STATE OF WISCONSIN
Department of Health and Social Services
Division of Community Services

MEMO SERIES DCS-90-28

RE: CHILD SUPPORT COLLECTIONS FOR
CHILDREN PLACED IN SUBSTITUTE
CARE
JULY 3, 1990

To: Area Administrators/Assistant Area Administrators
Bureau/Office Directors
County Department of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Program Office Directors/Section Chiefs
Regional Directors/District Offices
Tribal Chairpersons/Human Services Facilitators

From: Eloise Anderson
Administrator

DOCUMENT SUMMARY

This memo outlines the procedures to be used by County Departments of
Social/Human Services in referring substitute care cases (particularly
Title IV-E eligible cases) to the Child Support Agency. The memo also
discusses the methods by which such child support should be determined.

Title IV-D of the Social Security Act requires states to develop
mechanisms for collecting child support for children placed in substitute care
facilities (i.e., foster homes, group homes, and child caring institutions).
A recent federal audit of Title IV-D procedures determined that Wisconsin is
out of compliance in this area. As a result, a corrective action plan was
submitted which would bring the state into compliance. That plan entails
implementing specific procedures for referrals of appropriate cases from the
Departments of Social/Human Services to the Child Support Agencies.

In order to ensure Wisconsin's compliance with federal law, the
following procedures were developed and must be implemented.

The DSS/DHS and the CSA may negotiate the referral of non-FFP cases. The DSS/DHS is not required to refer such cases.

PROCESS OF REFERRAL

The DSS/DHS should complete the Substitute Care Referral to Child Support Agency Form (see draft DCS-452, attached in Appendix A). The same form may be used for more than one child from the same family placed in the same substitute care placement. Separate forms should be used for each child from the same family if they are placed in different substitute care placements, even if they are placed at the same time. A separate form must be completed for each child with different parents (either mother or father). A separate form should also be used if additional children of the same mother and father are placed in substitute care at a later date. The DSS/DHS may attach a copy of the original referral to the new referral and just complete the information on the additional children on the new referral form.

The referral form should also be used to provide updated information to the CSA regarding Title IV-E FFP status, changes in placement, or changes in rate (i.e., the cost of the placement). The form should also be used to provide any other updated information (e.g., changes in names, social security numbers, location of the noncustodial parent or former custodial parent).

In most counties, the referral form will be completed by the individual completing the FFP eligibility forms (DCS-201 and DCS-205). In order to achieve the greatest efficiency, however, it is recommended that each DSS/DHS identify a staff person as the lead or designated contact person for the CSA. This recommendation is based on the fact that questions from the CSA will tend to be repetitive among individual referrals and a designated contact person will be able to develop the expertise necessary to respond quickly and accurately. This arrangement should be discussed between each DSS/DHS and CSA.

PARENTAL LIABILITY STANDARDS

Effective no later than July 1, 1990, the DSS/DHS is required to utilize the Pilot Percentage of Income Standard (s. HSS 1.03(13m), Adm. Code) to determine parental liability in all substitute care cases (both FFP and non-FFP). This Standard was designed to conform as closely as possible to the Child Support Percentage of Income Standard in order to achieve statewide consistency in the amount of parental liability for all substitute care cases.

The following provisions should be considered:

1. Each parent's income is computed separately and the Standard is applied separately to each parent, regardless of marital status.

2. If all of a parent's income is derived from Social Security, SSI, General Relief, or other forms of public assistance, that parent will have a zero assessment of ability to pay.

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DEPARTMENT OF HEALTH AND SOCIAL SERVICES
Division of Community Services
DCS-452 (Rev. 12/89)

Substitute Care
Referral to Child Support Agency

WISCONSIN

Re: Wis. Stats. 49.19 (4)(h)1.a.
42 USC 671(A)(17)

I.1 County providing/purchasing services	2 Date of Placement or change or closing	3 Referral Type ☐ 1-Initial ☐ 2-Case Change ☐ 3-Case Closure	4 Case Type ☐ 1 IV-E FFP ☐ 2 Non FFP	5 Monthly Rate	6 Daily Rate	9 Inappropriate referral code ☐ 1-Income ☐ 2-Placement length ☐ 3-No inherent authority ☐ 4-Agencies consulted (attach documentation)

