney's Office by a CSEA Program Review Unit staff member. The SSW previously assisted in the performance of the data collection function. However, with creation of the Program Review Unit within the CSEA, the case record review and data collection function was assigned to staff of that unit. Before formal data collection began, a training session was held for all record reviewers at the SSW to brief staff on the background, rationale, and intended uses of the study. It also served to familiarize the staff with the data collection instruments. In addition, all staff pilot-tested the data collection form with real cases to ensure they were coding data in the same way.

Prior to the site visits, child support staff in each local jurisdiction were given lists of sample and oversample cases; a local agency staff person pulled case records and ensured that all records contained a copy of the support order and a completed guidelines worksheet. Completed data collection forms were returned to SSW where they were entered into a database and analyzed. The next chapter of this report presents findings from the SSW's analysis of those data.

FINDINGS & RECOMMENDATIONS

What did we learn as a result of this case level review, what conclusions did we reach, and what if any recommendations arise from these findings? These questions are addressed in this chapter of the report.

A. Findings

Often it is helpful to consider a thumbnail sketch of the demographics of the cases in the sample. Typically, a case in our child support guidelines review sample from 1996 through 1998, was a non-AFDC (79%), paternity (69%) case, with a newly established (80%) consent agreement (76%). The most common situation was that of sole custody (99%) of one child (81%), the average support-ordered amount for that one child being \$204.55 per month. See Table 2, below, for a more thorough presentation of sample demographics.

Table 2
Characteristics of Sample Cases⁷

Case Characteristics	Sample Distribution
Case Type Non-AFDC AFDC	n = 410 79% (325) 21% (85)
Case Subtype Paternity Civil/equity URESAs Non-support/criminal	n = 405 69% (281) 22% (89) 5% (21) 4% (14)
Type of Action New establishment Modification	n = 410 80% (328) 20% (82)
Type of Agreement Consent Adjudicated	n = 376 76% (287) 24% (89)
Worksheet Type Sole Custody Joint Custody	n = 375 99% (370) 1% (5)
Number of Children on Case 1 2 3 4 Total Number of Children	n = 410 81% (330) 13% (55) 5% (21) 1% (4) 556
Support Order Amount per Month Total Awarded, Sum of All Cases Range Median Mode Average Award per Case Average Award per Child	\$113,730 \$22 - 1,609 \$249 \$184 \$227.39 \$204.55

⁷Note: Numbers may not add up to 410 cases due to missing information.

Answers to the question "what did we find?" are many and not always as straight-forward as one might think. The most important of the findings are listed below; discussion follows each item listed.

1. Overall, about one of every four cases in the entire sample deviated by at least \$10 per month from the guidelines-recommended amount.

The award in just over one in four cases (26.5%, n = 99/373⁸) deviated from the guidelines-recommended amount. However, this overarching statistic does not present the clearest answer to the questions of who deviated and why.

2. The vast majority of cases where the support-ordered amount differed from the guidelines-calculated amount (a difference of \$10 or more per month) were cases resolved via consent agreements, rather than cases referred to the court for adjudication.

At least three of every four (77.5%, n = 69/89⁹) cases in which the support award amount was at least \$10 more or less per month than the guidelines-calculated amount were consent cases.¹⁰ Altogether, 25% (n = 69/274) of all consent cases had an award amount which deviated from the guidelines amount.¹¹

At first glance these figures may seem high, but they are consistent with existing CSEA policy concerning negotiating consent agreements. Specifically, Section 8.10(E)13-c2 says that the negotiator may deviate from the guidelines when "all parties

⁸We were unable to determine if deviations occurred in 37 cases.

⁹For 10 of the 99 deviation cases, the case record review form did not indicate whether the support amount was determined by adjudication or the consent process.

¹⁰This is consistent with the proportion of consent cases in the entire sample (76%, n = 287/376).

