

# MARYLAND CHILD SUPPORT GUIDELINES CASE-LEVEL REVIEW

PAMELA CAUDILL OVWIGHO, PH.D.  
RESEARCH DIRECTOR

CATHERINE E. BORN, PH.D.  
PRINCIPAL INVESTIGATOR

CORRENE SAUNDERS, B.A.  
PROJECT ANALYST

NOVEMBER 2004



UNIVERSITY OF MARYLAND  
SCHOOL OF SOCIAL WORK  
525 WEST REDWOOD STREET  
BALTIMORE, MD 21201

## **Acknowledgements**

The authors would like to thank Jamie Haskel, Michael Funk, Tamiko Myles and Nikol Shaw for their assistance in the processing of data for this report. We would also like to express our appreciation to Bob Andrews, Theresa Boseman, Fran DuPlayee, Chuck Gaskins, Linda Laster, Olaniyi Sofuluke, and Arlette Thomas-Fletcher of the Child Support Enforcement Administration's Internal Review and Audit Unit for conducting the case record reviews and to Dianna McCulloh for guidance on various policy questions.

This report was prepared by the Family Welfare Research and Training Group, School of Social Work, University of Maryland - Baltimore, 525 West Redwood Street, Baltimore, Maryland 21201 with support from its long time research partner, the Maryland Department of Human Resources. For additional information about our research, please visit our Web site: <http://www.familywelfare.umaryland.edu>. For additional information about the report or the study, please contact Dr. Catherine Born at the School of Social Work (410.706.5134, [cborn@ssw.umaryland.edu](mailto:cborn@ssw.umaryland.edu)).

## Table of Contents

List of Tables

Executive Summary

Introduction .....	1
Background .....	2
Types of Guidelines .....	2
Percentage of Income .....	3
Melson-Delaware .....	3
Income Shares .....	4
Maryland's Child Support Guidelines .....	4
Previous Guidelines Reviews .....	5
Methods .....	7
Sample .....	7
Data Collection Instrumentation & Procedure .....	10
Findings .....	11
Sample Characteristics .....	11
Deviations from the Guidelines .....	14
Comparison of Cases with and without Deviations .....	18
Conclusions .....	22
References .....	25

## **List of Tables**

Table 1. Sample Size by Jurisdiction and Order Type.....	9
Table 2. Characteristics of Sample Cases .....	13
Table 3. Deviations from the Guidelines.....	18
Table 4. Comparisons of Cases with and without Deviations.....	21

## Executive Summary

Federal law and regulations mandating the use of standardized approaches to establish child support order amounts also include the requirement that states review their approach or guidelines at least every four years, considering both economic data on the costs of raising children and case-level data on the application and use of the guidelines. Maryland law [Family Law Article § 12-202(c)] includes similar language and also requires the Child Support Enforcement Administration (CSEA) of the Department of Human Resources (DHR) to “report its findings and recommendations to the General Assembly.”

To carry out its case-level guidelines review for the period 1999-2001, CSEA contracted with the School of Social Work (SSW), University of Maryland, its long-standing research partner, to design, collect and analyze data on the use of guidelines in establishing and modifying orders. Today’s report presents findings obtained from review of a random sample of 751 Maryland child support cases in which support orders were established ( $n = 381$ ) or modified to increase or decrease the current support amount ( $n = 370$ ) in calendar years 1999, 2000, or 2001. The sample was designed with a 95% confidence level and an acceptable error rate of  $\pm 5\%$ . To ensure that the sample was representative of the entire state and that it included some cases from each of Maryland’s 24 jurisdictions, the number of cases to be drawn from each locality was calculated by multiplying the total sample size (381 new orders and 370 modified) by the proportion of child support orders established or modified within that jurisdiction between 1999 and 2001.

Data were abstracted from case records using a data collection form developed by SSW and CSEA staff. All data were collected on-site in the local Child Support Office, Court House, and/or State's Attorney's Office by a CSEA Internal Review and Audit staff member. Completed data collection forms were returned to SSW where they were reviewed, entered into a database, and analyzed.

In brief, Maryland's federally-mandated case record review has revealed that orders were generally established or modified between 1999 and 2001 following the state's child support guidelines. Deviations occurred in only one out of four cases, a rate similar to that found in other states' studies. Moreover, deviations generally decreased the order amount and the case record typically indicated an appropriate reason for the adjustment. The following bullets highlight more specific findings from this analysis:

- A typical case where an order for current support was established or modified between 1999 and 2001 was a non-AFDC/TANF case (85.1%) with an order for Paternity and Support (56.1%). Cases were typically based on a consensual agreement (75.6%) between the parents, awarding an average of \$270.58 per month per child.
- Compared to our guidelines review for the 1996-1998 period, we find that deviations from the guidelines have become slightly less common. The orders in over three-fourths of all the cases reviewed (76.7%) were within ten dollars of the prescribed guidelines amount and thus, not considered a deviation for purposes of this review. Less than 5.0% deviated more than ten dollars higher than the guidelines amount (4.4%), and about one in five orders deviated more than ten dollars lower (18.9%).
- Three-fourths of orders (75.3%) where a deviation occurred were established by a consent agreement. Consistent with studies in other states, we find that deviations that decrease the support amount are much more common than deviations that increase it. Of all cases with a deviation, 81.0% resulted in a lower order and 19.0% resulted in a higher order than the guidelines-calculated amount. Orders with downward deviations were, on average, \$111.58 per month lower than the guidelines-recommended amount; orders with upward deviations had current support amounts that were an average of \$71.31 per month higher.