7 Name of Substitute Care Placement City	8 Approximate length anticipated care ☐ 0-30 days ☐ 31 days-6 months ☐ 6 months or more

II. PARENTS

10 Last Name First MI	11 Birthdate	12 Social Security Number	13 Sex M F

14 Last Known Address - Street, City, State, Zip	15 Telephone ( )

| 16 Monthly Income   Unemployment Comp. $ _____   Veteran's Benefits $ _____
Salary $ _____ Social Security $ _____ Other $ _____	17. Date Address Last Verified

18 Name and Address of Last Known Employer/Source of Income	19 Dates Employed

20 Employer Sponsored Insurance Available ☐ YES ☐ NO If yes, attach DES-2096	

21 Last Name Other Parent First MI	22 Birthdate	23 Social Security Number	24 Sex M F

25 Last Known Address - Street, City, State, Zip	26 Telephone ( )

| 27 Monthly Income   Unemployment Comp. $ _____   Veteran's Benefits $ _____
Salary $ _____ Social Security $ _____ Other $ _____	28 Date Address Last Verified

29 Name and Address of Last Known Employer/Source of Income	30 Dates Employed

31 Employer Sponsored Insurance Available ☐ YES ☐ NO If yes, attach DES-2096	

III. RELATIONSHIP OF PARENTS NAMED

32
☐ 1-Never Married   ☐ 3-Separated with Court Order
☐ 2-Divorced/Annulled ☐ 4-Separated without Court Order
☐ 5-Married

33 Date Married/Divorced	34 Place Married/Divorced/Annulled/Separated/Does not apply Check one ☐ ☐ ☐ ☐ ☐

35 Is there a chapter 767 child support order? Date County/State Case No. Amount ____ % or $ ____ per ____	Being paid by: Mother: ☐ Yes ☐ No Father: ☐ Yes ☐ No
☐ No   ☐ Yes - specify:

36 Is there a chapter 767 maintenance (alimony) order? Date County/State Case No. Amount ____ % or $ ____ per ____	Being paid by: Mother: ☐ Yes ☐ No Father: ☐ Yes ☐ No
☐ No   ☐ Yes - specify:

37 Is there a chapter 767 medical support order? Date County/State Case No. ☐ insurance ☐ $ ____	Being paid by: Mother: ☐ Yes ☐ No Father: ☐ Yes ☐ No
☐ No   ☐ Yes - specify:

38 Is there a chapter 48 order? Date County/State Case No. Amount ____ % or $ ____ per ____	Being paid by: Mother: ☐ Yes ☐ No Father: ☐ Yes ☐ No
☐ No   ☐ Yes - specify:

IV. CHILDREN OF NAMED PARENTS WHO ARE IN SUBSTITUTE CARE Code Type as follows: 1–Add, 2–Change, 3–Delete

39	Code Type	Name	Social Security Number	Mo	Day	Year	HSRS #	Race	Handicap	Amount Child's Income Applied	Type of Income Applied
1											
2											
3											
4											
5											
6											

Caseworker Name – please print	Telephone ( )	I hereby certify that the above named children are placed in substitute care. (DSS/HSD Director or Designee)
Contact Person Name– Please Print	Telephone ( )	Signed Date

Attach DCS-130 Form and DES-2096 (TPL Form)

Comments

☐ See additional comments on reverse side

Distribution of Copies: White and Yellow–Child Support Agency; Pink–DSS/DHS; Blue–Client; _____ –Custodial Parent; _____ –Absent Parent

Pilot Percentage of Income Standard
For Children in Substitute Care
(Pilot Uniform Fee Schedule)

Purpose: The provisions of the Pilot Percentage of Income Standard should be used to determine the child support obligation in any Wisconsin Statutes Chapter 48 (Children's Code) action for any parent, including the "former custodial parent(s)", when the parent is not ordered to pay support in a prior Chapter 767 (Actions Affecting the Family) action. (Note: A recent Department of Health and Social Services legal opinion states that noncustodial parents may not be affected by Chapter 48 orders.) However, as an alternative, the court may utilize its inherent authority to determine child support pursuant to Chapter 767.