¹¹Award amounts were not recorded in the case record review instrument for 13 of the 287 consent cases in our sample.

agree on a support obligation amount". By saying that "if agreement cannot be reached by all parties, the matter shall be referred to the court for trial and adjudication", that same policy also seems to indicate explicitly that attempts to negotiate consent agreements should be made in all cases. Likewise, encouraging voluntary settlements and reducing court time was one of the three broad objectives of the original federal guidelines mandate.

3. In consent cases in which the award amount differed from the guideline amount by at least \$10, the deviations all appeared to be for acceptable reasons. Documentation, however, was not very good.

Consistent with the nature of consent agreements, the most common reason by far for deviations in these cases was that all parties agreed to the support award amount. However, this reason only was cited in writing in 22% (n = 15/69) of all "deviating" consent cases. Despite this lack of documentation it is possible to assume that "all parties agreed" to 100% of these agreements and support amounts, as the agreements were consensual. The second most commonly noted reason was that one of the parents resided with another child to whom (s)he also owed a duty of support (17%, n = 12/69). Few other reasons appeared with any frequency. In three cases "direct payment on behalf of the child" was the cited factor; in one case each the stated reason for the deviation was "in-kind payment on behalf of the child" and "other financial considerations". According to the case record review forms, it appears that reasons for deviations from the guidelines-calculated amount in the setting of the support order were not documented in roughly one of every two deviating consent cases (54%, n = 37/69).

4. Adjudicated cases made up approximately one fourth of our sample (24%, n = 89/376).¹² Among the adjudicated cases, roughly one in four (27%, n = 20/73) deviated¹³ (i.e. a difference of \$10 or more per month). Excluding cases where the reason for the deviation was not available in the file, reasons given for the deviations in adjudicated cases seemed acceptable.

The minority of cases in our sample (24%, n = 89/376) were not resolved via the consent process, but instead had their award amounts decided by the court. Similar to consent cases, the amount of the child support award differed from the guidelines calculation by at least \$10 per month (up or down) in just over one quarter (27%, n = 20/73) of the adjudicated cases. In many of these cases (45%, n = 9/20), the case record review form suggests that a reason for the deviation may not have been documented in the case record. We think that this latter finding may be attributable to reasons for deviations only being documented in the court transcripts. This hypothesis is supported by the authors of a national guidelines study who commented that "reasons were not documented in case records; however, [this] may be attributable to a variety of causes such as incomplete documentation of facts or **decisions contained only in the oral record for the case**" [emphasis added] (Haynes, 1996).

In adjudicated cases with deviations, the most commonly documented reason was that one of the parents resided with another child to whom (s)he also owed a duty of support (40%, n = 8/20). The other two reasons cited in adjudicated deviation cases were "use of the family home" and "other financial considerations," each cited in a case.

¹²Notation as to whether the case was a consent or adjudicated case was missing on 34 of the 410 case record review forms.

¹³Information to determine deviation was missing for 14 of the adjudicated cases in our sample.

5. Whether consent cases or adjudicated cases, when “deviations” occurred, they were more likely to result in a lower award than in a higher award. In the vast majority of both upward and downward deviation cases, however, the orders were obtained by consent of all parties.

6. Amounts by which awards differed from the guidelines calculations did vary depending on whether the award was higher or lower than the guidelines amount. The “deviation” amounts tended to be greater when the award amounts were lower than the guideline than when the award amount was higher than the guideline amount.

When a literal deviation in the support award of at least \$10 per month (up or down) from the guideline amount was found, it was most likely to represent a lower (77% n = 76/99), rather than higher (23%, n = 23/99), amount than resulted from the application of the guideline. In both types of situations, however, the majority of case record review forms revealed that the award amounts had been arrived at via the consent process (78%, n = 69/89), rather than adjudication by the court. Among all cases with lower awards, the proportion that were consents was 77% (n = 55/71); among those with awards higher than the guidelines, the proportion was 78% (n = 14/18).