- In the majority of cases with a deviation, an acceptable reason for deviation was recorded in the child support case record (69.0%). The case record explicitly stated that all parties agreed to the deviation in about three out of ten cases with a deviation (29.3%), even though the percentages of all cases with deviations established as consent orders was actually much higher (75.3%). The second most commonly cited reason for deviation was that the non-custodial parent had an intact second family or other children to support (20.3%). Each of the other specific reasons was cited in no more than 10% of cases: non-custodial parent provides in-kind support (6.9%); non-custodial parent's poverty and/or unemployment (6.9%); income amounts in dispute (2.9%); and all other reasons (5.2%).
- Because one goal of the guidelines is to improve the equity of child support orders so cases with similar circumstances are treated similarly, our analysis considers whether deviations are more likely to occur among particular types of cases. We find that deviations from the guidelines-calculated amount are more common among non-AFDC/TANF cases (24.7% vs. 15.3% for welfare cases), cases with Civil/Equity orders (26.3% vs. 21.5% for Paternity and Support, 20.6% for URESA), Maryland County cases (26.1% vs. 14.9% for Baltimore City cases), and cases where the order was modified in the study time period rather than newly established (26.0% vs. 20.6%, respectively).
- In cases where a deviation from the recommended guidelines amount occurred, non-custodial parents, on average, earned almost five hundred dollars more per month than parents in cases where no deviation occurred. Although this difference may be surprising considering that 81.0% of deviations decreased the order amount, we believe it is related to the fact that non-custodial parents with higher incomes are more likely to have an intact second family or to provide in-kind support – both acceptable reasons for deviating from the guidelines-recommended amount.

For Maryland's elected officials and child support agency management, these findings should be encouraging as they reflect consistency on the part of local offices in following policy directives. We would offer only two general conclusions and recommendations from this review that may assist the state in building on this solid track record.

**1. Documentation has improved since the last guidelines review in 2000. However, it may still be useful for CSEA to continue to periodically 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.**

Our review of agency files indicated that most included a copy of the guidelines worksheet and, when appropriate, an explanation of deviations from the guidelines. However, a minority of cases, particularly among modifications, either had no worksheet or a worksheet from a different time period than the order under review. In at least one jurisdiction, certain case files contained a Master's Recommendations form that, while generally in line with the child support guidelines, did not contain all of the relevant information. Local jurisdictions where multiple offices, such the IV-D agency, the State's attorney office, and/or the court master are involved in the order establishment process may particularly benefit from clarification on what documentation is required in the IV-D agency file.

Among cases where a deviation occurred, the specific reason could not be definitively determined from the IV-D agency file for three out of ten cases. It is quite possible that court transcripts contain the "missing" information. However, it is in the child support agency's best interest to have this documentation in its files as well. A number of local offices appear to be achieving this documentation either by including appropriate language in the final order or on the worksheet itself concerning how the award differs (up or down) and why it differs from the guidelines amount. Perhaps an official reminder from CSEA would encourage even more complete documentation.



**2. There are some differences in the characteristics of cases where the final support amount did and did not differ from the guidelines-calculated amount, but no indication of differential or discriminatory application/use of the guidelines or state policy. However, further research on the relationships between certain case characteristics and deviations would be a potentially useful and informative addition to research already underway to profile the characteristics and circumstances of newly-established child support cases.**

Our findings regarding the characteristics of cases with and without deviations reveal that while there are some differences, there is no evidence that deviations (and thus, likely lower orders) are more common among welfare and non-marital cases. In fact, deviations are more likely to occur among non-TANF cases with Civil/Equity orders and where the non-custodial parent has higher income. It is quite possible that these characteristics are related to factors, such as an intact second family, considered as acceptable reasons for deviation. Thus, our recommendation based on these findings relates to further research, rather than to policy. Specifically, we recommend that the relationships among guideline deviations and case characteristics be explored further in our study of newly established cases, which is already underway. The results of that study, combined with those presented in this review, will provide policy makers and program managers with even more empirical data that can be used in further improving and strengthening Maryland's child support program.

## **Introduction**

Federal law and regulations mandating the use of standardized approaches to establish child support order amounts also include the requirement that states review their approach or guidelines at least every four years. Specifically, states “must consider economic data on the cost of raising children and analyze case data . . . on the application of, and deviations from, the guidelines” [Code of Federal Regulations (CFR) 302.56(h)] and if appropriate, revise the guidelines to “ensure that their application results in the determination of appropriate child support amounts” [CFR 302.56(e)]. Maryland law [Family Law Article § 12-202(c)] includes similar language and also requires the Child Support Enforcement Administration (CSEA) of the Department of Human Resources (DHR) to “report its findings and recommendations to the General Assembly.”