If there is a prior Chapter 767 order, the Chapter 767 order may be modified as appropriate to address the substitute care placement without proceeding under the Pilot Percentage of Income Standard.

The long-term plan for determining child support for children in substitute care is to modify Wisconsin Statutes Chapters 46 (Social Services) and 48 (Children's Code) to point directly to Chapter 767 (Actions Affecting the Family) when ordering, calculating and enforcing child support and parental liability for children placed in substitute care. Currently, pursuant to Wisconsin Statutes Chapter 48 and sections 46.03(18) and 46.10, the amount of parental liability for children in substitute care is determined according to the Uniform Fee System, Wisconsin Administrative Code Chapter HSS 1.

The purpose of this pilot is to bridge the current Uniform Fee System (HSS 1) provisions to the Child Support Percentage of Income Standard (HSS 80) through the creation of a new pilot special payment schedule as authorized in HSS 1.03(13). This new pilot schedule is an interim schedule and may be implemented by counties until current statutes are amended. The new pilot will be referred to as the Pilot Percentage of Income Standard. The Pilot Percentage of Income Standard is designed to conform as closely as possible to the Child Support Percentage of Income Standard (HSS 80).

The Pilot Percentage of Income Standard has been designed with special consideration to the unique configuration of substitute care families. For example, siblings often remain in the home while only one child is placed in substitute care. It is the intention of this pilot to treat the noncustodial parent and the "former custodial parent" equitably in determining financial liability for child(ren) in substitute care.

Uniform Fee Threshold: The Uniform Fee System and the Pilot Percentage of Income Standard are subject to a threshold in financial liability amounts if the "family's gross monthly income" is less than the limit for medical assistance eligibility. It is recommended that the social services agency not refer cases to the child support agency when the "family's gross monthly income" is less than the limit for medical assistance eligibility. Pursuant to the Uniform Fee System and the Pilot Percentage of Income Standard, the "family's gross monthly income" includes stepparent income and income from public assistance.

parents" when the child was in an "intact family" prior to the substitute care placement.

"Full Siblings" means all of the minor children in the family who are "full brothers and/or sisters", sharing the legal mother and father.

"Payee" means the parent, non-legally responsible relative, social services agency or human services agency which has the physical placement of a child.

"Split Custody Payer" means a payer who has two or more children who are full siblings and who has physical custody of one or more but not all of the siblings. This may include situations in which some of the full siblings are in substitute care under Ch. 48, Stats., or who are in the care of a non-legally responsible relative who meets the definition of blood relative under s. 49.19, Stats., for AFDC eligibility purposes.

Support Orders: The provisions of the Child Support Percentage of Income Standard, s. HSS 80.03 and 80.04, apply to the Pilot Percentage of Income Standard, with the following changes:

Determining the Child Support Obligation of Split-Custody Payers.

1. For each split-custody payer, the child support obligation may be determined as follows:
   a. Determine each payer's base in accordance with s. HSS 80.03(1) for calculating the amount of child support.
   b. Multiply each payer's base established under par. a by the appropriate percentage under s. HSS 80.03(1) for the number of full siblings, including the siblings in the custody of that payer to determine a full child support obligation for each payer.
   c. Divide the amount determined in par. b for each payer by the number of full siblings to determine a "per child" amount for each child.
   d. Determine the payee for each child's portion based on the physical placement of the child.

2. If each parent has physical placement of one or more of the children, offset the child support obligations as follows: Subtract the smaller child support obligation from the larger to determine the reduced amount of child support owed by the parent with the larger child support obligation.

Examples of substitute care financial liability calculations:

Example No. 1

The "former custodial parent" has income of $ 1,000 per month. There are three "full siblings". Two of those children are in substitute care.

The financial liability is calculated as follows:

Chapter HSS 80

CHILD SUPPORT PERCENTAGE OF INCOME STANDARD

PREFACE

Section 46.25 (9) (a), Stats., requires the department to adopt and publish a standard to be used by courts in determining child support obligations. The standard is to be based on a percentage of the gross income and assets of either or both parents.