We also examined the monthly dollar amounts by which both types of “deviation” awards differed from the monthly amount obtained via the guidelines calculations.¹⁴ In the vast majority of all cases where the support award differed from the guideline figure, the amount of the difference was \$200 or less per month. The proportions were 91% (n = 21/23) for cases with higher awards and 89% (n = 68/76) for cases with lower awards. The modal or typical case in each group was also similar. In cases where the award

¹⁴All guideline and award amounts were converted to monthly figures for purposes of analysis.

was lower than the guideline, the most common situation (33%, n = 25/76) was where the award amount was between \$10 and \$50 less (per month) than the guideline figure. In another 29% (n = 22/76) of cases with lower awards, the award amount was between \$51 and \$100 less than the guideline figure. When the support award was set at a level higher than the guideline figure, the most common situation (57% of cases, n = 13/23) was that where the award was between \$10 and \$50 higher than the calculation resulting from the guideline.

7. Comparing the characteristics of the sample against the characteristics of cases with deviations (including consent agreements where the “deviation” occurred because “all parties agreed”), we find no evidence of differential application of the guidelines by case type, sub-type, type of agreement, or jurisdiction.

The primary purpose of child support guidelines in general is to promote equity in the setting of support award amounts (e.g. Schaeffer, 1987). While most attention has been focused on equity as it pertains to custodial and non-custodial parents, one should also be concerned about equity or impartiality in the application of guidelines in cases of different types (e.g., AFDC/TANF vs non-AFDC/non-TANF, paternity vs civil).

To examine whether or not the guidelines seemed to have been applied impartially, we compared the distribution of various case characteristics in the total sample against the distribution of those characteristics in the cohort of cases with "deviations" (including cases where all parties agreed to the award amount). Table 3 on the next page presents statistical comparisons of all deviation and non-deviation cases on five case characteristics: case type; court order sub-type; type of order; type of action; and jurisdiction. Four of the five comparisons failed to yield statistically significant findings. That is, deviation cases do not differ from non-deviation cases on

case type, sub-type, type of order (consent vs adjudicated), or jurisdiction. In other words, deviations are just as common in AFDC/TANF cases as non-AFDC/TANF cases; orders obtained via the consent process are just as likely to be consistent with the guidelines as are adjudicated cases. AFDC/TANF cases, to illustrate, represented 21% of all sample cases and 20% of all cases with "deviations". Similarly, paternity cases accounted for 69% of the sample and 70% of cases with "deviations". The observed differences were not statistically significant and it does not appear from these data that there is any systematic bias in the application of or deviation from the Maryland guidelines.

There is one exception to this pattern, however. That is, as shown in Table 3, during the review period (1996-98), deviations were significantly more likely to occur in modifications than in new establishments. Ascertaining the reasons for this finding is beyond the scope of this report, but the finding does suggest that guideline deviations is one area which should continue to be monitored, particularly with regard to the review and modification process.

Table 3

Comparisons of Case Characteristics Between Deviated and Non-Deviated Cases

Case Characteristics	Deviated	Did Not Deviate	Total	χ^2	Significance Level
Case Type				0.42	0.52
Non-AFDC	80% (79)	77% (210)	79% (325)		
AFDC	20% (20)	23% (64)	21% (85)		
Case Subtype				0.10	0.80
Paternity	70% (67)	72% (194)	69% (281)		
Civil/equity	23% (22)	20% (53)	22% (89)		
URESAs	5% (5)	6% (15)	5% (21)		
Non-support/criminal	2% (2)	4% (10)	4% (14)		
Type of Agreement				0.15	0.70
Consent	78% (69)	80% (205)	76% (287)		
Order	22% (20)	20% (53)	24% (89)		
Type of Action***				4.57	0.03
New establishment	74% (73)	84% (229)	80% (328)		
Modification	26% (26)	16% (45)	20% (82)		
Jurisdiction				0.14	0.71
Counties	68% (67)	70% (191)	71% (291)		
Baltimore City	32% (32)	30% (83)	29% (119)		