To carry out its case-level guidelines review for the period 1999-2001, CSEA contracted with the School of Social Work (SSW), University of Maryland Baltimore, its long-standing research partner, to design, collect and analyze data on the use of guidelines in establishing and modifying orders. Today’s report presents findings obtained from review of a random sample of 751 Maryland child support cases in which support orders were established or modified in calendar years 1999, 2000, or 2001.

## **Background**

The Child Support Enforcement Amendments of 1984 [P.L. 98-378] 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. The guidelines could be either binding or advisory only and about half the states chose the latter (Dodson, 1994). The Family Support Act of 1988 [P.L. 100-485] mandated the guidelines be presumptive and 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)]. The mandate was based on 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 by reducing the hearing time required to resolve contested cases (Williams, 1994).

### **Types of Guidelines**

States are afforded flexibility in the types of guidelines they adopt, the levels of orders that result, and the criteria for permissible deviations from the guidelines [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. One review of guidelines indicated that there were almost 50 different criteria being used for deviations, although all states' criteria are purported to represent the best interest of the child (Venohr, Williams, & Price, 2000).

In terms of the basic guidelines structure, there are three common models, each used in multiple states: Percentage of Income, Melson-Delaware, and Income Shares (U.S. General Accounting Office, 1993). Each of these models is briefly described in the following sections, 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 that exist across the country.<sup>1</sup>

### ***Percentage of Income***

The percentage of income approach assumes that, in two-parent households, a fixed percentage of parental income is spent on children (Dodson, 1994). The model bases the support award solely on the income of the non-custodial parent, with no adjustment for the earnings/income of the custodial parent. The percentage-of-income approach is used in approximately 16 states and territories [(e.g., Wisconsin and Minnesota (DelBoca & Flinn, 1994), Texas (Gardiner, Tapogna, & Fishman, 2002)].

### ***Melson-Delaware***

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). In this model, a "self-support reserve" representing the minimum amount that an adult needs to meet his or her needs is subtracted from each parent's income. The primary support needs of the child(ren) are then computed, and the order amount is meant to represent the minimum necessary to raise the child(ren) at subsistence level (Delaware

---

<sup>1</sup> Variations 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.

Family Court Judiciary, 1994). A few other states or territories have also adopted the Melson model (Walton, 2000).

### ***Income Shares***

Most states originally adopted the income shares model, and it remains the guidelines method used in more than 30 states or territories, including Maryland (Stirling, 2003). The model is based on three premises:

- 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, the incomes of both parents (custodial and noncustodial) are considered in determining the basic support obligation. This is accomplished, in essence, by summing the parents' incomes and considering the number of children involved. Typically, any actual childcare costs and extraordinary medical expenses are added to the primary support obligation. In general, the resulting total support obligation is then pro-rated between the parents based on their proportion of the total combined income (Dodson, 1994).

### **Maryland's Child Support Guidelines**

While Maryland, like the majority of states and territories, adopted the income shares approach to child support guidelines, its method has some noteworthy 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. This amount had changed little through the time period covered by this review.<sup>2</sup>

Second, work-related childcare, extraordinary medical, and some additional 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).

### **Previous Guidelines Reviews**

The plethora of guidelines reviews conducted across the country in the sixteen years since the passage of the Family Support Act have demonstrated significant state variation in setting support amounts. A review of case records from 21 counties in 11 states conducted by the federal Office of Child Support Enforcement in the mid-1990s found that formal deviations from the guidelines occurred in 17% of cases. However, the rates in the individual jurisdictions varied widely ranging from less than 10% to more than 45%. The most common reasons for deviations included: 1) agreement between the parties (21%); 2) second households (14%); 3) extended or extraordinary visitation or custody expenses (13%); and 4) low income of the non-custodial parent (11%). Three-fourths of the deviations decreased the amount of support owed.

A recent review of the Washington State child support schedule found that deviations occurred in 28.5% of cases, an increase over reviews conducted in previous years (Stirling, 2003). Almost nine out of ten deviations in the Washington State study decreased the order amount.

---

<sup>2</sup> Effective July 1, 2004, the amount increased to \$850.

The findings from Maryland's last guidelines review conducted in 2000 are similar. More than one-quarter (26.5%) of orders established or modified between 1996 and 1998 deviated from the guidelines-recommended amount by at least \$10. Typically deviations resulted in a lower order and the most common reason for deviation was that all parties agreed to the amount.

Despite the variations among states in guidelines approaches and deviations, states face some common challenges in designing and implementing their guidelines. For example, many are still struggling to determine the best way to deal with low-income obligors and additional dependents when establishing support orders. As a result of guidelines reviews, some states have adjusted their guidelines to allow for certain expenses and thus reduce the need for deviations. North Dakota and Oklahoma, for instance, have developed standard formulas for parenting-time adjustments (Walton, 2000).