The percentage standard established in this chapter is based on an analysis of national studies, including a study done by Jacques Van der Gaag as part of the Child Support Project of the Institute for Research on Poverty, University of Wisconsin, Madison, entitled "On Measuring the Cost of Children," which disclose the amount of income and disposable assets that parents use to raise their children. The standard is based on the principle that a child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together. It determines the percentage of a parent's income and potential income from assets that parents should contribute toward the support of children if the family does not remain together. The standard determines the minimum amount each parent is expected to contribute to the support of their children. It expects that the custodial parent shares his or her income directly with their children. It also presumes that the basic needs of the children are being met. This latter presumption may be rebutted by clear and convincing evidence that the needs of the children are not being met.

The rules also prescribe procedures for determining equitable child support obligations under a variety of financial and family circumstances.

HSS 80.01 Introduction. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 46.25 (9) (a), Stats., for the purpose of establishing a standard to be used in determining child support under ss. 767.02, 767.08, 767.10, 767.23, 767.25, and 767.51, Stats.

(2) APPLICABILITY. This chapter applies to the party that petitions for and the party that responds to a petition for a temporary or final order for child support of a marital or nonmarital child in an action affecting a family under s. 767.02, Stats., and includes stipulated child support settlements under s. 767.10, Stats. At the court's discretion, upon a finding of a substantial change of circumstances, this chapter may also apply to revisions of judgment under s. 767.32, Stats.

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; r. (2) (b) to (d), Register, August, 1987, No. 380, eff. 9-1-87.

HSS 80.02 Definitions. In this chapter:

(1) "Adjusted base" means the monthly income at which the child support obligation is determined for serial family payers, which is the payer's base less the amount of any existing child support obligation.

(2) "Assets" means all real and personal property, including automobiles and other vehicles, real estate, profit-sharing, pension and retirement accounts, life insurance, cash and deposit accounts, stocks and bonds and business interests.

(3) "Base" means the monthly income at which the child support obligation is determined, which is calculated by adding together the payer's

(18) "Payer" means the parent who incurs a child support obligation as a result of a court order.

(19) "Primary custodian" means the parent having physical custody of the child more than 182 days a year or the parent designated by the court as primary custodian when the parents share the child-caring responsibility equally.

(20) "Self-employed payer" means a payer determined by the court to be self-employed for the purpose of determining child support.

(21) "Serial family payer" means a payer with an existing child support obligation who incurs an additional child support obligation in a subsequent family or as a result of a paternity judgment.

(22) "Shared-time payer" means a payer who is not the primary custodian but who provides overnight child care beyond the threshold and assumes all variable child care costs in proportion to the number of days he or she cares for the child under the shared-time arrangement.

(23) "Split custody payer" means a payer who has 2 or more children and who has physical custody of one or more but not all of the children.

(24) "Standard" or "percentage standard" means the percentage of income standard under s. HSS 80.03 (1) which, multiplied by the payer's base or adjusted base, results in the payer's child support obligation.

Note: The standard is based on national studies of the percentage of income used to support a child or children with adjustment downward of those percentages to reflect costs incurred by the payer for visitation and to maintain health insurance for the child or children.

(25) "Threshold" means 30% of a year or 109.5 out of every 365 days.

Note: The threshold was derived by taking 30% of a 365 day year.

(26) "Total annual income for child support" means gross income adjusted for child support plus imputed income for child support.

(27) "Unemployed payer" means a payer not employed at the time child support is ordered, but who may be employed in the future.

(28) "Variable costs" means costs that include payment for food, clothing, school, extracurricular activities and recreation.

(29) "Worksheet" means the department's percentage standard worksheet, printed as Appendix B to this chapter.

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; r. (2) (b) to (d), r. and recr. (12) to (14), renum. (26) to (28) to be (27) to (29) and am. (29), cr. (26), Register, August, 1987, No. 380, eff. 9-1-87.

HSS 80.03 Support orders. (1) DETERMINING CHILD SUPPORT USING THE PERCENTAGE STANDARD. The payer's base shall be determined by adding together the payer's gross income adjusted for child support and the payer's imputed income for child support and dividing by 12. This may be done by completing the worksheet in Appendix B, although use of the worksheet for this purpose is not required. The percentage of the payer's base or adjusted base that constitutes the child support obligation shall be:

(a) 17% for one child;

(b) 25% for 2 children;

Assumptions:

The payer's base is $2,000;

The payer's existing monthly support order for 2 children is $500; and

The payer is getting divorced from her second husband with whom she has one child.