*** Differences are significant at the p<.05 level.

B. Conclusions

What conclusions can be drawn based on these data and what summarizing points should be made? One facile conclusion would be, counting any instance where the support award differed by \$10 or more per month from the guideline amount as a deviation, the literal deviation rate in sampled cases was 26.5%, or about one in every four cases. However, in interpreting this literal rate, one must bear in mind that deviations in and of themselves are not necessarily bad. Rather, agency staff and the court are, within a state's deviation criteria, allowed to and should consider each case's particular circumstances in setting the award amount equal to, lower than or higher than the guidelines amount. For example, the major component of our 26.5% deviation cohort consists of cases in which all parties consented (including the negotiator who represents the state) to an award amount which differed from the guidelines. Although the explanation "all parties agreed" was only cited in writing in 28% (n = 28/99) of the deviations, over three quarters (77%, n = 69/99) of the deviations were consensual. If consensual cases are excluded (n=69/99) and the deviation rate for the entire sample is recalculated (n = 20/410 total cases), it is 5%.

Even if one chooses to use the "worst case" deviation figure reported herein (i.e., 26.5%), and makes the assumption that all deviations are bad, study findings are comparable to those reported in other states' studies. To illustrate, a 1996 report to the federal Office of Child Support Enforcement, studying approximately 4,000 cases from 21 counties in 11 states, found the average rate of deviation among study cases to be 17%, with a range from five to 81% (Office of Child Support Enforcement [OCSE], 1996). Most state-specific reports estimate deviation rates at approximately 25% or

less (OCSE, 1996). Maryland findings with regard to the reasons for deviations are also similar to data from a national case level study; there, too, the two most commonly-recorded reasons for deviations were, respectively, agreement between the parties and second households (Haynes, 1996).

So what overarching conclusions would we draw from this study? There are two. The first is that knowing the numerical proportion of cases in which award amounts deviate from guideline amounts does not fully answer the question of whether or not the guidelines are being used as intended. Instead, one must also consider that one explicit purpose of the federal guidelines mandate was to "encourage voluntary settlements" (Williams, 1994). One must also place the number in context by returning to the question - does there appear to be any systematic bias in the extent to which deviations occur? From our statistical comparisons (Table 3) this did not appear to be a major problem in our state during the 1996-98 review period. Rather, the data suggested that, consistent with federal and state intent, the need and justification for deviations from the guidelines are considered on a case-by-case basis and are not inappropriately influenced by order type, sub-type, case type, or jurisdiction¹⁵.

The second big picture conclusion is that although overall guidelines application/ deviation practice appears to lie well within acceptable parameters, there are several areas in which refresher training, policy clarification and/or updating should probably be undertaken. Our specific suggestions are given in the next and final section of the report.

¹⁵As noted, however, deviations were significantly more likely to occur in modifications than in new establishments.

C. Recommendations

This section speaks only to recommendations arising from the review of case records; recommendations concerning the need to update the guidelines schedule to reflect new economic data will be presented in the Policy Studies, Inc. report, submitted separately. With this caveat, what suggestions would we make? In no particular order, the following recommendations are offered for consideration.

1. There appears to be probable cause for CSEA to reiterate the importance of maintaining complete and legible documentation in local agency files on the use of and reasons for any deviations from the guidelines.
2. In particular, CSEA should consider reiterating the explicit policy directive concerning guidelines documentation set forth in the CSEA Circular Letter 97-8, "Documentation" section.

Because of the time and expense that would have been involved, this study made no attempt to examine court transcripts. Instead, all data were obtained from on-site review of local support agency case files. This review indicated that, for the most part, copies of guidelines worksheets are retained in case files and appear to have been properly completed. In a small number of cases, however, the worksheets were illegible to the reviewer or appeared to be poorly done. In a minority of other cases, documentation of the reason why the support award amount was different from the guidelines amount could not be located in the IV-D agency file.

We believe it likely that court transcripts did contain the "missing" data, but also think this information - especially documentation of reasons for deviations - should be present in the IV-D agency file. National data suggest that in at least some cases, the only written record of deviation reasons may be in the court's oral record.