Similarly, the results from Maryland's last guidelines review suggested that CSEA work with local offices to improve the documentation concerning guidelines calculations and deviations in agency files. Evidence from the current review suggest that these efforts were successful and documentation has, in fact, improved in the intervening years. The remainder of this report presents findings from Maryland's federally-mandated case-level guidelines review for the period 1999 to 2001. The study method used is described in detail in the next section.

## Methods

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 (1999-2001). The following paragraphs describe how the sample was selected, the data collection instrument, and the case record review procedure.

### 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 1999, 2000 or 2001. During calendar years 1999-2001, 45,697 child support orders were recorded in Maryland's Child Support Enforcement System (CSES) as established. Modifications to the current support amount were evident for an additional 11,115 cases.<sup>3</sup>

Following general scientific practice, we determined the appropriate sample sizes based on a confidence level of 95% and an acceptable error rate of 5%. The confidence level 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 error rate means that all results are expected to lie within  $\pm 5\%$  of the true population values. The sample was stratified on the type of order (establishment or modification) so that we would have a valid sample of each type. Our total sample includes 381 new orders and 370 modified orders.

---

<sup>3</sup> An additional 8,026 cases had a modification date recorded in CSES that was within the study period. However, the system did not show a change in the order amount and case record reviews of a sample of these cases indicated that they were not order modifications as defined in this review.



To ensure that the sample was representative of the entire state and that it included some cases from each jurisdiction, the number of cases to be drawn from each county was calculated by multiplying the total sample size (381 new orders and 370 modified) by the proportion of child support orders established or modified within that jurisdiction between 1999 and 2001. For example, St. Mary's county accounted for 1.3% of the support orders established in Maryland during the study period. Multiplying 1.3% by the total sample size of 381 resulted in a sample size of five new cases for St. Mary's.

Following similar calculations for each jurisdiction, a sample list was created for each local agency. Table 1, on the following page, shows the exact number of cases drawn from each jurisdiction.

**Table 1. Sample Size by Jurisdiction and Order Type**

Jurisdiction	New Orders	Modified Orders	Total Orders
Allegany	7	8	15
Anne Arundel	21	15	36
Baltimore County	27	18	45
Calvert	5	6	11
Caroline	3	3	6
Carroll	7	6	13
Cecil	7	16	23
Charles	8	30	38
Dorchester	3	5	8
Frederick	14	14	28
Garrett	2	3	5
Harford	10	9	19
Howard	11	14	25
Kent	1	4	5
Montgomery	24	20	44
Prince George's	57	60	117
Queen Anne's	2	4	6
St. Mary's	3	5	8
Somerset	5	9	14
Talbot	2	3	5
Washington	16	28	44
Wicomico	7	30	37
Worcester	4	7	11
Baltimore City	135	53	188
<b>Total</b>	<b>381</b>	<b>370</b>	<b>751</b>

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 1999, 2000, or 2001; **OR**

1b) A modification to either increase or decrease the support ordered amount (SOA) was done in 1999, 2000, 2001; **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, SSW researchers randomly selected sample cases from a database created from CSES that 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. Oversample cases were also used to replace sample cases if the order and/or guidelines worksheet could not be found or if the order was not in the review period.

### **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 Internal Review and Audit staff member. 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 reviewed, entered into a database and analyzed. The next chapter of this report presents findings from the SSW's analysis of those data.

## Findings

This chapter highlights the findings of our case level review regarding the use of child support guidelines in Maryland. Where appropriate, relevant implications and recommendations are discussed.

### Sample Characteristics

Table 2, following this discussion, presents data on the demographic characteristics of cases in our sample. In summary, a typical case was a non-AFDC/TANF case (85.1%) with an order for Paternity and Support (56.1%). Cases were characteristically new orders (50.7%) based on a consensual agreement (75.6%) between the parents, awarding an average of \$270.58 per month per child. The orders in over three-fourths of all the cases (76.7%) were within ten dollars of the prescribed guidelines amount and thus, not considered a deviation for purposes of this review. Less than 5.0% of orders deviated more than ten dollars higher than the guidelines amount (4.4%), and about one in five orders deviated more than ten dollars lower (18.9%).

There were many similarities between cases with new orders and those with modified orders. However, significant differences were found regarding the case type, type of agreement, and whether or not there was a deviation from the guidelines amount. Modified Orders were significantly more likely to be non-AFDC/TANF cases than New Orders (92.7% vs. 77.7%), less likely to be consensual agreements (71.1% vs. 80.1%), and more likely to deviate (over ten dollars) lower than the guidelines amount (22.5% vs. 15.3%).

Compared to our 2000 guidelines review, we find that deviations from the guidelines have become slightly less common. Among orders established or modified between 1996 and 1998, 26.5% deviated by at least \$10, compared to only 23.3% among orders established or modified between 1999 and 2001.