Calculation:

Base		$2,000
Existing court order	−	500
Adjusting base for determining child support		1,500
Percentage standard for 1 child	×	.17
Monthly child support order		$ 255

Note 2: The following example shows how the child support obligation is determined for a serial family payer whose additional child support obligation has been incurred as a result of a paternity judgment.

Assumptions

The payer's base is $2,000;
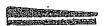
The payer and his wife have 2 children of their own; and

The payer has been adjudicated the father of another child in a paternity judgment.

Calculation:

Base		$2,000
Standard for 2 children under the payer's care (25% × $2,000)	−	500
Adjusted base		$1,500
Standard for one child as a result of paternity judgment	×	.17
Monthly child support order		$ 255

(2) DETERMINING THE CHILD SUPPORT OBLIGATION OF A SHARED-TIME PAYER. The child support obligation for a parent who the court determines is a shared-time payer may be calculated as follows:

(a) Determine the payer's base in accordance with s. HSS 80.03 (1) (intro.);

(b) Multiply the appropriate percentage under s. HSS 80.03 (1) by the payer's total annual income for child support to establish the payer's original annual level of child support;

(c) Divide the payer's original annual level of child support in par. (b) by 365 to determine the payer's original daily child support obligation;

(d) Determine the number of days a year the payer will care for the child overnight;

(e) Determine the number of days a year above the threshold and less than 183 that the payer will care for the child overnight;

(f) Multiply the number of days a year above the threshold the payer will care for the child overnight in par. (e) by the payer's original daily child support level in par. (c) to determine the amount by which the payer's annual support obligation is to be reduced;

(e) Subtract the smaller child support obligation from the larger to determine the reduced amount of child support owed by the parent with the larger child support obligation.

Note: The following example shows how to calculate the amount of child support for a split-custody payer:

Assumptions:

The payer is divorced and has 3 children;

The payer has custody of one child;

The payer's monthly gross income is $3,000;

The payee has custody of 2 children; and

The payee's monthly gross income is $1,500.

Calculation:

The payer's base $3,000	
The payer's original child support obligation (25% x $3,000)	750
The payee's base	1,500
The payee's original child support obligation (17% x $1500)	255
The payer owes the payee (750 – 255)	$495

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; am. (1) (a), (b) (intro.) and 1., (3) (intro.), (a) and (c), r. and recr. (2), Register, August, 1987, No. 380, eff. 9-1-87.

HSS 80.05 Determining imputed income for child support. For a payer with assets, a reasonable earning potential may be attributed to the assets as follows:

(1) Determine the payer's gross income;

(2) If the court finds that the payer has underproductive assets or has diverted income into assets to avoid paying child support or that income from the payer's assets is necessary to maintain the child or children at the economic level they would enjoy if they and their parents were living together, identifying those assets and then impute income to them by multiplying the total net value of the assets by the current 6-month treasury bill rate or any other rate that the court determines is reasonable; and

(3) Subtract the actual earnings of the assets from the imputed income from the assets to determine the imputed income for child support.

History: Cr. Register, January, 1987, No. 373, eff. 2-1-87; r. and recr. Register, August, 1987, No. 380, eff. 9-1-87.