It would seem both impractical and unnecessary for IV-D agencies to acquire complete court transcripts in all cases. CSEA, in line with recommendations made in our previous Guidelines Review Report (1993-1995), has already suggested that court orders where the support amount deviates from the guidelines amount contain language on how the award differs (up or down) and why it differs. It should also be possible for local agencies, in collaboration with the courts, to work out a method whereby the needed information could be transmitted, perhaps on the guidelines worksheet itself, which would accompany the final order.

The recommendation concerning the need to develop a fail-safe documentation system is quite similar to one which has appeared in a report on a national guidelines study. There the suggestion was that states consider “adopting more standard case documentation...[to] include a standardized worksheet containing the final data on which the court or other decision-maker based the award decision” (Haynes, 1997).

It appears that most local agencies/agents do, as a matter of custom, place copies of the guidelines worksheets in case files. We are aware that CSEA has issued previously a Policy Circular (97-8) highlighting the requirement that the worksheet be on file. However, we think that it would be advisable for CSEA to issue a written reminder on this point, since compliance, in study cases at least, is still less than perfect.

The computer system (CSES) has automated the worksheet calculation function, a major plus. However, we have been advised that CSES does not save the completed worksheet upon completion of the function (i.e., the system default is not to save the worksheet). Thus, it is important to remind staff that they will have to, and always should, take action to insure that the worksheet is printed and filed in the case record.

3. It may be appropriate to provide some clarification for local support staff of the necessity of using guidelines worksheets during modifications.

We were unable to determine why modifications were significantly more likely to deviate from the guidelines worksheet suggested award amounts than initial establishments. This may be an area which CSEA wishes to further examine. At minimum, however, our findings suggest that reminding staff of the importance of adhering to the worksheet during modifications may be appropriate.

4. CSEA may wish to review the existing list of “acceptable” reasons for deviating from the guidelines, the purpose being to insure that the reasons do accurately reflect current realities among families.

In addition to reviewing extant materials for clarity, consistency and ease of interpretation by local support agency personnel, CSEA may wish to examine Maryland’s list of acceptable deviations. Here the intent would be to determine if there is need for any additions or deletions to the list or to ascertain if the extant list is broad enough to incorporate any new realities which may have emerged.

As previously noted, states have broad discretion in establishing their own criteria and, across the nation, there are more than 50 discrete deviation reasons on file with the federal child support office. Despite the diversity, the national guidelines study reports “significant discussions or deviations” in the areas of : income determination, tax exemptions, multiple families, agreements between parties, health care, support for post-secondary education and the like. It may behoove CSEA to work with local directors to review these data in some detail to ascertain if consideration should be given to making any changes to our list of acceptable reasons.

5. Although the results of our review are in line with results reported from other states with regard to the extent, nature and documentation of deviations, it would probably be wise to consider developing and offering some refresher training for local staff in the rationale and application of the guidelines and permissible reasons for deviations therefrom. This would be particularly useful if, in fact, the guidelines schedule is updated as we are certain will be recommended by Policy Studies, Inc.

This review revealed generally good compliance with the requirements and intent of the state's child support guidelines law and policy, though some areas of concern were identified. Still, though one single finding leads to this recommendation, it is the strong sense of the authors that some guidelines refresher training should be developed and made available to local staff. This training would be less about the "math" associated with the guidelines and more focused on the rationale, intent, and policy concerning guidelines. In particular, a focus on documentation requirements and determining the applicability and interpretation of acceptable reasons for deviations should be emphasized. Just as the federal and state mandates for periodic guidelines review present opportunity to revisit policy and procedure, they are also occasion to reconsider the extent to which front-line staff may need or could benefit from additional training. We do not believe guidelines refresher training has been offered recently, but think this is an option that should at least be available to local agencies who may wish to avail themselves of same. If the recommendation of Policy Studies, Inc. to modify the Maryland guidelines schedule is adopted by the General Assembly, this would be a most timely point at which to pursue this training recommendation.

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