**Table 2. Characteristics of Sample Cases**

<b>Case Characteristics</b>	<b>New Orders (n=381)</b>	<b>Modified Orders (n=370)</b>	<b>Total Orders (n=751)</b>
<b>Case Type***</b> Non-AFDC AFDC	77.7% (296) 22.3% (85)	92.7% (343) 7.3% (27)	85.1% (639) 14.9% (112)
<b>Court Order Subtype</b> Paternity and Support Civil/Equity Responding URESA Non-support/criminal Other	58.5% (223) 34.9% (133) 4.7% (18) 1.8% (7) 0.0% (0)	53.5% (198) 39.5% (146) 4.3% (16) 1.6% (6) 1.1% (4)	56.1% (421) 37.2% (279) 4.5% (34) 1.7% (13) 0.5% (4)
<b>Type of Agreement***</b> Consent Adjudicated	80.1% (305) 7.9% (30)	71.1% (263) 18.6% (69)	75.6% (568) 13.2% (99)
<b>Worksheet Type+</b> Sole Custody Joint Custody None/Master's Recommendations	96.3% (367) 0.3% (1) 2.4% (9)	95.4% (353) 1.1% (4) 2.2% (8)	95.9% (720) 0.7% (5) 2.3% (17)
<b>Number of Children on Case</b> 1 2 3 4 5	78.4% (298) 14.7% (56) 5.0% (19) 1.3% (5) 0.3% (1)	74.4% (273) 19.1% (70) 4.1% (15) 1.1% (4) 1.1% (4)	76.4% (571) 16.9% (126) 4.6% (34) 1.2% (9) 0.7% (5)
<b>Monthly Support Order Amount Per Case</b> Mean Median Standard Deviation Range  <b>Per Child</b> Mean Median Standard Deviation Range	 \$323.70 \$264.13 \$208.32 \$5-\$1,418  \$261.95 \$220.83 \$144.06 \$5-\$900	 \$343.22 \$299.00 \$196.25 \$50-\$1,723  \$279.50 \$259.80 \$156.00 \$31-\$1,723	 \$333.32 \$282.96 \$202.56 \$5-\$1,723  \$270.58 \$238.15 \$150.20 \$5-\$1,723
<b>Deviation From the Guidelines*</b> None Upward Deviation Downward Deviation	79.4% (300) 5.3% (20) 15.3% (58)	74.0% (273) 3.5% (13) 22.5% (83)	76.7% (573) 4.4% (33) 18.9% (141)

Note: We were unable to determine if a deviation occurred in four cases.

+ During the review period, many of the new and modified orders in one county were established by the Master. Where possible field reviewers obtained the Master's Recommendations worksheet. While these recommendations generally appear to be in line with Maryland's child support guidelines, they did not necessarily contain all of the information normally included in a guidelines worksheet.

\*p<.05, \*\*p<.01, \*\*\*p<.001

## **Deviations from the Guidelines**

It appears from this review that, as prescribed in federal and state law, a standardized approach (i.e. the guidelines) was used to calculate child support award amounts and, further, that in the large majority of both new (79.4%) and modified (74.0%) orders, the final award did not deviate from the guidelines-calculated amount. However, it is still important to take a closer look at the minority that did deviate to determine the reasons for deviation and to assess the extent to which deviations are consistent with program policy. As mentioned previously, deviations from the guidelines are permitted in Maryland for any of a number of reasons. The following discussion and Table 3 provide more detailed findings on those cases where the current support order amount deviated more than ten dollars, either higher or lower, from the recommended guidelines amount (23.3%).

The first row of Table 3 demonstrates that the large majority of orders – three of every four or 75.3% - where a deviation occurred were established by a consent agreement. The same pattern prevails when new and modified orders are separately examined. In both groups, most cases with deviations were consent agreements, 83.3% among newly established orders and 68.8% among cases with modified orders. These findings are consistent with CSEA policy concerning negotiating consent agreements. Specifically, Section 8.10(E)13-c2 states that the negotiator may deviate from the guidelines when “all parties agree on a support obligation amount.”

Consistent with other studies, we find that in the roughly one-quarter of cases that did have a deviation in the support award amount, the ordered amount was much more likely to be lower than to be higher than the guidelines-calculated amount. That is,

of all cases with a deviation, 81.0% were downward 19.0% were upward.<sup>4</sup> As a general rule, orders with a downward deviation differed from the guidelines amount by a somewhat larger margin than orders with an upward deviation. As shown in Table 3, about one-half of orders that deviated below the guidelines-calculated amounts were between \$14.00 and \$84.00 less than the recommended amount. The average deviation amount for these cases was \$111.58, with a maximum of \$548.00 monthly. In comparison, orders with upward deviations were, on average \$71.31 more than the guidelines-calculated amount, though about half deviated by less than \$51.00 monthly.

In addition to overall differences between upward and downward deviations, there were also some interesting trend differences between new and modified orders. In both groups, downward deviations were much more common; 74.4% of all new order deviations were downward, as were 86.5% of all modified orders in which a deviation from the guidelines-recommended amount was observed. However, new orders were slightly more likely to have an upward deviation from the guidelines-recommended amount than were modified cases (25.6% vs. 13.5%) and less likely to deviate downward (74.4% vs. 86.5%).