BASE	ONE CHILD 0.17	TWO CHILDREN 0.25	THREE CHILDREN 0.29	FOUR CHILDREN 0.31	FIVE OR MORE CHILDREN 0.34
630.00	107.00	158.00	183.00	195.00	214.00
640.00	109.00	160.00	186.00	198.00	218.00
650.00	111.00	163.00	189.00	202.00	221.00
660.00	112.00	165.00	191.00	205.00	224.00
670.00	114.00	168.00	194.00	208.00	228.00
680.00	116.00	170.00	197.00	211.00	231.00
690.00	117.00	173.00	200.00	214.00	235.00
700.00	119.00	175.00	203.00	217.00	238.00
710.00	121.00	178.00	206.00	220.00	241.00
720.00	122.00	180.00	209.00	223.00	245.00
730.00	124.00	183.00	212.00	226.00	248.00
740.00	126.00	185.00	215.00	229.00	252.00
750.00	128.00	188.00	218.00	233.00	255.00
760.00	128.00	188.00	218.00	233.00	255.00
760.00	129.00	190.00	220.00	236.00	258.00
770.00	131.00	193.00	223.00	239.00	262.00
780.00	133.00	195.00	226.00	242.00	265.00
790.00	134.00	198.00	229.00	245.00	269.00
800.00	136.00	200.00	232.00	248.00	272.00
810.00	138.00	203.00	235.00	251.00	275.00
820.00	139.00	205.00	238.00	254.00	279.00
830.00	141.00	208.00	241.00	257.00	282.00
840.00	143.00	210.00	244.00	260.00	286.00
850.00	145.00	213.00	247.00	264.00	289.00
860.00	146.00	215.00	249.00	267.00	292.00
870.00	148.00	218.00	252.00	270.00	296.00
880.00	150.00	220.00	255.00	273.00	299.00
890.00	151.00	223.00	258.00	276.00	303.00
900.00	153.00	225.00	261.00	279.00	306.00
910.00	155.00	228.00	264.00	282.00	309.00
920.00	156.00	230.00	267.00	285.00	313.00
930.00	158.00	233.00	270.00	288.00	316.00
940.00	162.00	238.00	276.00	295.00	323.00
960.00	163.00	240.00	278.00	298.00	325.00
970.00	165.00	243.00	281.00	301.00	330.00
980.00	167.00	245.00	284.00	304.00	333.00
990.00	168.00	248.00	287.00	307.00	337.00
1000.00	170.00	250.00	290.00	310.00	340.00
1010.00	172.00	253.00	293.00	313.00	343.00
1020.00	173.00	255.00	196.00	316.00	347.00
1030.00	175.00	258.00	299.00	319.00	350.00
1040.00	177.00	260.00	302.00	322.00	354.00
1050.00	179.00	263.00	305.00	326.00	357.00
1060.00	180.00	265.00	307.00	329.00	360.00
1070.00	182.00	268.00	310.00	332.00	364.00
1080.00	184.00	270.00	313.00	335.00	367.00
1090.00	185.00	273.00	316.00	338.00	371.00
1100.00	187.00	275.00	319.00	341.00	374.00
1110.00	189.00	278.00	322.00	344.00	377.00
1120.00	190.00	280.00	325.00	347.00	381.00
1130.00	192.00	283.00	328.00	350.00	384.00
1140.00	194.00	285.00	331.00	353.00	388.00
1150.00	196.00	288.00	334.00	357.00	391.00
1160.00	197.00	290.00	336.00	360.00	394.00
1170.00	199.00	293.00	339.00	363.00	398.00
1180.00	201.00	295.00	342.00	366.00	401.00
1190.00	202.00	298.00	345.00	369.00	405.00
1200.00	204.00	300.00	348.00	372.00	408.00
1210.00	206.00	303.00	351.00	375.00	411.00
1220.00	207.00	305.00	354.00	378.00	415.00
1230.00	209.00	308.00	357.00	381.00	418.00
1240.00	211.00	310.00	360.00	384.00	422.00
1250.00	213.00	313.00	363.00	388.00	425.00
1260.00	214.00	315.00	365.00	391.00	428.00
1270.00	216.00	318.00	368.00	394.00	432.00
1280.00	218.00	320.00	371.00	397.00	435.00

BASE	ONE CHILD 0.17	TWO CHILDREN 0.25	THREE CHILDREN 0.29	FOUR CHILDREN 0.31	FIVE OR MORE CHILDREN 0.34
1920.00	326.00	480.00	557.00	595.00	653.00
1930.00	328.00	483.00	560.00	598.00	656.00
1940.00	330.00	485.00	563.00	601.00	660.00
1950.00	332.00	488.00	566.00	605.00	663.00
1960.00	333.00	490.00	568.00	608.00	666.00
1970.00	335.00	493.00	571.00	611.00	670.00
1980.00	337.00	495.00	574.00	614.00	673.00
1990.00	338.00	498.00	577.00	617.00	677.00
2000.00	340.00	500.00	580.00	620.00	680.00

SECTION II - COMPUTATION OF THE ADJUSTED MONTHLY SUPPORT OBLIGATION FOR
SERIAL FAMILY PAYERS