Among upward deviations, the average deviation amount among new orders tended to be less than that of modified orders (\$65.66 vs. \$80.02). In contrast, the opposite was true among downward deviations. New orders with downward deviations averaged \$119.15 less than the recommended monthly support amount, compared to \$106.29 among modified orders.

---

<sup>4</sup> Almost one in five sample cases included orders that were at least ten dollars less than the recommended amount (18.9%, n = 141/747). Less than five percent of the total sample (4.4%, n = 33/747) consisted of cases where the final monthly support order amount was more than ten dollars higher than the guidelines amount.



The bottom section of Table 3 presents information on reasons for deviation as these were recorded in the child support case record. In a little less than one-third of all cases (31.6%), the reviewers were not able to definitely ascertain the reason for the deviation from the case record. However, this finding is not necessarily a cause for concern because it may be the result of deviation reasons only being documented in court transcripts. In fact, the authors of a national guidelines study observed 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” (Haynes, 1996).

In about three out of ten cases with a deviation (29.3%) the case record explicitly stated that all parties agreed to the deviation, even though the percentage of cases with deviations established as consent orders was actually much higher (75.3%). The second most commonly cited reason for deviation, among all cases, was that the non-custodial parent had an intact second family or other children to support. This reason was cited in one-fifth of cases (20.7%) where the ordered amount differed from the guidelines amount by more than \$10. No other specific reason was cited in more than 10% of cases.

The non-custodial parent’s provision of in-kind support and his/her poverty or unemployment each accounted for 6.9% of guidelines deviations among our sample cases. An additional 5.2% of cases had other reasons documented such as a preexisting financial agreement.

There were few differences between new and modified orders in terms of the reasons for deviations as these were recorded in the case record. In both groups, the

specific reason could not be definitively determined for about one-third of cases. In both groups also, the most commonly cited reasons were mutual agreement of the parties and the presence of an intact second family or other children. These two reasons together accounted for 52.5% of all recorded reasons in cases with new orders and 47.9% of all modified orders with a deviation. The only statistically significant difference is that modified orders with a deviation were more likely to note an income amount dispute as the deviation reason (5.2%); this reason was not cited in any cases with new orders.

**Table 3. Deviations from the Guidelines**

Deviations	New Orders with Deviations (n=78)	Modified Orders with Deviations (n=96)	All Orders with Deviations (n=174)
<b>Consensual Agreement</b>	83.3% (65)	68.8% (66)	75.3% (131)
<b>Upward Deviations</b>			
Frequency*	25.6% (20)	13.5% (13)	19.0% (33)
Mean****	\$65.66	\$80.02	\$71.31
Median	\$42.50	\$51.07	\$51.00
Range	\$11 to \$173	\$15 to \$190	\$11 to \$190
<b>Downward Deviations</b>			
Frequency*	74.4% (58)	86.5% (83)	81.0% (141)
Mean****	-\$119.15	-\$106.29	-\$111.58
Median	-\$81.50	-\$84.24	-\$84.00
Range	-\$462 to -\$23	-\$548 to -\$14	-\$548 to -\$14
<b>Reason for Deviation</b>			
None given	33.3% (26)	30.2% (29)	31.6% (55)
All parties agree	33.3% (26)	26.0% (25)	29.3% (51)
Intact Second Family or other children	19.2% (15)	21.9% (21)	20.7% (36)
In-Kind Support	5.1% (4)	8.3% (8)	6.9% (12)
NCP poor and/or unemployed	9.0% (7)	5.2% (5)	6.9% (12)
Income amounts in dispute*	0.0% (0)	5.2% (5)	2.9% (5)
Other	5.1% (4)	5.2% (5)	5.2% (9)

Note: For some cases, multiple reasons for deviation from the guidelines were given.

\*p<.05, \*\*p<.01, \*\*\*p<.001

+ Statistical difference exists within the column, i.e. the mean upward deviation amount for new orders is statistically significantly different from the mean downward deviation among new orders at the .001 level.

### Comparison of Cases with and without Deviations

The final question addressed in our case review concerns whether deviations are more likely to occur among particular types of cases. This is an important question because one goal of the guidelines is to improve the equity of child support orders so cases with similar circumstances are treated similarly. In particular, there may be concern that women on welfare or couples who have never married will be treated differently than other families. To address this issue, we compare rates of deviation for cases with different characteristics such as case type, court order subtype, agreement type, jurisdiction, and non-custodial parent income. Results are presented in Table 4, following this discussion, and show that on all but one of these variables (agreement type), there were statistically significant differences.

Concerning case type, we find that orders for non-AFDC/TANF cases are more likely than orders for AFDC/TANF cases to deviate from the guidelines-recommended amount. One-quarter of non-welfare cases (24.7%) experienced a deviation from the guidelines compared to 15.3% of welfare cases.

Although the majority of cases have orders consistent with the guidelines-calculated amounts, deviations are slightly more common among cases with Civil/Equity orders relative to cases with Paternity and Support orders and interstate cases. A little more than one out of four Civil/Equity orders (26.3%) deviated from the guidelines, while only one in five Paternity and Support orders (21.5%) or URESA orders (20.6%) did so.

Consistent with reviews conducted in other states, we find also jurisdictional differences in the likelihood of an order deviating from the guidelines (e.g., Ellis, 2003; Stirling, 2003). Generally speaking, deviations were less common among Baltimore City cases (14.9%) than among cases in Maryland's 23 Counties (26.1%). However, there was also variation among the counties. For instance, considering jurisdictions with more than ten cases in the sample, rates varied from 0.0% in Allegany County (n = 0/15) where no cases deviated from the guidelines to 50.0% in Anne Arundel County (n = 18/36).

Non-custodial parent income is the final case characteristic presented in Table 4 that varied significantly between cases with and without deviations. In cases where a deviation from the recommended guidelines amount occurred, non-custodial parents, on average, earned almost five hundred dollars more per month than parents in cases where the order was for the guidelines-calculated amount. This difference is somewhat surprising, considering that 81.0% of deviations were downward deviations, although

similar findings have been noted in other states (Ellis, 2000, 2001). It is possible that this finding is because non-custodial parents with higher incomes are more likely to have an attorney who can argue effectively that a deviation is appropriate. On the other hand, the difference may arise because non-custodial parents with higher incomes are also more likely to have an intact second family or to provide in-kind support – both acceptable reasons for deviating from the guidelines-recommended amount. Our study currently underway of the characteristics of newly-established child support cases should shed further light on this issue.

**Table 4. Comparisons of Cases with and without Deviations**

Case Characteristics	New Orders		Modified Orders		Total Orders	
	Deviation (n=78)	No Deviation (n=300)	Deviation (n=96)	No Deviation (n=273)	Deviation (n=174)	No Deviation (n=573)
<b>Case Type*</b> <sup>□</sup>						
Non-AFDC/TANF	22.1% (65)	77.9% (229)	26.9% (92)	73.1% (250)	24.7% (157)	75.3% (479)
AFDC/TANF	15.5% (13)	84.5% (71)	14.8% (4)	85.2% (23)	15.3% (17)	84.7% (94)
<b>Court Order Subtype*</b> <sup>□</sup>						
Paternity and Support	19.0% (42)	81.0% (179)	24.4% (48)	75.6% (149)	21.5% (90)	78.5% (328)
Civil/Equity	23.5% (31)	76.5% (101)	28.8% (42)	71.2% (104)	26.3% (73)	73.7% (205)
URESAs	22.2% (4)	77.8% (14)	18.8% (3)	81.3% (13)	20.6% (7)	79.4% (27)
Non-support/Criminal	14.3% (1)	85.7% (6)	0.0% (0)	100.0% (6)	7.7% (1)	92.3% (12)
Other	0.0% (0)	0.0% (0)	75.0% (3)	25.0% (1)	75.0% (3)	25.0% (1)
<b>Type of Agreement</b>						
Consent	21.5% (65)	78.5% (237)	25.1% (66)	74.9% (197)	23.2% (131)	76.8% (434)
Adjudicated	20.0% (6)	80.0% (24)	27.9% (19)	72.1% (49)	25.5% (25)	74.5% (73)
Can't Tell	15.2% (7)	84.8% (39)	30.6% (11)	69.4% (27)	21.4% (18)	78.6% (66)
<b>Jurisdiction*</b>						
Counties	23.9% (58)	76.1% (185)	27.8% (88)	72.2% (228)	26.1% (146)	73.9% (413)
Baltimore City	14.8% (20)	85.2% (115)	15.1% (8)	84.9% (45)	14.9% (28)	85.1% (160)
<b>Non-Custodial Parent Income</b>						
Mean <sup>◇</sup>	\$1,923.52	\$1,639.37	\$2,339.42	\$1,768.88	\$2,149.93	\$1,702.61
Median	\$1,523.00	\$1,317.00	\$1,863.00	\$1,560.00	\$1,733.00	\$1,453.00
Standard Deviation	\$1,415.60	\$1,246.98	\$1,590.31	\$1,008.08	\$1,523.03	\$1,137.45
Range	\$0-\$9,593.00	\$0-\$14,912.00	\$0-\$9,302.00	\$0-\$6,898.00	\$0-\$9,593.00	\$0-\$14,912.00

Note: There are 4 cases where the deviation status could not be determined.

□ Statistical difference exists for Total Orders only (Columns 6 & 7).

\*Statistically significance varies by column: New Orders\*; and Total orders\*\*. The difference is not significant for Modified Orders.

◇Statistical significance varies by column: New Orders\*; Modified Orders\*\*\*; and Total Orders\*\*\*.

\*p<.05, \*\*p<.01, \*\*\*p<.001

## Conclusions

In sum, Maryland's federally-mandated case record review has revealed that the majority of orders were established or modified between 1999 and 2001 following the state's child support guidelines. Deviations occurred in only one out of four cases, a rate similar to that found in other states' studies. Moreover, deviations generally decreased the order amount and the case record typically indicated an appropriate reason for the adjustment.

For Maryland's IV-D agency, these findings should be encouraging as they reflect consistency on the part of local offices in following policy directives. We would offer only two general conclusions/recommendations from this review for building on this solid track record.

**1. While documentation has improved since the last guidelines review in 2000, it may still be useful for CSEA to periodically 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.**

Our review of agency files indicated that most included a copy of the guidelines worksheet and, when appropriate, an explanation of deviations from the guidelines. However, a minority of cases, particularly among modifications, either had no worksheet or a worksheet from a different time period than the order under review. In at least one jurisdiction, some records contained a Master's Recommendations form that, while generally in line with the child support guidelines, did not contain all of the relevant information. Local jurisdictions where multiple offices, such the IV-D agency, the State's attorney office, and/or the court master are involved in the order establishment process

may particularly benefit from clarification on what documentation is required in the IV-D agency file.

Among cases where a deviation occurred, the reason could not be definitively determined from the IV-D agency file for three out of ten cases. It is quite possible that court transcripts contain the “missing” information. However, we also believe that it is in the child support agency’s best interest to have this documentation in its files as well. A number of local offices appear to be achieving this documentation either by including appropriate language in the final order or on the worksheet itself concerning how the award differs (up or down) and why it differs from the guidelines amount. Perhaps an official reminder from CSEA will encourage even more complete documentation.

**2. There are some differences in the characteristics of cases where the final support amount did and did not differ from the guidelines-calculated amount, but no indication of differential or discriminatory application/use of the guidelines or state policy. However, further research on the relationships between certain case characteristics and deviations would be a potentially useful and informative addition to research already underway to profile the characteristics and circumstances of newly-established child support cases.**

Our findings regarding the characteristics of cases with and without deviations reveal that while there are some differences, there is no evidence that deviations (and thus, likely lower orders) are more common among welfare and non-marital cases. In fact, deviations are more likely to occur among non-TANF cases with Civil/Equity orders and where the non-custodial parent has higher income. It is quite possible that these characteristics are related to factors, such as an intact second family, considered as acceptable reasons for deviation. Thus, our recommendation based on these findings relates to further research, rather than to policy. Specifically, we recommend that the relationships among guideline deviations and case characteristics be explored further in



our study of newly established cases, which is already underway. The results of that study, combined with those presented in this review, will provide policy makers and program managers with even more empirical data that can be used in further improving and strengthening Maryland's child support program.

## References

- Annotated Code of Maryland, Family Law.* (1999). Charlottesville, VA: The Michie Company.
- Code of Federal Regulations.* (1999). Washington, DC: Office to the Federal Register and the National Archives and Records Administration.
- Child Support Enforcement Administration. (1995). *Child support guidelines booklet.* Baltimore: Department of Human Resources.
- Delaware Family Court Judiciary. (1994). *Instructions for child support calculation.* Wilmington: Author.
- DelBoca, D., & Flinn, C. (1994). *Welfare effects of fixed and percentage-expressed child support awards.* Madison: Institute for Research on Poverty.
- Dodson, G. D. (1994). Children's standards of living under child support guidelines: Executive summary. In M. C. Haynes (Ed.), *Child support guidelines: The next generation.* Washington, DC: Office of Child Support Enforcement.
- Ellis, W. L. (2000). Determinants of patterns in deviations from child support guidelines. *Journal of Divorce and Remarriage, 33,* 21-33.
- Ellis, W. L. (2001). Applying child support guidelines: Users versus nonusers of child support enforcement services. *Families in Society, 82,* 485-490.
- Ellis, W. L. (2003). Factors influencing the application of child support guidelines: Are there urban and rural differences? *Marriage and Family Review, 35,* 45-61.
- Gardiner, K. N., Tapogna, J., and Fishman, M. E. (2002). *Administrative and judicial processes for establishing child support orders: Final report.* Washington, DC: The Lewin Group.

- Haynes, M. C. (1996). Executive summary. *Fax Network Issue 96-21*. Washington, DC: CSR, Inc.
- Office of Child Support Enforcement. (1996). *Evaluation of child support guidelines volume 1: Findings and conclusions*. Washington, DC: Author. Retrieved October 29, 2004 from [http://www.acf.dhhs.gov/programs/cse/rpt/gdl\\_m.htm](http://www.acf.dhhs.gov/programs/cse/rpt/gdl_m.htm)
- Stirling, K. (2003). *A review of the Washington State Child Support Schedule*. Tacoma, WA: Washington State Division of Child Support.
- U. S. General Accounting Office. (1993). *Child support assurance: Effect of applying state guidelines to determine fathers' payments*. Washington, DC: Author.
- Venohr, J., Williams, R. G., and Price, D. (2000). *Child support guidelines review: State of Maine*. Denver: Policy Studies, Inc.
- Walton, S. (2000). *Reviewing child support guidelines*. Washington, DC: National Conference of State Legislatures.
- Williams, R. G. (1987). *Development of guidelines for child support orders, part II, final report*. Denver: Policy Studies, Inc.
- Williams, R. G. (1994). An overview of child support guidelines in the United States. In M. C. Haynes. (Ed.), *Child support guidelines: The next generation*. Washington: DC: Office of Child Support Enforcement.